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V. Denise Saunders
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March 28, 2017

Via Electronic Filing

Public Utility Commission of Oregon
Filing Center
201 High St SE, Suite 100
PO Box 1088
Salem OR 97308-1088

Re: UM 1805 – Northwest and Intermountain Power Producers Coalition, Community Renewable Energy Association, and Renewable Energy Coalition, Complainants vs. Portland General Electric Company, Defendant

Attention Filing Center:

Enclosed for filing in Docket UM 1805 is Portland General Electric Company's Answer.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "V. Denise Saunders". The signature is written in a cursive, flowing style.

V. Denise Saunders
Associate General Counsel

VDS:bop

Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1805

NORTHWEST AND INTERMOUNTAIN
POWER PRODUCERS COALITION;
COMMUNITY RENEWABLE ENERGY
ASSOCIATION and RENEWABLE
ENERGY COALITION,

Complainants,

vs.

PORTLAND GENERAL ELECTRIC
COMPANY,

Defendant.

**ANSWER OF PORTLAND GENERAL
ELECTRIC COMPANY**

I. INTRODUCTION

Pursuant to ORS 756.512 and OAR 860-001-0400, defendant Portland General Electric Company (“PGE”) submits the following answer (“Answer”) to the Complaint filed by Northwest and Intermountain Power Producers Coalition (“NIPPC”), Community Renewable Energy Association (“CREA”), and Renewable Energy Coalition (“Coalition”) (collectively, “Complainants”).

II. ANSWER

PGE denies each and every allegation contained in the Complaint except as hereinafter expressly admitted.

Unless otherwise specified, the capitalized term “Paragraph” refers to the numbered paragraphs of the Complaint beginning on page four of the Complaint.

The first three pages of the Complaint contain a narrative introduction and legal argument. PGE does not understand the introduction to contain allegations requiring a response. PGE expects to respond to Complainants' narrative and legal arguments as part of dispositive motion practice or, if needed, at a hearing in this proceeding. In the event the Commission deems the introduction to contain allegations requiring a response, PGE denies the allegations.

In answer to some of the allegations contained in numbered Paragraphs, PGE has indicated that no response is required because the allegations are legal conclusions, legal argument, Complainants' characterization of a document that speaks for itself, or a partial quotation from a document that speaks for itself. If the Commission deems that a response is required in any of these instances, then PGE denies the allegations in question.

In response to the numbered Paragraphs of the Complaint, PGE admits, denies, or otherwise responds as follows:

IDENTITY OF THE PARTIES

1. PGE admits the allegations contained in Paragraph 1.
2. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 and therefore denies them.
3. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 and therefore denies them.
4. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 and therefore denies them.

APPLICABLE STATUTES AND RULES

5. The allegations contained in Paragraph 5 constitute legal conclusions to which no response is required.

6. The allegations contained in Paragraph 6 constitute legal conclusions to which no response is required.

JURISDICTION

7. The allegations contained in Paragraph 7 constitute legal conclusions to which no response is required.

8. The allegations contained in the last sentence of Paragraph 8 consist of Complainants' characterization and partial quotation of ORS 758.535(2)(a), to which no response is required. The remaining allegations in Paragraph 8 constitute legal conclusions to which no response is required.

9. The allegations contained in Paragraph 9 consist of Complainants' characterization of the scope of the Complaint or constitute legal conclusions or legal argument, to which no response is required.

10. The allegations contained in Paragraph 10 constitute legal conclusions to which no response is required.

11. The allegations contained in Paragraph 11 constitute legal conclusions to which no response is required.

INTEREST OF COMPLAINANTS

12. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 12 and therefore denies them. The remaining sentences of Paragraph 12 either constitute legal conclusions to which no response is

required or consist of Complainants' partial quotation of ORS 756.500 to which no response is required.

13. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 and therefore denies them.

14. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 and therefore denies them.

15. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 and therefore denies them.

FACTUAL BACKGROUND

16. PGE admits the Commission opened Docket No. UM 1129 in 2004. The remaining allegations contained in Paragraph 16 consist of Complainants' characterization of the purpose of UM 1129, to which no response is required.

17. The allegations contained in Paragraph 17 constitute legal conclusions or Complainants' characterization of pages 19 and 20 of Order No. 05-584 to which no response is required.

18. The allegations contained in Paragraph 18 constitute legal conclusions to which no response is required. To the extent that a response is deemed to be required, PGE denies that in Order No. 05-584 the Commission concluded that 15 years is the minimum term to ensure the terms of the standard contract facilitate appropriate financing for a QF project. The allegations contained in Paragraph 18 include a partial quotation from page 19 of Order No. 05-584 which requires no response.

19. The allegations contained in Paragraph 19 constitute legal conclusions to which no response is required. The allegations contained in Paragraph 19 include partial quotations of

language from page 41 of Order No. 05-584 and include Complainants' characterization of the quoted language to which no response is required.

