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September 5, 2017

**VIA ELECTRONIC FILING**

PUC Filing Center  
Public Utility Commission of Oregon  
PO Box 1088  
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**Re: UM 1829 - Blue Marmot V LLC, Complainants, v. Portland General  
Electric, Defendant  
Docket Nos. UM 1829 (Lead Docket), UM 1830, UM 1831, UM 1832, UM 1833**

Attention Filing Center:

Attached for filing in the above-captioned docket is Portland General Electric Company's Response to Blue Marmot's Motion to Compel Discovery.

Please contact this office with any questions.

Very truly yours,

A handwritten signature in blue ink that reads "Alisha Till".

Alisha Till  
Administrative Assistant

Attachment

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1829**

Blue Marmot V LLC  
Blue Marmot VI LLC  
Blue Marmot VII LLC  
Blue Marmot VIII LLC  
Blue Marmot IX LLC,  
Complainants,

v.

Portland General Electric Company,  
Defendant.

**PORTLAND GENERAL ELECTRIC  
COMPANY’S RESPONSE TO BLUE  
MARMOT’S MOTION TO COMPEL  
DISCOVERY AND EXPEDITED  
MOTION FOR LIMITATIONS ON  
DISCOVERY**

**EXPEDITED CONSIDERATION  
REQUESTED**

1

**I. INTRODUCTION**

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To date, the Blue Marmot LLCs (collectively, Blue Marmot) have served *111 separate*

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*data requests* on PGE—many of them multipart. PGE already has responded to 48 data

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requests; responses to the remaining 63 are due over the next 14 days. PGE has worked

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diligently to provide full and fair responses to Blue Marmot. Where requests have been vague,

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confusing, or otherwise difficult to understand, PGE has conferred with Blue Marmot

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promptly, to determine the information desired. Where it has appeared to PGE that Blue

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Marmot misunderstands the technical issues involved in the dispute, PGE has taken care to

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correct any faulty premises and to provide sufficient context to aid Blue Marmot’s

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understanding. Importantly, with respect to several of the more confusing requests, PGE has

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invited Blue Marmot to schedule a discovery conference so that PGE could offer some

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additional context and background in hopes of providing Blue Marmot with a better

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understanding of the critical issues. Blue Marmot has not taken the Company up on its offer.

1           The instant Motion to Compel involves one data request for which the Company has  
2 not provided all requested information—data request 22. That request asks PGE to identify all  
3 off-system qualifying facilities (QFs) that have entered into power purchase agreements  
4 (PPAs) with PGE, to list each QF’s point of delivery (POD) and when PGE became aware of  
5 the same, and to provide a complete and unredacted copy of all off-system QF contracts.

6           PGE has responded to the data request and provided much of the information requested.  
7 In place of the information that it has not provided, PGE has offered Blue Marmot documents  
8 and other materials designed to provide comparable information. However, as discussed  
9 below, responding fully to all parts of this request would be unduly burdensome, and  
10 prejudicial to the competitive interests of the parties to PGE’s negotiated contracts. For these  
11 reasons, Blue Marmot’s Motion to Compel should be rejected.

12           In addition, PGE requests that the Commission issue an order preventing Blue Marmot  
13 from seeking additional discovery from PGE until after PGE files its testimony on December  
14 22, 2017. As discussed below, PGE has and will continue to respond to the first 101 data  
15 requests served. But more than 100 data requests served in one complaint case<sup>1</sup> should be  
16 sufficient for Blue Marmot to file its opening round of testimony, due on October 13. PGE’s  
17 request for a limitation on data requests from Blue Marmot would not prevent further discovery  
18 from Blue Marmot after PGE has filed its testimony and before Blue Marmot files its final  
19 round of testimony on February 23, 2018.

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<sup>1</sup> While this consolidated case includes complaints regarding five separate QFs, the relevant facts of each case are very similar, and none of the data requests received to date are specific to any particular project.

1 **II. BACKGROUND**

2 **A. PGE’s Off-System QF Contracts and the Constraint at the PACW.PGE POD.**

3 Over the past two years, numerous QFs located outside of PGE’s system have sought  
4 PPAs with PGE to take advantage of PGE’s avoided cost rates. PGE executed contracts with  
5 many of these QFs in 2016 and in early 2017. In mid-April 2017, when PGE was in the midst  
6 of the contracting process with some off-system projects, including Blue Marmot, the PGE  
7 personnel working on the QF contracting process became aware of a lack of available  
8 transmission capability (ATC) at the POD between PGE and PacifiCorp—the PACW.PGE  
9 POD—making it impossible for PGE to agree to accept additional off-system QF deliveries  
10 there.

