

From: [MENZA Candice](#)
To: [WALKER Cheryl](#)
Subject: FW: OPUC Docket UM 1877-UM 1882, UM 1884-UM 1886, UM 1888-UM 1890 -- Notice of Filing
Date: Wednesday, October 24, 2018 8:35:32 AM

From: Irion Sanger <irion@sanger-law.com>
Sent: Tuesday, October 23, 2018 4:16 PM
To: Jeff Lovinger <jeff@lovingerlaw.com>; ARLOW Allan <aarlow@puc.state.or.us>
Cc: ANDRUS Stephanie <Stephanie.ANDRUS@state.or.us>; marie@sanger-law.com; steve@sabalsolar.com; Donald Light <donald.light@pgn.com>; jhluster13@gmail.com; norqual@ccrenew.com; barbara.parr@pgn.com; JONES Jason W <Jason.W.JONES@state.or.us>; MENZA Candice <cjmenza@puc.state.or.us>
Subject: Re: OPUC Docket UM 1877-UM 1882, UM 1884-UM 1886, UM 1888-UM 1890 -- Notice of Filing

Judge Arlow,

Respectfully, the Notice of Dismissal is not a motion as Mr. Lovinger asserts, therefore PGE is not entitled to a response and the Commission does not need to issue an order to effectuate the dismissal. The Notice of Dismissal is just that, a “notice” that Complainants are dismissing their claims.

As articulated in the Notice of Dismissal, ORCP 54 A(1) allows a party to dismiss its claim once without prejudice and “without order” by filing a “notice of dismissal” so long as no counterclaim has been asserted and it is still at least 5 days prior to trial. Complainants are entitled to dismiss their claims because they have not previously dismissed them, PGE has not filed any counterclaim, and because this notice is filed more than 5 days before trial (no hearing is currently set). This Notice of Dismissal is sufficient to dismiss the cases without prejudice. Further, as the notice articulates, a voluntary dismissal is permissible even after motions for summary judgment are fully pled. The OPUC has no other inconsistent rules, so pursuant to its own rules, it must follow the ORCP here.

As such, the Commission does not have the authority or jurisdiction to do anything different here other than simply close these dockets. The cases are over. If PGE has any counterclaims against the Complainants than PGE should seek appropriate relief, but since PGE has not filed any counterclaims in these cases, then it cannot oppose this voluntary dismissal.

Thank you

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From: Jeff Lovinger <jeff@lovingerlaw.com>
Date: Tuesday, October 23, 2018 at 2:01 PM
To: ARLOW Allan <allan.arlow@state.or.us>
Cc: ANDRUS Stephanie <Stephanie.ANDRUS@state.or.us>, Marie Barlow <marie@sanger-law.com>, Steve Cohen <steve@sabalsolar.com>, Donald Light <donald.light@pgn.com>, "jhluster13@gmail.com" <jhluster13@gmail.com>, "norqual@ccrenew.com" <norqual@ccrenew.com>, Barbara Parr <barbara.parr@pgn.com>, Irion Sanger <irion@sanger-law.com>, JONES Jason W <Jason.W.JONES@state.or.us>, MENZA Candice <candice.menza@state.or.us>
Subject: Re: OPUC Docket UM 1877-UM 1882, UM 1884-UM 1886, UM 1888-UM 1890 -- Notice of Filing

Judge Arlow:

On October 22, 2018, Complainants filed a "Notice of Dismissal Without Prejudice" in the 12 above-captioned proceedings. The October 22 filing is effectively a motion to allow Complainants to withdraw or dismiss the complaints without prejudice. PGE was not aware of this motion until after the document was filed and PGE was served. PGE questions the reasonableness and equity of allowing a voluntary withdrawal without prejudice at this late stage in the proceedings, when cross motions for summary judgment have been pending for several months and the Commission has denied Complainants' motion for leave to amend the complaints.

PGE will likely oppose the October 22 submission, but has not yet had time to consider it fully.

PGE respectfully requests confirmation:

(1) that the Commission or its ALJ will not grant Complainants' October 22, 2018 submission and dismiss the cases without prejudice until PGE has an opportunity to respond; and
(2) that under OAR 860-001-0420(4), PGE has 15 days (i.e., until November 6, 2018) to file a response to the October 22, 2018 submission.

Thank you,

Jeff Lovinger
Of Attorneys for PGE

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On Oct 22, 2018, at 2:03 PM, MENZA Candice <candice.menza@state.or.us> wrote:

Docket Name: BOTTLENOSE SOLAR LLC VS PORTLAND GENERAL ELECTRIC COMPANY

Description: UM 1877-UM 1882, UM 1884-UM 1886, UM 1888-UM 1890 - Complainant's Notice of Dismissal without Prejudice. Filed by Irion Sanger. Use the link below to view this document:

<http://edocs.puc.state.or.us/efdocs/HNA/um1877hna1421.pdf>

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