20. The allegations contained in Paragraph 20 constitute legal conclusions to which no response is required. The allegations contained in Paragraph 20 include partial quotations of language from pages 12 and 16 of Order No. 05-584 and include Complainants' characterization of the quoted language to which no response is required.

21. The allegations contained in Paragraph 21 constitute legal conclusions to which no response is required. PGE lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21, and therefore denies them.

22. PGE denies the allegations contained in Paragraph 22.

23. PGE denies the allegations contained in Paragraph 23.

24. PGE admits it entered into a standard contract with PaTu Wind Farm, LLC, and that the contract is dated April 29, 2010. PGE admits Section 2.2.2 of the contract states: "By 5/31/2011 Seller shall have completed all requirements under Section 1.6 and shall have established the Commercial Operation Date." PGE admits Section 2.3 of the contract states: "This Agreement shall terminate on 5/31/2031 [date to be chosen by Seller], up to 20 years from the Effective Date, or the date the Agreement is terminated in accordance with Section 9 or 12, whichever is earlier ("Termination Date")." PGE denies all other allegations contained in Paragraph 24.

25. PGE admits it entered into a contract with OneEnergy Oregon Solar, LLC, and that the contract is dated February 19, 2014. PGE admits that Section 2.2.2 of the contract states: "By August 19, 2015 Seller shall have completed all requirements under Section 1.5 and shall have established the Commercial Operation Date." PGE admits that Section 5.1 of the contract

states: “Fixed Price (for the first 15 years following the Commercial Operation Date).” PGE denies all other allegations contained in Paragraph 25.

26. PGE denies the allegations contained in Paragraph 26.

27. PGE denies the allegations contained in Paragraph 27.

28. PGE denies the allegations contained in Paragraph 28.

29. PGE admits the Commission opened Docket No. UM 1610 in 2012. The remaining allegations contained in Paragraph 29 consist of Complainants’ characterization of the purpose of UM 1610, to which no response is required.

30. PGE admits that the Commission issued Order No. 14-058 in Docket No. UM 1610 on February 24, 2014. PGE denies all other allegations in the first sentence of Paragraph 30. The last sentence of Paragraph 30 consists of a partial quotation of language from page 7 of Order No. 14-058 to which no response is required.

31. Except as specifically admitted below, PGE denies the allegations contained in Paragraph 31. PGE admits that on November 25, 2014, it filed in Docket No. UM 1610 a Supplemental Filing of Application to Update Schedule 201 Qualifying Facility Information, which included a revised Schedule 201 and eight standard contract forms intended to comply with Order No. 14-058 and with Order No. 11-505 issued by the Commission in Docket No. UM 1129 on December 13, 2011. PGE admits that the standard contract forms filed with the Commission by PGE on November 25, 2014, included four renewable standard contract forms. PGE admits that on December 16, 2014, the Commission issued Order No. 14-435 in Docket No. UM 1610 and that the order approved PGE’s November 25, 2014 application. Paragraph 31 includes partial quotations of language from Section 4.5 and Section 1.7 of the Standard Renewable Off-System Variable Power Purchase Agreement form approved by the Commission

in Order No. 14-435. No response to these partial quotations of language from the contract form is required because the contract form speaks for itself.

32. PGE denies the allegations contained in Paragraph 32.

33. The allegations contained in Paragraph 33 constitute legal conclusions to which no response is required. The allegations contained in Paragraph 33 include the partial quotation of language from page 5 of Order No. 16-130 in Docket No. UM 1734 to which no response is required.

34. The allegations contained in Paragraph 34 constitute legal conclusions to which no response is required. The allegations contained in Paragraph 34 include the partial quotation of language from page 7 of Order No. 16-129 in Docket No. UM 1725 to which no response is required.

35. The allegations contained in Paragraph 35 are partial quotations from, and Complainants' characterization of, a Motion for Clarification filed by the Coalition and CREA on April 14, 2016 in Docket No. UM 1725, to which no response is required. To the extent that a response is deemed required, PGE denies that the Commission has a pre-existing policy that the 15-year term of fixed prices commences when the QF achieves operation.

36. The allegations contained in Paragraph 36 are partial quotations from, and Complainants' characterizations of, a Response in Opposition to the Coalition and CREA's Motion for Clarification filed by PGE on April 29, 2016 in Docket No. UM 1725, which requires no response.

37. The allegations contained in Paragraph 37 are partial quotations from, and Complainants' characterizations of, Order No. 16-175 issued by the Commission on May 16, 2016 in Docket No. UM 1725, which require no response.

38. The allegations contained in Paragraph 38 are also partial quotations from, and Complainants' characterizations of, Order No. 16-175, which require no response.

39. PGE admits that it will not enter into a QF standard contract that provides for fixed prices for a period of more than 15 years measured from the contract effective date because such a provision would be contrary to PGE's Commission-approved Schedule 201 tariff, contrary to PGE's Commission-approved standard contract forms, contrary to the resolution on page 20 of Order No. 05-584, and contrary to any other Commission orders directed to PGE and addressing the period during which PGE is required to offer fixed prices under a QF standard contract. PGE denies any other allegations contained in Paragraph 39.