11 Over the next several days, PGE’s QF contracting personnel spent time with the  
12 Company’s Merchant and Transmission Departments, and once it confirmed the lack of ATC,  
13 PGE contacted the two developers of QFs located in PacifiCorp’s service territory to whom it  
14 had sent draft of final contracts. One of those QFs was Blue Marmot.

15 On April 18, 2017, PGE confirmed that Blue Marmot’s preferred POD was  
16 PACW.PGE. The next day, PGE informed Blue Marmot that the POD was constrained and  
17 that it was evaluating the issue. PGE also assured Blue Marmot that, regardless of the  
18 resolution of the delivery issue, PGE would honor the avoided cost prices currently in effect,  
19 as reflected in the contracts PGE had sent to Blue Marmot. The Company then began to notify  
20 the four other QFs in the queue located in PacifiCorp’s service territory about the constraint.<sup>2</sup>

21 On April 21, 2017, PGE also posted notice that PACW.PGE was not an available POD on its  
22 QF website.

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<sup>2</sup> Because none of these QFs had been sent draft PPAs, PGE notified them in the course of the normal communication during the contracting process.

1 Blue Marmot filed Complaints with the Commission on April 28, 2017. Since that  
2 time, Blue Marmot has sent 111 separate data requests to PGE, many of them with multiple  
3 components. PGE has responded to 48 data requests, and responses to the remaining 63 are  
4 due within the next 14 days.

5 **B. Blue Marmot’s Motion to Compel.**

6 Data request 22, which is the subject of Blue Marmot’s Motion to Compel, was served  
7 on June 23, 2017, and reads as follows:

8 Please identify all offsystem QFs that have entered into PPAs with PGE.  
9 Please identify the POD for each contract, when PGE requested that the QF  
10 identify the POD, and the amount of ATC available at the time of contract  
11 execution. Please provide a complete and nonredacted copy of all offsystem  
12 QF contracts that are not posted on the OPUC’s website in docket number  
13 RE 143.

14 PGE objected to the request on the bases that it was overly broad and unduly  
15 burdensome, sought information that was neither relevant nor calculated to lead to the  
16 discovery of relevant evidence, and that providing a response would be more prejudicial than  
17 probative. Nevertheless, PGE substantially responded to the request by directing Blue Marmot  
18 to the Commission website for Docket RE 143—from which Blue Marmot can acquire a copy  
19 of every executed standard contract entered into by PGE, as well as a summary of the one off-  
20 system negotiated contract the Company has executed with the Airport Solar QF. PGE also  
21 stated that it “generally began requesting that QFs identify PODs on or about April 18, 2017.”<sup>3</sup>

22 In response to other data requests, PGE provided additional information relevant to the  
23 questions raised by Blue Marmot in data request 22. PGE explained that prior to learning of  
24 the constraint at the PACW.PGE POD, its practice was to identify a QF’s POD after executing

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<sup>3</sup> PGE’s Response to data request 22, Attachment A at 1 (July 7, 2017).

1 a contract. However, “PGE changed its practice on or about April 18, 2017, and now requires  
2 a QF to identify its requested POD in its initial information request.”<sup>4</sup> PGE also stated that it  
3 “began informing relevant QFs that it was not accepting deliveries at the PACW.PGE POD on  
4 or about April 18, 2017, and PGE posted this information on its QF website on or about April  
5 21, 2017.”<sup>5</sup> PGE also provided the resource type and capacity of the four QFs without executed  
6 PPAs that have informed PGE they are seeking delivery at PACW.PGE,<sup>6</sup> and the dates on  
7 which PGE informed each of them that PGE could not accept deliveries at that POD.<sup>7</sup>

8 PGE further provided a table with the name, POD, and contract execution date for all  
9 off-system QFs with which PGE entered into contracts from 2015-present.<sup>8</sup> PGE explained  
10 that, “PGE has entered three PPAs for delivery at PACW.PGE since July 1, 2015. PGE is  
11 evaluating how deliveries anticipated to be made from those projects to the PACW.PGE POD  
12 will be handled.”<sup>9</sup> PGE assured Blue Marmot that, “All QFs that have requested PPAs from  
13 PGE and that have requested to deliver at PACW.PGE will be given the same options as Blue  
14 Marmot.”<sup>10</sup>

15 Based on all of these responses, PGE believed that Blue Marmot would have access to  
16 the relevant information required to answer its questions.

