ENVIRONMENTAL LAW & POLICY CENTER
ENVIRONMENT MIDWEST

July 21, 2009

Ms. Patricia VanGerpen
PUC Executive Director
500 E. Capital Ave
Pierre, SD 57501

RE: RM08-002 – Proposed Small Generator Interconnection Forms

Dear Ms. VanGerpen:

The Environmental Law & Policy Center (ELPC) is pleased to submit these comments regarding the Commission's proposed interconnection forms, modified to match the adopted interconnection rules at SDAR Chapter 20:10:36. These comments supplement ELPC's oral comments provided at Commission's May 6th, 2009 public hearing in Pierre.

Standardized forms and agreements are the place where "the rubber hits the road" in any interconnection framework.[1] They provide the mechanism for implementing the procedures outlined in the rules, simplify the process for all parties, and ensure that a uniform process is used across the state. The Federal Energy Regulatory Commission pioneered the use of standard applications and agreements when it issued its Small Generator Interconnection Procedures and Agreement in 2005.[2] Since that time, many states have adopted standard forms and agreements as part of their interconnection rules.[3] Standard forms are now a "best practice" that should be included in a comprehensive state interconnection approach in order to get the most effective results.

Overall, the proposed South Dakota forms and agreements – based on the Oregon model – do a good job implementing South Dakota's rules. In addition, the forms and rules incorporate an appropriate level of flexibility. For example, the standard agreement allows amendment or

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[1] *See* Network for New Energy Choices, *Freeing the Grid: Best and Worst Practices in State Net Metering and Interconnection Standards*, p. 32 (2008) (available at http://www.newenergychoices.org/uploads/FreeingTheGrid2008_report.pdf).
[2] *See* FERC Standard Interconnection Agreements & Procedures for Small Generators (2005) (available at http://www.ferc.gov/industries/electric/indus-act/gi/small-gen.asp).
[3] *See, e.g.*, Appendices A through G of the Illinois interconnection procedures at 83 Ill. Adm. Code Part 466 (available at http://www.ilga.gov/commission/jcar/admincode/083/08300466sections.html).

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waiver of any provision by mutual agreement. (See Art. 8.2, 8.4). The agreement also includes a reservation of rights to seek unilateral filing with the Commission to amend the agreement. (Art. 8.10) Section 20:10:36:03 of the rule also allows waiver of any provision by mutual agreement or by seeking approval of the commission. By adopting these statewide forms and agreements, the Commission will help streamline the interconnection approach statewide and across the region without sacrificing the flexibility necessary to accommodate unique or site-specific cases.

We have only a few specific comments regarding improvements to the forms. Appendix A to this letter contains a "redline" version of Forms FM2, FM3, FM5, and FM6 highlighting recommended edits to the forms.

- On the Tier 1 Interconnection Request Application Form (FM5), it is not clear why the applicant is asked about QF status and FERC "Notice of Self-Certification." It is not clear why this information is necessary for a Tier 1 application and it may be confusing to a home or small business owner. If necessary, the need for this information should be clarified.
- Also on the Tier 1 Interconnection Request Application Form (FM 5), it appears that there are two places for the applicant to identify the "prime mover." It is probably more useful to retain the "check box" on page 2 and eliminate the fill-in form on page 1.
- Overall the standard agreement looks good (FM 6). There are a number of places where the Commission should clarify that the Commission's rules provide the substantive requirements and procedures that must be followed. For example, Article 4 deals with cost responsibility and billing. As currently drafted it states that the applicant is responsible for the application fee and system upgrade costs. However, the article does not identify how those costs are to be determined. In order to avoid any confusion, the Commission should add language clarifying that the costs are to be determined under the process prescribed in the Commission's rules. (Suggested language below) Because this is a legal contract, it is very important that no ambiguity be left in the document. The attached "redline" form identifies a number of other places where it would be prudent to include this additional detail.

Article 4. **Cost Responsibility and Billing**

> The Applicant is responsible for the application fee and for such facilities, equipment, modifications, and upgrades identified under the process prescribed in the Commission's rules, ARSD chapter 20:10:36.

- In Section 2 of the Feasibility Study Agreement (FM3), there is a section for the applicant to fill in "Interconnection Equipment Specifications, Initial Settings, and Operating Requirements." However, it appears that most of the information requested here has already been provided as part of the customer's application (FM1). Why is it needed again? We suggest deleting this section and allowing the utility and the applicant the flexibility to work out necessary information requirements for the Feasibility Study.

- A standard agreement form was provided for the Feasibility Study and Facilities Study. However there does not appear to be a similar form for the System Impact Study. Was this an oversight?
- On the Facilities Study Form (FM2), paragraph 4, the Commission should note the requirement in the rules that the customer deposit cannot exceed $10,000 for facilities under 500 kW. (See suggested language attached.)
- The Facilities Study Form (FM2), paragraph 5, implies that the study agreement must be completed and results transmitted to the applicant within a timeline agreed to by the parties only "in cases where no upgrades are required." This is confusing. A facilities study takes place *only* where it has already been determined that upgrades *are* required under a prior System Impact Study. (See 20:10:36:55) ("If interconnection facilities or system upgrades are found to be necessary in the interconnection system impact study, an interconnection facilities study is required."). The facilities study identifies the work that must be done. The Facilities Study should be "completed within the timeline agreed to between the parties at the scoping meeting or interconnection system impact study results meeting," as noted in 20:10:36:57. Thus, Paragraph 5 of the standard agreement should be amended as follows:

    5. ~~In cases where no upgrades are required,~~ The Interconnection Facilities Study shall be completed and the results transmitted to the Applicant within a timeline as agreed to between the parties under the process prescribed in the Commission's rules, ARSD chapter 20:10:36.

ELPC appreciates the opportunity to provide comments and feedback on this important aspect of the South Dakota interconnection procedures. An appendix with suggested edits is attached.

Respectfully submitted,

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