40. PGE denies the allegations contained in Paragraph 40.

41. PGE admits that from its initial compliance filing in response to Order No. 05-584 through the present, neither PGE's Commission-approved Schedule 201 tariff nor PGE's Commission-approved QF standard contract forms allow QFs to fill in the standard contract in a manner that makes it clear that PGE is offering fixed prices for a period longer than 15 years measured from the effective date of the contract. PGE admits that it will not enter into QF standard contracts that allow QFs to fill in the standard contract in a manner that makes it clear that PGE is offering fixed prices for a period longer than 15 years measured from the effective date of the contract. PGE denies any other allegations contained in Paragraph 41.

42. PGE admits that it made a July 12, 2016 filing in Docket No. UM 1610 in compliance with Order No. 16-174 and PGE admits that the July 12, 2016 filing included changes to renewable standard contracts and to PGE's Schedule 201. PGE denies all other allegations contained in Paragraph 42.

43. The allegations contained in Paragraph 43 are Complainants' characterization of a November 18, 2016 letter from Complainants to PGE and no response is required. The November 18, 2016 letter speaks for itself.

44. PGE admits that on December 5, 2016, it informed Complainants that it could not comply with the demands contained in the Complainants' November 18, 2016 letter. PGE denies any other allegations contained in Paragraph 44.

45. PGE denies the allegations contained in Paragraph 45.

LEGAL CLAIMS

FIRST CLAIM FOR RELIEF

VIOLATION OF COMMISSION ORDERS AND POLICIES IMPLEMENTING PURPA AND RELATED STATE LAW

46. In answer to the allegations contained in Paragraph 46, PGE repeats and realleges the responses made to Paragraphs 1 through 45.

47. PGE denies the allegations contained in Paragraph 47.

48. PGE denies the allegations contained in Paragraph 48.

49. PGE denies the allegations contained in Paragraph 49.

50. PGE denies the allegations contained in Paragraph 50.

51. PGE denies the allegations contained in Paragraph 51.

52. PGE denies the allegations contained in Paragraph 52.

SECOND CLAIM FOR RELIEF

ARBITRARY APPLICATION OF SCHEDULE 201 AND THE STANDARD PPA

53. In answer to the allegations contained in Paragraph 53, PGE repeats and realleges the responses made to Paragraphs 1 through 52.

54. PGE admits the allegations contained in Paragraph 54.

55. PGE denies the allegations contained in Paragraph 55.

56. The allegations contained in Paragraph 56 constitute legal conclusions to which no response is required. To the extent a response is deemed required, PGE denies that it is Commission policy that all QFs can obtain 15 years of fixed prices commencing on the Commercial Operation Date. To the extent a response is deemed required, PGE further denies that it has acted arbitrarily or unjustly harmed QFs offered fixed prices for 15 years measured from the effective date of a QF standard contract.

PRAYER FOR RELIEF

57. PGE denies all allegations contained in Paragraph 1 of Complainants' Prayer for Relief on page 16 of the Complaint and requests that the Commission deny the relief requested in Paragraph 1 of Complainant's Prayer for Relief.

58. PGE denies all allegations contained in Paragraph 2 of Complainants' Prayer for Relief on page 16 of the Complaint and requests that the Commission deny the relief requested in Paragraph 2 of Complainant's Prayer for Relief.

59. PGE requests that the Commission deny the relief requested in Paragraph 3 of Complainant's Prayer for Relief.

60. PGE requests that the Commission deny the relief requested in Paragraph 4 of Complainant's Prayer for Relief.

III. AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

61. The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

62. To the extent the Complaint seeks a declaration of the meaning or requirements of any of PGE's executed standard contracts, the Complainants' lack standing.

THIRD AFFIRMATIVE DEFENSE

63. To extent the Complaint seeks a declaration of the meaning or requirements of any of PGE's executed standard contracts, the Complaint fails to join indispensable parties.

FOURTH AFFIRMATIVE DEFENSE

64. To the extent the Complaint seeks a declaration of the meaning or requirements of any of PGE's superseded standard contract forms, the Complaint states claims and seeks relief that is moot.

FIFTH AFFIRMATIVE DEFENSE

65. The period of time within which to challenge, appeal, seek rehearing or reconsideration, or seek judicial review of Commission Order No. 07-065 issued on February 27, 2007, in Docket No. UM 1129 approving PGE's Schedule 201 and standard contract forms as compliant with Order No. 06-538 and Order No. 05-584, including the requirements regarding a 20-year maximum term for a QF standard contract and a 15-year fixed price period, has run and Order No. 07-065 is not subject to challenge.

SIXTH AFFIRMATIVE DEFENSE

66. To the extent the Complaint seeks modification or revision of the Commission directive on standard contract length established in Order No. 05-584, the Complainants should have asked for relief under ORS 756.568.

IV. CONCLUSION

For the foregoing reasons, the Commission should reject the legal claims in the Complaint and deny the relief sought by the Complaint.

Dated this 28th day of March 2017.

Respectfully submitted,



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