17 In the process of conferring with Blue Marmot about this Motion, PGE learned that  
18 Blue Marmot was particularly interested in obtaining the date on which PGE first requested  
19 each off-system QF provide their POD. PGE explained that, with the information already  
20 provided, Blue Marmot could generally determine when each QF had been asked about their

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<sup>4</sup> PGE’s Response to data request 29, Attachment A at 6 (July 7, 2017).

<sup>5</sup> PGE’s Response to data request 26, Attachment A at 4 (July 7, 2017).

<sup>6</sup> PGE’s Response to data request 25, Attachment A at 3 (July 7, 2017).

<sup>7</sup> PGE’s Response to data request 41, Attachment A at 9 (Aug. 2, 2017).

<sup>8</sup> PGE’s Response to data request 40, Attachment A at 7-8 (Aug. 2, 2017).

<sup>9</sup> PGE’s Response to data request 28, Attachment A at 5 (July 7, 2017).

<sup>10</sup> PGE’s Response to data request 23, Attachment A at 2 (July 7, 2017).

1 POD. PGE also explained that it likely would not be able to pinpoint the date with any greater  
2 specificity, but to determine that for certain, PGE would need to perform an exhaustive search  
3 of its email system, including the emails of employees who no longer work on QF matters and  
4 one employee who is on extended leave. Obtaining and sorting through the results of such an  
5 email search would take many hours of PGE employee and attorney time, and initial searches  
6 have not revealed the information sought by Blue Marmot, suggesting that PGE's  
7 communications with QFs regarding their PODs occurred orally, rather than in writing.

8         Regarding the Airport Solar contract, Blue Marmot clarified that it wished to review  
9 that document specifically in order to determine whether it contained any terms or conditions  
10 designed to address the transmission constraint. PGE explained that it did not wish to provide  
11 the full contract because its negotiated terms are competitively sensitive. Moreover, PGE  
12 explained that the contract could not contain terms designed to address the constraint at the  
13 POD because the Company's QF contracting personnel were unaware of the constraint at the  
14 time they negotiated that contract. PGE offered to provide an affidavit to that effect. In an  
15 effort to resolve the dispute, PGE also offered to provide Blue Marmot with any terms and  
16 conditions from the Airport Solar contract specific to transmission constraints or curtailment  
17 generally. Blue Marmot declined PGE's offers.

18         Blue Marmot has now filed its Motion to Compel, asking that PGE be required to (1)  
19 "Identify when PGE requested QFs identify their POD for each of PGE's executed off-system  
20 QF PPAs," and (2) "Provide a complete and unredacted copy of any such executed off-system

1 contract that is not posted on the OPUC’s website, including the Airport Solar Schedule 202  
2 PPA that PGE claims has a PACW.PGE POD and was executed on April 4, 2017.”<sup>11</sup>

### 3 III. DISCUSSION

#### 4 C. **Blue Marmot’s Motion to Compel Should be Denied.**

##### 5 1. **PGE should not be compelled to produce the date on which it asked each off- 6 system QF about its requested POD.**

7 Blue Marmot’s request requiring the Company to state the date on which it asked each  
8 and every off-system QF about its POD is overly broad and unduly burdensome. Any attempt  
9 to ascertain the precise dates will require an enormous effort, and likely will yield little  
10 information. In addition, information about the vast majority of the QFs implicated in the  
11 question is not relevant to this dispute. And finally, PGE already has provided substantial  
12 information about all QF contracts executed during the relevant time period that should  
13 adequately address Blue Marmot’s concerns.

##### 14 a. PGE has substantially responded to Blue Marmot’s data request.

15 PGE already has provided Blue Marmot with a substantial amount of information  
16 relevant to the POD issue and PGE’s treatment of other QFs. Through responses to data  
17 requests and conversations with Blue Marmot, PGE has provided Blue Marmot with a  
18 significant amount of information regarding its policies, the events surrounding identification  
19 of the POD constraint, and how PGE handled the constraint for QFs at different stages in the  
20 queue. As detailed above, Blue Marmot has the execution date and the POD for all off-system  
21 QF contracts PGE has entered since 2015. PGE also has repeatedly explained its overall  
22 approach to QF PODs:

- 23 • ***Before learning of the constraint*** at the PACW.PGE POD in mid-April  
24 2017, PGE asked QFs to identify their PODs upon execution.

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<sup>11</sup> Blue Marmot’s Motion to Compel at 6-7. Please note, the April 4 date in Blue Marmot’s motion likely is a  
typographical error, because PGE has informed Blue Marmot that the Airport Solar PPA was executed on April  
3. PGE’s Response to data request 40, Attachment A at 7 (Aug. 2, 2017).



