



Portland General Electric Company
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Donald J. Light
Assistant General Counsel

May 3, 2018

Via Electronic Filing

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

Re: **UM 1859 – Falls Creek Hydro Limited Partnership vs.
Portland General Electric Company**

Dear Filing Center:

Enclosed for filing in the above-captioned docket is Portland General Electric Company's Answer.

Thank you for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "Donald J. Light". The signature is written in a cursive, flowing style.

Donald J. Light
Assistant General Counsel

DJL:hp
Enclosure

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1859

FALLS CREEK HYDRO LIMITED
PARTNERSHIP,

Complainant,

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 first amended complaint (“First Amended Complaint”) filed by Falls Creek Hydro Limited Partnership (“Falls Creek Hydro” or “Complainant”) on April 6, 2018. The First Amended Complaint modified the original complaint (“Complaint”) filed by Complainant on August 7, 2017.

PGE has complied with the Commission’s rules and orders and with PGE’s Schedule 201 in processing Complainant’s request for a power purchase agreement (“PPA”). Complainant attached a standard PPA to its original complaint and repeatedly asserted that it had unequivocally committed to sell to PGE under the terms and conditions of that attached standard (non-renewable) PPA. PGE is willing to enter into the standard PPA that Complainant attached to its original complaint and to which Complainant stated it was unequivocally committed and bound. Complainant now seeks to change the substantive terms and conditions of the PPA to which it claimed to be unequivocally committed and bound. Now, Complainant wants a

renewable PPA rather than the standard (non-renewable) PPA to which it previously unequivocally committed. And now Complainant wants a 9,700,000 kWh minimum delivery commitment rather than the standard minimum delivery commitment of 75% of average annual net output contained in Section 4.2 the standard PPA to which Complainant previously unequivocally committed.

Complainant changing positions, after declaring itself unequivocally committed under the prior contract, demonstrates why the Commission should continue to insist that a qualifying facility (“QF”) complete the standard contracting process before a legally enforceable obligation (“LEO”) is established. Complainant’s changing position after stating that it unequivocally committed to the contract attached to the original Complaint, and Complainant’s new claims that it was unaware of “mistakes” in the contract attached to the original Complaint, also demonstrates why it is critical for the Commission to continue to authorize PGE and the other utilities to engage in all three stages of the standard contracting process so that the utility and the QF have ample opportunity to review PPAs and ensure that they are free of errors or unintended terms before the parties commit to a long-term sale involving tens or hundreds of millions of dollars in future transactions.

At the time it filed its Complaint, Complainant was not entitled to a renewable PPA for its proposed project, nor had it established a legally enforceable obligation entitling it to sell to PGE at the standard renewable rates in effect before June 1, 2017, or between June 1, 2017, and September 17, 2017. PGE does not dispute that Complainant established a legally enforceable obligation to the standard (non-renewable) rates in effect between June 1, 2017, and September 17, 2017, and PGE is willing to enter into the standard PPA that Complainant attached to its original Complaint.

II. SERVICE

Copies of all pleadings, motions and correspondence should be served on PGE's counsel and representatives at the addresses below:

Donald Light
Assistant General Counsel
Portland General Electric Company
121 SW Salmon Street, 1WTC1301
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III. ANSWER

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

Unless otherwise specified, the capitalized term "Paragraph" refers to the numbered paragraphs of the First Amended Complaint beginning on page four of the First Amended Complaint.

The first three pages of the First Amended 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 Complainant's narrative and legal arguments as part of dispositive motion practice or, if needed, at a hearing and subsequent briefing 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 or legal arguments. If the Commission deems that responses are required in such instances, then PGE denies the allegations in question.

Some of the numbered Paragraphs in the First Amended Complaint allege the exchange of written communications between the parties. In answer to some of these numbered Paragraphs, PGE has admitted the existence of the written communications, filed a copy of the written communications as exhibits (or indicated that Complainant has filed a copy with its First Amended Complaint), and indicated that the communications speak for themselves. In these instances, PGE denies all of the allegations in the associated numbered Paragraph except to the extent that PGE expressly admits an allegation. The exhibits submitted by PGE are true and correct copies of the information exchanged by the parties. The fact that PGE has provided a copy of a communication from Complainant to PGE does not mean that PGE admits the accuracy or truth of any assertion or allegation made by the Complainant in any communications that are attached as Exhibits to this Answer (or that are attached to the First Amended Complaint); PGE therefore denies all assertions or allegations made by Complainant in any of the Exhibits attached to this Answer (or attached to the First Amended Complaint) unless PGE has expressly admitted such an assertion or allegation in this Answer.

