



McDOWELL RACKNER GIBSON PC
419 SW 11th Ave, Suite 400 | Portland, OR 97205

ALISHA TILL
Direct (503) 290-3628
alisha@mrg-law.com

December 17, 2019

VIA ELECTRONIC FILING

Attention: Filing Center
Public Utility Commission of Oregon
201 High Street SE, Suite 100
P.O. Box 1088
Salem, Oregon 97308-1088

Re: Docket UM 1829 – In the Matter of Blue Marmot V, LLC vs Portland General Electric Company

Attention Filing Center:

Attached for filing in the above-captioned docket is Portland General Electric Company's Motion to Open a New Docket for Further Proceedings.

Please contact this office with any questions.

Sincerely,

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

Alisha Till
Paralegal

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 MOTION TO OPEN NEW
DOCKET FOR FURTHER
PROCEEDINGS

1 Pursuant to OAR 860-001-0420, and consistent with direction from the Administrative
2 Law Judge at the December 16, 2019, prehearing conference, Portland General Electric Company
3 (PGE) respectfully moves the Public Utility Commission of Oregon (Commission) to require that
4 the new proceedings regarding extension of the commercial operation date (COD) for each of the
5 above-captioned Blue Marmot LLCs (Blue Marmots) occur in a new docket—not as Phase II of
6 Docket UM 1829, as the Blue Marmots requested.¹

I. AGREED UPON BRIEFING SCHEDULE

7 PGE and the Blue Marmots conferred and agreed to the following briefing schedule for
8 this Motion: Blue Marmots' Response will be filed by December 20, and PGE's Reply will be
9 filed by December 27.

II. DISCUSSION

10 The Blue Marmots did not ask for a COD extension in their Complaints, filed testimony,
11 or at hearing in Docket UM 1829, and only raised the request in their post-hearing Opening Brief.²

¹ Blue Marmots' Motion for Prehearing Conference at 1 (Nov. 26, 2019).

² Blue Marmots' Opening Brief at 76 (Feb. 14, 2019).

1 Therefore, in Order No. 19-322, the Commission held that the Blue Marmots “may assert” a claim
2 for extension of their CODs following the order, and that “PGE will be entitled . . . to a full
3 evidentiary proceeding with discovery as we consider this question.”³ PGE understands the
4 Commission’s order to have envisioned a new docket, initiated by the Blue Marmots filing a claim
5 for relief, and complete with a full evidentiary proceeding.

6 As a practical matter, PGE believes that conducting further proceedings in a new docket
7 will best ensure that the scope of such proceedings remains circumscribed. In their Application
8 for Reconsideration, the Blue Marmots raised an entirely new issue that could have been raised at
9 the outset of Docket UM 1829 and suggested that it could be considered in Phase II.⁴ The Blue
10 Marmots also have indicated that they may not view Order No. 19-322 as a final order. In contrast,
11 PGE understands that the order is the subject of a limited reconsideration request, but is final—
12 consistent with the statement regarding appealability at the end of the order.⁵ By opening a new
13 docket, the Commission can avoid any confusion regarding the finality of Order No. 19-322 and
14 ensure that the scope of further proceedings is not enlarged to encompass other aspects of the order
15 with which parties may disagree.

16 Moreover, opening a new docket will not inhibit the parties’ ability to rely upon evidence
17 from the record in Docket UM 1829, as the Blue Marmots appear to fear. The parties would be
18 free to introduce any relevant evidence they wish from UM 1829 into the record in the new docket.
19 Alternatively, the parties could request that the Commission take official notice of relevant
20 portions of the UM 1829 record, as appropriate.⁶ PGE is confident that the parties will be able to
21 work cooperatively to ensure all relevant evidence is included in the record in a new docket, and
22 evidentiary concerns do not provide a valid reason for proceeding as Phase II. In fact, the record

³ Order No. 19-322 at 20 (Sept. 30, 2019).

⁴ Blue Marmots’ Application for Reconsideration at 3 (Nov. 27, 2019).

⁵ Order No. 19-322 at 24 (“A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.”); ORS 183.480 (referring to judicial review of an agency’s “final order”).

⁶ OAR 860-001-0460(1)(d).

1 will be clearer, likely shorter, and easier for the Commission to review if all information relevant
2 to the COD decision is presented in a separate docket—rather than as part of the already lengthy
3 UM 1829 record.

III. CONCLUSION

4 Opening a new docket to address the Blue Marmots' COD-extension request will be the
5 cleanest and most efficient approach, and the Blue Marmots have not articulated any reason why
6 further proceedings must occur in Phase II. Therefore, PGE respectfully requests that the
7 Commission require the appropriate CODs for the Blue Marmots to be litigated in a new docket.

Dated December 17, 2019

MCDOWELL RACKNER GIBSON PC



Lisa F. Rackner

Jordan R. Schoonover
419 SW 11th Avenue, Suite 400
Portland, Oregon 97205
Telephone: (503) 595-3925
Facsimile: (503) 595-3928
dockets@mrg-law.com

PORTLAND GENERAL ELECTRIC COMPANY

Donald J. Light
Assistant General Counsel
121 SW Salmon Street, 1WTC1301
Portland, Oregon 97204
Telephone: (503) 464-8315
donald.light@pgn.com

Attorneys for Portland General Electric Company