- 1                   • *After learning of the constraint* at the PACW.PGE POD in mid-April  
2 of 2017, PGE contacted the QF developers in the queue to whom it had  
3 sent PPAs to inquire about their planned PODs. PGE then posted  
4 information about the constraint on PGE’s QF website, contacted other  
5 QFs in the queue, and revised its initial information requests to ask QFs  
6 about their POD at the outset of the contracting process.

7 PGE offered to provide Blue Marmot with proof of the above-described approach—through  
8 affidavits or internal emails documenting PGE’s approach. Blue Marmot declined the offer.

9                   b. Blue Marmot’s request for information about all off-system QFs is unduly  
10 burdensome, overly broad, and not tailored to discover relevant information.

11 PGE should not be required to produce the dates on which it asked all QFs for their  
12 requested PODs because doing so would be unduly burdensome—if not impossible—and  
13 because most of the information encompassed within this request is not relevant or likely to  
14 lead to the discovery of relevant evidence. Blue Marmot asserts that it needs the requested  
15 information to understand how PGE treated similarly situated QFs, positing the hypothetical  
16 example that “if PGE requested that the other off-system QFs identify their PODs when there  
17 was allegedly no ATC, then it is relevant that PGE entered into a PPA with these QFs and not  
18 with Blue Marmot.”<sup>12</sup> This argument is misplaced for several reasons.

19 First, the majority of off-system QFs with which PGE has executed contracts plan to  
20 deliver power to the BPAT.PGE POD, rather than PACW.PGE, and therefore are not similarly  
21 situated to Blue Marmot. Second, PGE has explained that its policy prior to mid-April 2017  
22 was to work out the POD for a QF after the contract was executed. Therefore, knowing the  
23 date on which PGE asked the vast majority of QFs with which it has executed contracts for  
24 their PODs will not shed light on how PGE treated other QFs, similarly situated to Blue  
25 Marmot, that did not have fully executed PPAs when the constraint was identified. Blue  
26 Marmot was one of the first—if not the first—QF that PGE informed about the constraint and

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<sup>12</sup> Blue Marmot’s Motion to Compel at 8.

1 asked about its POD prior to executing a PPA. PGE has explained that it offered other similarly  
2 situated QFs the same options it offered Blue Marmot. Blue Marmot's concerns about whether  
3 it received fair treatment have no basis, and PGE has provided Blue Marmot with substantial  
4 information confirming this to be true. The additional information sought by Blue Marmot  
5 will not shed further light on this issue.

6         Additionally, the requested information will be difficult and likely impossible to locate.  
7 Before April 18, 2017, PGE simply confirmed the POD for off-system QFs upon execution of  
8 the contract, but had no formal process to obtain this information, and likely acquired it through  
9 oral conversations. Similarly, after discovering the constraint, when PGE contacted the QFs  
10 in the queue to inquire about their POD, those conversations likely occurred orally. An initial  
11 review of PGE's correspondence suggests these conversations were not documented in writing.  
12 However, the only way for PGE to confirm for certain that it has no record of the exact dates  
13 on which it requested POD information from each QF would be for PGE's information  
14 technology department to perform an exhaustive search of PGE's email systems, which would  
15 take days of work—likely yielding little if any additional information.

16         PGE has provided Blue Marmot with all relevant information regarding similarly  
17 situated QFs, including the PODs for all QF contracts executed from 2015 to the present, and  
18 when PGE became aware of the POD constraint and began to inquire about QFs' PODs. PGE  
19 has treated all QFs equally and there simply is no hidden evidence of discrimination to be  
20 located. Requiring PGE to respond to Blue Marmot's overly broad data request would be  
21 extremely burdensome and almost certainly will not produce additional relevant information.  
22 Therefore Blue Marmot's Motion to Compel PGE to provide the date it inquired about the  
23 POD for all off-system QFs should be denied.

24         **2. Blue Marmot is not entitled to the full, unredacted Airport Solar contract.**

25         PGE has told Blue Marmot that it has completed a negotiated contract for only one off-  
26 system QF—Airport Solar. Because PGE already has provided or offered to provide

1 substantial information about that agreement, and because it contains commercially sensitive  
2 information, Blue Marmot is not entitled to discover the full, unredacted agreement.

3 a. PGE has provided or offered to provide Blue Marmot with sufficient  
4 information about the Airport Solar agreement to address Blue Marmot's  
5 articulated questions and concerns.