Some of the numbered Paragraphs in the First Amended Complaint characterize the contents of a Commission order, a FERC order, or a filing made by PGE in a Commission docket. In answer to some of these numbered Paragraphs, PGE has indicated that the Commission order, FERC order, or PGE filing speaks for itself. In such instances, PGE denies all of the allegations in the associated numbered Paragraph except to the extent PGE expressly admits an allegation.

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

IDENTITY OF THE PARTIES

1. PGE admits the allegations contained in Paragraph 1.

2. PGE admits that Complainant has submitted responses to PGE's Schedule 201 Initial Information Form or PGE's Schedule 201 Initial Information Request and that those responses assert the facts alleged in Paragraph 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.

APPLICABLE STATUTES AND RULES

3. The allegations contained in Paragraph 3 constitute legal conclusions to which no response is required.

4. The allegations contained in Paragraph 4 constitute legal conclusions to which no response is required.

JURISDICTION

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.

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

FACTUAL BACKGROUND

8. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 and therefore denies them. Complainant has informed PGE at different times that the Falls Creek Hydro Project is a 4.96 megawatt ("MW") project, a

4.9 MW project, and that it is a 4.1 MW project. PGE admits that Complainant has informed PGE that the project is located in Linn County, Oregon.

9. PGE admits that Complainant has informed PGE that the Falls Creek Hydro Project is interconnected with PacifiCorp.

10. The allegations contained in Paragraph 10 characterize the contents of a letter that Complainant sent to PGE dated January 5, 2017 (the “January 5 Letter”). A copy of the January 5 Letter is attached to the First Amended Complaint as Attachment A. The January 5 Letter speaks for itself.

11. The allegations in Paragraph 11 are vague and ambiguous. It is not clear to PGE what time period, which individuals, or what alleged changes in business practices are being referred to in Paragraph 11, and PGE therefore denies all of the allegations contained in Paragraph 11.

12. The allegations in Paragraph 12 are vague and ambiguous. It is not clear to PGE what time period is being referred to, it is not clear which individuals are alleged to have made statements, it is not clear what statements are alleged to have been made, and it is not clear to whom the alleged statements were addressed, and PGE therefore denies all of the allegations contained in Paragraph 12.

13. The allegations in Paragraph 13 are vague and ambiguous. It is not clear what time period is being referred to, it is not clear who is alleged to have directed employees to revise business plans, it is not clear which employees were allegedly directed to revise business plans, and it is not clear what changes to business plans were allegedly directed, and PGE therefore denies all of the allegations contained in Paragraph 13.

14. The allegations in Paragraph 14 are vague and ambiguous. It is not clear what time period is being referred to, it is not clear who is alleged to have represented that PGE does not favor QFs, it is not clear to whom such alleged representations were made, and it is not clear what was allegedly stated or represented, and PGE therefore denies all of the allegations contained in Paragraph 14.

15. PGE denies the allegations contained in Paragraph 15.

16. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 and therefore denies them.

17. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 and therefore denies them.

18. PGE admits that on June 6, 2017, it received from Complainant a hard copy and electronic copy of a document entitled “Falls Creek HP, Limited Partnership: Application to Portland General Electric For a Standard Renewable Off-System Non-Variable PPA” (the “Application”). PGE admits that the Application provided PGE with some of the information required by PGE to develop a draft Standard PPA with PGE. PGE admits that the Application indicated that Falls Creek Hydro was an off-system QF interconnected to PacifiCorp. PGE admits that the Application requested a Standard Renewable Off-System Non-Variable PPA with the Schedule 201 Renewable Fixed Price Option. PGE denies any other allegations contained in Paragraph 18.

