

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UM 1877-UM 1882, UM 1884-UM 1886, UM 1888-UM 1890

BOTTLENOSE SOLAR, LLC (UM 1877);  
VALHALLA SOLAR, LLC (UM 1878);  
WHIPSNAKE SOLAR, LLC (UM 1879);  
SKYWARD SOLAR, LLC (UM 1880);  
LEATHERBACK SOLAR, LLC (UM 1881);  
PIKA SOLAR, LLC (UM 1882);  
COTTONTAIL SOLAR, LLC (UM 1884);  
OSPREY SOLAR, LLC (UM 1885);  
WAPITI SOLAR, LLC (UM 1886);  
BIGHORN SOLAR, LLC (UM 1888);  
MINKE SOLAR, LLC (UM 1889);  
HARRIER SOLAR, LLC (UM 1890),

Complainants,

vs.

PORTLAND GENERAL ELECTRIC  
COMPANY,

Defendant.

**PORTLAND GENERAL  
ELECTRIC COMPANY’S  
MOTION TO STAY  
DISCOVERY AND  
PROCEDURAL SCHEDULE**

*Expedited Consideration Requested*

Pursuant to OAR 860-001-0420, Portland General Electric Company (“PGE”) moves for suspension of discovery and the existing procedural schedule in the above-captioned cases pending the resolution of PGE’s motion for summary judgment filed on January 24, 2018, in each of the above-captioned cases.

**I. REQUEST FOR EXPEDITED CONSIDERATION**

PGE requests expedited consideration of this motion for stay. Counsel for PGE discussed this motion with counsel for Complainants on January 23, 2018. Counsel for Complainants indicated that his clients were likely to oppose the motion. PGE requests that the Administrative Law Judge (“ALJ”) issue an *immediate* ruling setting the expedited deadline for a response to this motion as February 1, 2018, and setting the expedited deadline for a reply as

February 6, 2018. The issues raised by this motion for stay are straightforward and the question of a stay needs rapid resolution so that the parties can focus on the dispositive motion filed by PGE and so that resources are not wasted resolving discovery disputes or preparing for a hearing that will be unnecessary if PGE's motion for summary judgment is granted.

## II. DISCUSSION

The above-captioned cases all involve complaints against PGE by qualifying facilities that were filed with the Public Utility Commission of Oregon ("Commission") in August 2017. The cases have not been formally consolidated but they share a common procedural schedule, the same legal issues, and similar facts. All 12 cases have been assigned to ALJ Arlow. On November 14, 2017, ALJ Arlow established a procedural schedule for the cases.<sup>1</sup>

Each of the cases contains the same three claims for relief. On January 24, 2018, PGE filed a motion for summary judgment asking the Commission to deny all three claims for relief as a matter of law and asking the Commission to dismiss all 12 cases.

If the Commission grants the motion for summary judgment in its entirety, then it will no longer be necessary to conduct or complete discovery in these cases or to proceed with the rest of the procedural schedule. If the Commission grants partial summary judgment on less than all of the claims in the complaints, then it will be necessary to continue discovery and a schedule for testimony, hearing and briefing but the scope of discovery and the issues for resolution through hearing may be narrowed.

PGE requests that the ALJ issue a ruling, or the Commission issue an order, staying discovery and the procedural schedule pending resolution of PGE's potentially dispositive motion for summary judgment. Staying discovery and the procedural schedule pending resolution of PGE's motion for summary judgment is reasonable and serves the interests of

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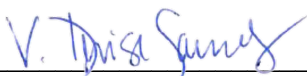
<sup>1</sup> See e.g., Docket UM 1878 (Valhalla), Prehearing Conference Report at 2 (Nov. 14, 2017).

judicial economy and administrative efficiency. The motion for summary judgment has the potential to resolve all legal issues and dispose of these cases efficiently. It would be a waste of resources for the parties to continue discovery and to prepare testimony for hearing if the motion for summary judgment disposes of some or all of the issues in these cases.

PGE notes that discovery has been contentious and could require considerable time and resources to complete. Complainants have served three rounds of data requests on PGE. The parties have a current discovery dispute regarding two of Complainants' data requests; Complainants have filed a motion to compel and PGE has responded in opposition.<sup>2</sup> PGE has served Complainants with one set of data requests to which Complainants have provided only a partial response; it may become necessary for PGE to file a motion to compel discovery. An order staying discovery pending resolution of the PGE's motion for summary judgment would allow the Commission and the parties to avoid expending resources on the resolution of discovery disputes until it becomes clear whether any claims survive summary judgment.

Dated this 24th day of January 2018.

Respectfully submitted,



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<sup>2</sup> See e.g., Docket UM 1878 (Valhalla), Complainants' Motion to Compel Discovery (Dec. 21, 2017) and PGE's Response to Complainants' Motion to Compel Discovery (Jan. 11, 2018).