6 Blue Marmot has informed the Company that it wishes to review the Airport Solar  
7 contract to determine what arrangements might have been made to respond to the concerns  
8 about transmission constraints at the PACW.PGE POD. Blue Marmot's Motion reiterates that  
9 it seeks to review the Airport Solar PPA "to determine if QFs like Airport Solar have agreed  
10 to any additional provisions (curtailments, pricing adjustments, etc.) that mitigate or otherwise  
11 address ATC conditions at the POD."<sup>13</sup>

12 PGE has explained that the Airport Solar contract was executed before PGE's QF  
13 personnel had knowledge of the constraint at PACW.PGE POD, and therefore none of its terms  
14 respond to that concern. The Company offered to provide Blue Marmot with an affidavit to  
15 that effect. PGE also has offered to provide Blue Marmot with excerpts of the PPA terms that  
16 could, theoretically, relate to the constraint, including any transmission or curtailment  
17 arrangements, so that Blue Marmot can judge the matter for itself. Blue Marmot has sufficient  
18 information to determine that the Airport Solar PPA will not shed light on or reveal novel  
19 solutions to the POD constraint, and it has declined PGE's offers to provide additional support  
20 for this conclusion.

21 b. The Airport Solar agreement contains commercially sensitive information  
22 that may not be disclosed to Blue Marmot, a competitor, or to its counsel.

23 The terms of the Airport Solar negotiated PPA are confidential and competitively  
24 sensitive, and therefore should not be disclosed unnecessarily to other QF developers or those  
25 who regularly represent them. PGE has posted a summary of the Airport Solar contract on the  
26 Commission's website, consistent with the Commission's rules,<sup>14</sup> and has identified Airport

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<sup>13</sup> Blue Marmot's Motion to Compel at 8.

<sup>14</sup> OAR 860-029-0020(1).

1 Solar’s requested POD in response to Blue Marmot’s data requests.<sup>15</sup> However, Blue  
2 Marmot’s request to review the contract in its entirety raises several concerns. First, disclosing  
3 the contract’s terms would chill parties’ creativity in coming up with mutually-agreeable  
4 solutions to the problems that inevitably arise in negotiating a PPA. Second, Blue Marmot’s  
5 developers may, in the future, negotiate PPAs with PGE. Having knowledge of the terms  
6 agreed to in the Airport Solar contract could distort the competitive nature of such negotiations.  
7 And finally, it is important to recognize that Blue Marmot’s attorney represents numerous QFs  
8 and other power producers who routinely negotiate with utilities, including PGE. Therefore,  
9 it would be prejudicial to PGE’s and its customers’ interests to provide Blue Marmot and its  
10 attorney with full access to every term and condition in the Airport Solar contract. Given these  
11 facts, providing the contract would be more prejudicial than probative.

12 In support of its request for the Airport Solar contract, Blue Marmot has cited a Ruling  
13 from *Surprise Valley Electrification Corp. v. PacifiCorp*.<sup>16</sup> However, the Ruling in the  
14 Surprise Valley case does not dictate the result here. In that case, PacifiCorp opposed the scope  
15 of Surprise Valley’s request for PPAs but did not articulate concerns regarding disclosure of  
16 commercially sensitive information to competitors.<sup>17</sup> Therefore, the Ruling did not consider  
17 the competitive concerns raised by Blue Marmot’s request and articulated by PGE in this  
18 response. Furthermore, PGE has offered to provide Blue Marmot with excerpts from the PPA  
19 that will allow Blue Marmot to determine that the PPA does not contain any special  
20 arrangements related to transmission or delivery, thereby providing the information requested  
21 without compromising commercially sensitive information. Blue Marmot’s Motion to Compel  
22 production of the entire Airport Solar PPA should be denied.

23 **D. The Commission Should Place Limits on Blue Marmot’s Discovery in this Matter**

24 The Commission’s rules regarding discovery provide that, “[d]iscovery must be  
25 commensurate with the needs of the case, the resources available to the parties, and the

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<sup>15</sup> PGE’s Response to data request 22, Attachment A at 1 (July 7, 2017).

<sup>16</sup> *Surprise Valley Electrification Corp. v. PacifiCorp*, Docket No. UM 1742, Ruling (Nov. 19, 2015).

<sup>17</sup> PacifiCorp’s Response to Motion to Compel, Docket No. UM 1742 (Nov. 4, 2015).