19. PGE admits the allegations contained in Paragraph 19.

20. PGE admits that as part of the Application the Complainant submitted a PGE Standard Renewable Off-System Non-Variable Power Purchase Agreement form with values

inserted in some but not all of the blank space in the form contract. PGE denies any other allegations contained in Paragraph 20.

21. The allegations contained in Paragraph 21 characterize the contents of materials that Complainant submitted to PGE on June 6, 2017, and copies of that material have been submitted into the record by Complainant as Attachments C and D to the First Amended Complaint; the documents speak for themselves.

22. The allegations contained in Paragraph 22 characterize the contents of materials that Complainant submitted to PGE on June 6, 2017, and copies of that material have been submitted into the record by Complainant as Attachment D to the First Amended Complaint; the document speaks for itself.

23. The allegations contained in Paragraph 23 characterize the contents of materials that Complainant submitted to PGE on June 6, 2017, and copies of that material have been submitted into the record by Complainant as Attachment E to the First Amended Complaint; the document speaks for itself.

24. PGE admits that on June 13, 2017, PGE stated that it had received a request for contract from Complainant on June 9, 2017 and that by June 29, 2017, PGE would send a draft standard PPA or a request for any additional or clarifying information. PGE admits that Falls Creek sent PGE a FedEx delivery receipt indicating that its request for contract was delivered to PGE on June 6, 2017.

25. The allegations in Paragraph 25 are vague and ambiguous. It is not clear what communications are being referred to in Paragraph 25. PGE therefore denies all of the allegations contained in Paragraph 25.

26. The allegations in Paragraph 26 are vague and ambiguous. It is not clear what communications are being referred to in Paragraph 26. PGE therefore denies all of the allegations contained in Paragraph 26.

27. The allegations contained in Paragraph 27 characterize the contents of an email that PGE sent to Complainant on June 26, 2017 (the “June 26 Email”). A copy of the June 26 Email is attached to this Answer as Exhibit A. The June 26 Email speaks for itself. PGE admits that Complainant originally listed PAC-PGE as a potential POD. PGE lacks information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in the last sentence of Paragraph 27 and therefore denies them.

28. PGE admits that on June 26, 2017 and June 30, 2017, Complainant indicated that it would “look into a different POD”; PGE denies the remaining allegations contained in Paragraph 28.

29. PGE admits the allegations contained in Paragraph 29.

30. PGE denies the allegations contained in Paragraph 30.

31. The allegations contained in Paragraph 31 characterize the contents of materials that Complainant submitted to PGE on June 30, 2017, and copies of that material have been submitted into the record by Complainant as Attachment E to the First Amended Complaint; the document speaks for itself.

32. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 32 and therefore denies them.

33. The allegations contained in Paragraph 33 characterize the contents of a letter that Complainant sent to PGE on July 3, 2017 (the “July 3 Letter”). A copy of the July 3 Letter is attached to this Answer as Exhibit B. The July 3 Letter speaks for itself.

34. The allegations contained in Paragraph 34 characterize the contents of the July 3 Letter, a copy of which is attached to this Answer as Exhibit B. The July 3 Letter speaks for itself.

35. PGE admits the allegations contained in Paragraph 35.

36. PGE admits the allegations contained in Paragraph 36.

37. PGE admits that Exhibit A to the draft Standard PPA that PGE sent to Complainant on July 7, 2017 (the “July 7 Draft PPA”) did not include a 9,700,000 kWh minimum delivery value. PGE denies any other allegations contained in Paragraph 37.

38. The allegations contained in Paragraph 38 characterize Exhibit B to the July 7 Draft PPA. A copy of the July 7 Draft PPA, including Exhibit B, has been attached to the First Amended Complaint as Attachment H. The July 7 Draft PPA speaks for itself.

39. The allegations contained in Paragraph 39 characterize a portion of Exhibit C to the July 7 Draft PPA, which has been attached to the First Amended Complaint as Attachment H and which speaks for itself.

40. To the extent the allegations contained in Paragraph 40 are legal conclusions or legal argument, they do not require a response. To the extent the allegations contained in Paragraph 40 are not legal conclusions or legal argument, PGE denies the allegations contained in Paragraph 40.

