



April 19, 2011

Oregon Public Utilities Commission
550 Capitol St NE #215
PO Box 2148
Salem, OR 97308-2148

RE: **EXPEDITED REQUEST** for waiver of 12-month installation requirement (OAR 860-084-0210 (1))

To Whom It May Concern:

THIS IS AN EXPEDITED REQUEST. GIVEN THE NATURE OF THE REQUEST AND THE INCREDIBLY TIGHT TIMEFRAME WE HAVE AVAILABLE, WE ASK THAT YOU REVIEW AND WORK THROUGH THE APPROPRIATE PROCESS AS SOON AS POSSIBLE. WE VERY MUCH APPRECIATE YOUR COOPERATION.

Portland General Electric (PGE) customers Beaverton School District (BSD) and Gladstone School District (GSD) have been working with Gerding Edlen Sustainable Solutions (GESS) for approximately two years to develop a third-party owned solar project at their respective schools. Because of the unique history and financing of these projects (detailed below), as well as the newness of PGE's Solar Payment Option (SPO), its branding of OAR 860-084 0100 through 860-084-0450's Solar Photovoltaic Pilot Programs, parties PGE, BSD, GSD, and GESS request a three-month extension for two medium-scale systems enrolled in July 2010 allotment period. Such an exception would ensure that the Districts' six PV systems are installed while denial of this exception puts these medium-scale systems (600 kW DC of SPO incentive allocation) for these schools at risk.

History.

For the past several years, both Districts have been searching for a means to add solar on their roofs with no out-of-pocket expense. Over the past two years, the Districts have been working with GESS in an attempt to develop this third-party owned solar project whereby an investor installs, owns and maintains the solar array. In recent history, this type of financing structure was driven primarily by the state Business Energy Tax Credit (BETC) program. Unfortunately, the BETC program underwent changes and rollbacks making third-party transactions with outside investors nearly impossible. Third-party investing in solar projects came to a standstill and investors fled the state.

When SPO came into the market, GESS began discussing a new approach to solar and, potentially, a new way to entice solar investors back into the state. Understanding that third-party investors require a minimum 500 kW array size to proceed with a project, GESS/GSD/BSO entered into a public/private

partnership whereby GESS would work with an investor to aggregate 99 kW projects across both Districts to meet the 500 kW threshold. This idea hinged on the ability to acquire at least five 99 kW projects between the July 2010 and October 2010 SPO allocations. If we were successful, the Districts would receive free electricity at their current PGE electricity rate, reducing their annual operating expenses, which is critical to the Districts during this time of public school cutbacks.

On July 1, 2010 GESS was able to secure two 99 kW incentive allocations for GSD. While GESS was in discussion with potential investors to fund the project at that point (and many investors were interested), none would engage further until we received enough allocations to hit their minimum 500 kW investment threshold. As such, GESS had to wait until October 2010 to continue our discussions with potential investors. In October 2010, the Districts were able to secure four other allocations - one 99 kW for GSD and three 99 kW for BSD - bringing our total project to 600 kW. This was more than enough to entice an investor, and GESS was able to renew discussions with interested investment groups. Unfortunately, this also coincided with the federal Investment Tax Credit (ITC) grant expiration, an extremely significant driver for many solar investments here in the United States. This prompted investors to focus their energy and attention on those projects that could meet the safe harbor provision and remain eligible for the ITC grant. As such, investors asked that we wait to review the project until Q1 of 2011.

In January 2011, GESS worked almost exclusively with one investor, who claimed they were willing to invest under the negotiated parameters. By mid-February, GESS and the Districts had negotiated agreements with the investors and were nearing the point of signature when the investor changed the deal on all parties involved. The investor wanted to change the panel type, install cost, and electricity savings to the Districts. Given the significant material change and lack of trust at this point with the investor, GESS sought to secure a new investor for the project.

By mid-March 2011 GESS had secured another investor, and within weeks agreements had been renegotiated, the Districts had received Board approval, and the project was set to move forward. It was at this time that parties learned of the Oregon Department of Revenue's recent interpretation that third-party owned solar installations were not covered under the solar property tax exemption statute.

Solar equipment has been property tax exempt since 1976, and in 2007 amendments were made to the statute to ensure third-party-owned systems were indeed exempt from such property taxes. However, due to some poor verbiage in the statute, DOR now disagrees with the long held understanding of the statute and the amendment. There are a large set of problems surrounding this issue, but the result is that because of the change in interpretation and lack of understanding of how GESS/GSD/BSD's project would be assessed, our second investor walked away from the project. Like the issues with the BETC, the DOR interpretation scared away our investor. As such, GESS had to look for a new investor.

At this point in mid-April, we have another investor who is willing to invest in the project. However, they would like greater clarity on the property tax exemption issue. Currently, there is an amendment to the property tax exemption statute which would remedy DOR's interpretation and, without a doubt, extend the property tax exemption to third-party investors. However, the passage of this amendment

through legislation will most likely take a few months. Meanwhile, we are running out of time to complete our two 99 kW projects required by OAR 860-084-0210 (1) to be installed by July 15, 2011. And, because our investor requires a minimum 500 kW investment, if we lose the two July 15 projects, we lose all six systems that constitute this project. The years of efforts of all parties, including the Districts, solar installers and GESS, who have worked so hard to bring this project to fruition, will all be for naught. Further, with the continued decrement in SPO incentives and proposed lottery-based reservation process for future medium-scale systems, there will be no future opportunity to complete these projects.

Request for Waiver

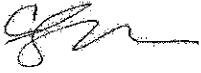
The parties signed below request in conformance with OAR 860-084-000 (3), which states that "OPUC commission may issue a waiver of any of the rules governing the SPO for good cause," (emphasis added) that the Commission waive the 12-month requirement for the project's two July 2010 SPO allocations - Gladstone High School and Kraxberger Middle School - and allow PGE to provide an extension equal to the deadline for the remaining four projects (October 15, 2011). This will allow us to legislatively find resolution on the property tax exemption issue and install the projects during the summer of 2011, when school is out for summer vacation.

On behalf of Kenyon Energy (the investor), REC Solar (the installer), GESS (the developer), Gladstone School District and Beaverton School District, we implore OPUC to utilize OAR 860-084-000 (3) to waive the 12-month requirement for the PGE's Solar Photovoltaic Pilot Program (a.k.a. SPO), granting these two reservations (Gladstone High School and Kraxberger Middle School) an extension until October 15, 2011. We, the undersigned, desperately want to complete these projects for the Districts. To do that, we need help from OPUC. Please let us know as soon as possible if this is something OPUC can consider.

It is our understanding that there can only be three individuals on the "service list". We ask that the following three people be part of that list and are given updates whenever possible.

1. Christina Skellenger, Development Manager, Gerding Edlen Sustainable Solutions, christina.skellenger@gerdingedlen.com, 503-802-6616
2. Darwin Dittmar, Business Manager, Gladstone School District, dittmard@gladstone.k12.or.us, 503-655-2777
3. Andy Noel, Regional Manager, REC Solar, anoel@recsolar.com, 503-866-1102

Thank you,



Christina Skellenger
Development Manager
Gerding Edlen Sustainable Solutions



Richard Steinbrugge
Executive Administrator for Facilities
Beaverton School District



Darwin Dittmar
Business Manager
Gladstone School District



Dennis Odden
Senior Vice President
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Andy Noel
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