1 importance of the issues to which the discovery relates,”<sup>18</sup> and the rules prohibit “[d]iscovery  
2 that is unreasonably cumulative, duplicative, and burdensome, or overly broad.”<sup>19</sup> Oregon  
3 Rule of Civil Procedure 36(C) allows for entry of an order limiting discovery or placing  
4 restrictions on discovery.<sup>20</sup>

5 Blue Marmot has served a total of 111 data requests on PGE in this docket—many of  
6 which are multi-part, and many of which call for highly technical information and the  
7 compilation of voluminous data. To answer these requests as fully and accurately as possible,  
8 PGE has worked diligently with the appropriate subject matter experts. Where the requests  
9 have been vague and difficult to understand, PGE has quickly notified and conferred with Blue  
10 Marmot’s attorney in an effort to clarify the information requested. On several occasions PGE  
11 has suggested discovery conferences to clear up apparent misunderstandings of various  
12 technical matters raised in the data requests, and has offered to make PGE subject matter  
13 experts available to help Blue Marmot better understand the technical issues raised by its  
14 Complaints.

15 To date, the Company has answered 48 data requests, and it currently is working  
16 diligently to prepare answers to the 53 data requests it had received through Friday, September  
17 1—which are due over the next 10 days. The same PGE personnel responsible for responding  
18 to these requests also have been working to respond to the instant Motion in an expedited  
19 manner. Now, just as PGE prepared to file this Response, Blue Marmot served another 10 data  
20 requests, bringing the total number to 111.

21 Given the significant amount of information provided thus far, and the additional  
22 information PGE is working to provide, PGE believes that Blue Marmot should have enough  
23 information to prepare its initial testimony in this matter and that allowing further discovery at  
24 this stage in the proceeding would be “unreasonably cumulative, duplicative, and

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<sup>18</sup> OAR 860-001-0500(1).

<sup>19</sup> OAR 860-001-0500(2).

<sup>20</sup> See OAR 860-001-0000(1) (providing that the ORCPs apply in contested cases).

1 burdensome.”<sup>21</sup> In fact, it appears that at this point, even Blue Marmot does not have time to  
2 carefully review the requests it is serving, because some requests are duplicative of requests  
3 already served.<sup>22</sup> PGE understands that after the Company files its Response Testimony in  
4 this docket, Blue Marmot should have an opportunity to serve additional data requests on any  
5 new material raised. However, until that time, PGE requests that the Commission require PGE  
6 to respond to only the first 101 data requests served by Blue Marmot and prohibit Blue Marmot  
7 from serving additional discovery on PGE.

8 PGE conferred with Blue Marmot regarding PGE’s Motion for Limitations on  
9 Discovery, and Blue Marmot objects to the requested relief. PGE requests expedited  
10 consideration of its Motion because PGE’s responses to Blue Marmot’s latest data requests  
11 would be due in 14 days, and because Blue Marmot continues to serve new data requests on  
12 PGE regularly. PGE will work with Blue Marmot in the coming days with the goal of  
13 developing an agreed-upon schedule for expedited consideration of PGE’s Motion.

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<sup>21</sup> OAR 860-001-0500(2).  
<sup>22</sup> Compare Blue Marmot’s data request 57 (asking how a statement in PGE’s 2016 draft renewable RFP is consistent with PGE’s position in this case) with Blue Marmot’s data request 90 (same).

1 **IV. CONCLUSION**

2 PGE respectfully requests that the Commission deny Blue Marmot's Motion to  
3 Compel, prohibit Blue Marmot from issuing additional data requests until after PGE files its  
4 Response Testimony, and require PGE to respond only to the first 101 data requests served by  
5 Blue Marmot in this matter for the time being.

Dated September 5, 2017

**MCDOWELL RACKNER GIBSON PC**



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**PORTLAND GENERAL ELECTRIC COMPANY**

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Attorneys for Portland General Electric Company

**ATTACHMENT A**

To

Portland General Electric Company's

Response to Blue Marmot's Motion to Compel Discovery



UM 1829  
PGE Response to Blue Marmot's First Set of Data Requests

July 7, 2017

TO: Irion Sanger  
Leslie Freiman  
Will Talbott

FROM: Karla Wenzel  
Manager, Pricing and Tariffs

**PORTLAND GENERAL ELECTRIC  
UM 1829  
PGE Response to Blue Marmot Data Request No. 22  
Dated June 23, 2017**

**Request:**

- 22. Please identify all offsystem QFs that have entered into PPAs with PGE. Please identify the POD for each contract, when PGE requested that the QF identify the POD, and the amount of ATC available at the time of contract execution. Please provide a complete and nonredacted copy of all offsystem QF contracts that are not posted on the OPUC's website in docket number RE 143.**

**Response:**

PGE objects to this request on the grounds that it is overly broad and unduly burdensome and seeks information that is neither relevant nor calculated to lead to the discovery of relevant evidence. Alternatively, the information sought is more prejudicial than it is probative. Without waiving its objections, PGE responds as follows. PGE has filed its PPAs, or summaries of PPAs, with off-system QFs in OPUC Docket No. RE 143. The POD for the Airport Solar Schedule 202 contract is PACW. PGE generally began requesting that QFs identify PODs on or about April 18, 2017.