41. PGE admits the allegations contained in Paragraph 41.

42. PGE denies the allegations contained in Paragraph 42.

43. PGE admits that it provided Complainant with the Standard Off-System Non-Variable PPA instead of the Standard Renewable Off-System Non-Variable PPA because

Complainant was not eligible for a Standard Renewable Off-System Non-Variable PPA. PGE denies all other allegations contained in Paragraph 43.

44. PGE denies the allegations contained in Paragraph 44.

45. PGE admits that it intended to provide Complainant with the Standard Off-System Non-Variable PPA and denies it provided the document by mistake.

46. PGE denies the allegations contained in Paragraph 46.

47. PGE admits that it intended to provide a Draft Standard PPA that reflected the default value for minimum delivery obligation provided for in Section 4.2 of the standard contract form because Complainant did not indicate to PGE that it sought a different or specific minimum delivery obligation value.

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 lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 52 and therefore denies them. PGE notes that Complainant repeatedly indicated in its original Complaint and in communications with PGE in advance of the original Complaint, including in the email from Complainant to PGE dated August 4, 2017 (copy attached to this Answer as Exhibit G), that Complainant had unequivocally committed itself to sell all net output to PGE at the rates and under the terms and conditions contained in the PPA that was attached as Exhibit A to the original Complaint and that PPA was a Standard PPA not a Renewable Standard PPA and that PPA did not specify minimum deliveries at 9,700,000 kWh, so PGE understands from Complainant's repeated and

unambiguous statements that it accepted the Standard PPA without a specified minimum delivery value and had unequivocally committed itself to such terms.

53. The allegation in Paragraph 53 is vague and ambiguous because it is not clear what Complainant contends is the “minimum required information in Exhibit B” and PGE therefore denies the allegations of Paragraph 53.

54. PGE denies the allegations contained in Paragraph 54.

55. PGE denies the allegations contained in Paragraph 55.

56. The allegations in Paragraph 56 are vague and ambiguous because it is not clear what Complainant contends is the “minimum required information in Exhibit B”; PGE therefore denies the allegations in Paragraph 56.

57. PGE denies the allegations contained in Paragraph 57.

58. PGE denies the allegations contained in Paragraph 58.

59. PGE admits that on July 13, 2017, Complainant requested that PGE provide a final executable PPA and Complainant also requested two changes to the draft PPA: (1) correction of the county in which the project is located from Lane to Linn; and (2) a change in nameplate capacity from 4,960 kW to 4,100 kW.

60. PGE denies that Schedule 201 allows a QF to directly request an executable PPA rather than a final draft PPA when the QF seeks changes to the initial draft PPA.

61. PGE admits that on July 13, 2017, Complainant requested two changes to the draft PPA: (1) to change the county from “Lane” to “Linn”; and (2) to change the nameplate capacity of the facility from 4.96 MW to 4.1 MW. PGE denies that the change to the nameplate capacity was a non-substantive change, and PGE denies that the change to the nameplate capacity was to correct a PGE error.

62. PGE denies the allegations contained in Paragraph 62.

63. PGE denies the allegations contained in Paragraph 63.

64. PGE denies the allegations contained in Paragraph 64.

65. PGE denies the allegations contained in Paragraph 65.

66. PGE admits that it was a mistake for PGE to identify the county as Lane in the Draft Standard PPA.

67. PGE denies the allegation contained in Paragraph 67.

68. PGE denies the allegation contained in Paragraph 68.

69. PGE denies the allegation contained in Paragraph 69.

70. PGE denies the allegation contained in Paragraph 70.

71. PGE denies the allegation contained in Paragraph 71.

72. PGE denies that a request to change from a Standard PPA to a Renewable Standard PPA would have been a request for a non-substantive change. PGE denies that a request to change from the default minimum delivery obligation to a different minimum delivery value would have been a request for a non-substantive change. PGE lacks information or knowledge sufficient to form a belief as to the truth of any of the remaining allegations contained in Paragraph 72 and therefore denies them.