UM 1829  
PGE Response to Blue Marmot's First Set of Data Requests

July 7, 2017

TO: Irion Sanger  
Leslie Freiman  
Will Talbott

FROM: Karla Wenzel  
Manager, Pricing and Tariffs

**PORTLAND GENERAL ELECTRIC  
UM 1829  
PGE Response to Blue Marmot Data Request No. 23  
Dated June 23, 2017**

**Request:**

- 23. Will PGE accept deliveries from other offsystem QFs that have entered into PPAs with PGE and/or have requested PPAs from PGE and that are planning to deliver at PACW.PGE?**

**Response:**

PGE is reviewing off-system QFs that have entered PPAs and has not made a determination about whether it can accept deliveries from each of them at this time. All QFs that have requested PPAs from PGE and that have requested to deliver at PACW.PGE will be given the same options as Blue Marmot.

UM 1829  
PGE Response to Blue Marmot's First Set of Data Requests

July 17, 2017

TO: Irion Sanger  
Leslie Freiman  
Will Talbott

FROM: Karla Wenzel  
Manager, Pricing and Tariffs

**PORTLAND GENERAL ELECTRIC  
UM 1829  
PGE Response to Blue Marmot Data Request No. 25  
Dated June 23, 2017**

**Request:**

**25. Please identify all offsystem QFs by name, resource type, and nameplate that have requested PPAs from PGE and may be seeking delivery at the PACW.PGE POD.**

**Response:**

PGE objects that this data request seeks information that is not relevant to this case and calls for speculation, to the extent that it requires PGE to guess about the requested delivery point for a QF that has not yet provided that information to PGE. Without waiving its objections, PGE answers that the following list identifies all off-system QFs who have informed PGE that they are seeking delivery at PACW.PGE POD. QF names have been omitted to protect confidential business information.

- QF A, Small Hydro, 4.6 MWs
- QF B, Solar, 10 MWs
- QF C, Solar, 10 MWs
- QF D, Solar, 10 MWs

UM 1829  
PGE Response to Blue Marmot's First Set of Data Requests

July 7, 2017

TO: Irion Sanger  
Leslie Freiman  
Will Talbott

FROM: Karla Wenzel  
Manager, Pricing and Tariffs

**PORTLAND GENERAL ELECTRIC  
UM 1829  
PGE Response to Blue Marmot Data Request No. 26  
Dated June 23, 2017**

**Request:**

**26. When did PGE inform the other offsystem QFs that have entered into PPAs or requested PPAs in the queue that they are not accepting deliveries from the PACW.PGE POD?**

**Response:**

PGE began informing relevant QFs that it was not accepting deliveries at the PACW.PGE POD on or about April 18, 2017, and PGE posted this information on its QF website on or about April 21, 2017.

UM 1829  
PGE Response to Blue Marmot's First Set of Data Requests

July 17, 2017

TO: Irion Sanger  
Leslie Freiman  
Will Talbott

FROM: Karla Wenzel  
Manager, Pricing and Tariffs

**PORTLAND GENERAL ELECTRIC**  
**UM 1829**  
**PGE Response to Blue Marmot Data Request No. 28**  
**Dated June 23, 2017**

**Request:**

**28. Has PGE executed any PPAs for delivery at PACW.PGE since this POD became constrained in PGE's view (i.e., when PGE acquired the long-term firm transmission capability it felt was necessary to fully participate in the EIM) and if so, how will those parties be treated?**

**Response:**

Yes, PGE has entered three PPAs for delivery at PACW.PGE since July 1, 2015. PGE is evaluating how deliveries anticipated to be made from those projects to the PACW.PGE POD will be handled.

UM 1829  
PGE Response to Blue Marmot's First Set of Data Requests

July 7, 2017

TO: Irion Sanger  
Leslie Freiman  
Will Talbott

FROM: Karla Wenzel  
Manager, Pricing and Tariffs

**PORTLAND GENERAL ELECTRIC  
UM 1829  
PGE Response to Blue Marmot Data Request No. 29  
Dated June 23, 2017**

**Request:**

**29. Is it still PGE's practice to work out the POD after the QF executed the PPA? If not, when did PGE change that practice, and why?**

**Response:**

No, PGE now requests the QF to identify its requested POD in its initial information request. PGE changed its practice on or about April 18, 2017, so that it could identify early any QFs whose requested POD might be constrained.

UM 1829  
PGE Response to Blue Marmot Second Set of Data Requests

August 2, 2017

TO: Irion Sanger  
Leslie Freiman  
Will Talbott

FROM: Karla Wenzel  
Manager, Pricing and Tariffs

**PORTLAND GENERAL ELECTRIC  
UM 1829  
PGE Response to Blue Marmot Data Request No. 40  
Dated July 19, 2017**

**Request:**

- 40) Please refer to PGE's Data Response No. 22. Please identify all off-system QF contracts that PGE entered into during 2015, 2016 and 2017 (to date) identifying the POD for each contract, including but not limited to identifying all QF contracts executed by PGE where PACW.PGE was the POD.**

**Response:**

The following table contains the requested information:

| <b>Project Name</b>  | <b>POD</b> | <b>Contract Execution Date</b> |
|----------------------|------------|--------------------------------|
| Fossil Lake          | BPAT.PGE   | 4/29/2015                      |
| Lakeview             | PACW.PGE   | 7/15/2015                      |
| OE Solar 1           | BPAT.PGE   | 1/25/2016                      |
| OE Solar 2           | BPAT.PGE   | 1/25/2016                      |
| Morrow Solar         | BPAT.PGE   | 1/25/2016                      |
| Tygh Valley Solar    | BPAT.PGE   | 1/25/2016                      |
| Starvation Solar     | BPAT.PGE   | 1/25/2016                      |
| Dayton Solar I       | BPAT.PGE   | 1/25/2016                      |
| Wasco Solar 1        | BPAT.PGE   | 1/25/2016                      |
| OE Solar 3 (Wy'East) | BPAT.PGE   | 1/25/2016                      |
| OE Solar 4           | BPAT.PGE   | 3/7/2016                       |
| Fort Rock Solar I    | BPAT.PGE   | 4/27/2016                      |

|                     |          |           |
|---------------------|----------|-----------|
| Fort Rock Solar II  | BPAT.PGE | 4/27/2016 |
| South Burns Solar I | BPAT.PGE | 4/29/2016 |
| West Hines Solar I  | BPAT.PGE | 4/29/2016 |
| Suntex Solar        | BPAT.PGE | 5/16/2016 |
| Energy Partners I   | BPAT.PGE | 6/21/2016 |
| Energy Partners II  | BPAT.PGE | 6/21/2016 |
| OM Power 1          | PACW.PGE | 6/21/2016 |
| Fort Rock Solar IV  | BPAT.PGE | 6/26/2016 |
| Alfalfa Solar       | BPAT.PGE | 6/26/2016 |
| Harney Solar I      | BPAT.PGE | 6/27/2016 |
| Riley Solar         | BPAT.PGE | 6/27/2016 |
| Alkali              | BPAT.PGE | 8/26/2016 |
| Rock Garden         | BPAT.PGE | 8/26/2016 |
| OE Solar 5          | BPAT.PGE | 11/4/2016 |
| Airport Solar       | PACW.PGE | 4/3/2017  |
| Evergreen BioPower  | BPAT.PGE | 5/31/2017 |
| Stark Solar         | BPAT.PGE | 6/2/2017  |
| OE Solar 6          | BPAT.PGE | 6/15/2017 |



UM 1829  
PGE Response to Blue Marmot Second Set of Data Requests

August 2, 2017

TO: Irion Sanger  
Leslie Freiman  
Will Talbott

FROM: Karla Wenzel  
Manager, Pricing and Tariffs

**PORTLAND GENERAL ELECTRIC  
UM 1829  
PGE Response to Blue Marmot Data Request No. 41  
Dated July 19, 2017**

**Request:**

- 41) Please refer to PGE's Data Response No. 23. Please identify all QFs that have requested PPAs from PGE and have requested to deliver at PACW.PGE, which PGE is still reviewing to determine whether it can accept deliveries from at this time. Please also identify when PGE informed each of these QFs that it was not accepting deliveries at the PACW.PGE POD.**

**Response:**

- QF A, Small Hydro, 4.6 MW, notified June 26, 2016
- QF B, Solar, 10 MW, notified July 20, 2017
- QF C, Solar, 10 MW, notified July 20, 2017
- QF D, Solar, 10 MW, notified July 20, 2017

Please note that QF names have been omitted to protect confidential business information.