73. PGE admits that on July 13, 2017, Complainant demanded that PGE provide an executable PPA by July 20, 2017. PGE admits that July 20, 2017, was five business days after July 13, 2017. PGE denies that an executable PPA was due by June 20, 2017. PGE admits that Complainant asserted that the draft contract should have been sent on June 26, 2017. PGE denies that the initial draft PPA was due on June 26, 2017. PGE admits that it provided an initial draft PPA to Complainant on July 7, 2017. PGE denies that July 7, 2017 was ten days after the due

date for the draft PPA. PGE admits that Complainant requested PGE subtract ten business days from PGE's next maximum response time. PGE denies that there was any need or obligation to do so.

74. PGE admits that on July 13, 2017, Complainant requested that PGE skip the step of providing a final PPA and directly provide an executable PPA. PGE denies that Complainant requested no substantive changes to the draft PPA. PGE denies that the only changes requested by Complainant were to correct ministerial errors made by PGE. Before PGE produced the draft PPA, Complainant requested a nameplate capacity of 4,960 kW, and PGE produced a draft PPA with a stated project capacity of 4,960 kW. Then, on July 13, 2017, Complainant requested a change in nameplate capacity from 4,960 kW to 4,100 kW. This was a substantive change. This was not a change required to correct a ministerial error made by PGE. PGE denies that a QF is allowed to move directly from an initial draft PPA to an executable PPA, especially when the QF requests a change to the initial draft PPA.

75. The allegations contained in Paragraph 75 characterize an email that PGE sent to Complainant on July 14, 2017 ("July 14 Email"). PGE has attached a copy of the July 14 Email to this Answer as Exhibit C. The July 14 Email speaks for itself.

76. The allegations contained in Paragraph 76 are vague and ambiguous and do not identify the time period in question or exactly what aspects of the standard contracting process are addressed by the allegations; PGE therefore denies the allegations.

77. PGE denies the allegations contained in Paragraph 77.

78. PGE denies that it had any obligation on July 14, 2017, to provide Complainant with advanced notice of comments that PGE made in Docket No. LC 66 on August 4, 2017 (comments that Complainant refers to in the First Amended Complaint as PGE's "August Early

Effective Date Request”). PGE denies that the only changes requested by Complainant on July 13, 2017, were to correct ministerial errors made by PGE. PGE denies that the Commission’s rules and policies and Schedule 201 allow a QF to move directly from a draft PPA to an executable PPA when the QF has requested a change to the draft PPA. PGE admits that on July 14, 2017, PGE did not notify Complainant that PGE intended to make the comments it ultimately made in Docket No. LC 66 on August 4, 2017, because PGE had no obligation to have formulated those comments by July 14, 2017 or to provide Complainant with advanced notice of those comments if they had been formulated by July 14, 2017. PGE admits that on July 14, 2017, PGE did not acknowledge that the only changes to the draft PPA requested by Complainant were to correct ministerial errors made by PGE because Complainant requested a change of the nameplate capacity from 4,960 kW to 4,100 kW after Complainant initially told PGE that the project nameplate capacity was 4,960 kW. PGE admits that on July 14, 2017, it did not acknowledge that the Commission’s rules and policies and Schedule 201 allow a QF to move directly from a draft PPA to an executable PPA because they do not when the QF has requested a change to the draft PPA.

79. The allegations contained in Paragraph 79 characterize in part the contents of an email sent by complainant to PGE on July 17, 2017 (“July 17 Email”). PGE has attached a copy of the July 17 Email as Exhibit D to this Answer. The July 17 Email speaks for itself.

80. The allegations contained in Paragraph 80 characterize in part the contents of the July 17 Email that is attached to this Answer as Exhibit D. The July 17 Email speaks for itself. PGE denies that the draft PPA it provided to Complainant violated Schedule 201.

81. The allegations contained in Paragraph 81 characterize in part the contents of the July 17 Email that is attached to this Answer as Exhibit D. The July 17 Email speaks for itself.

82. The allegations contained in Paragraph 82 characterize in part the contents of the July 17 Email that is attached to this Answer as Exhibit D. The July 17 Email speaks for itself.

83. The allegations contained in Paragraph 83 characterize in part the contents of the July 17 Email that is attached to this Answer as Exhibit D. The July 17 Email speaks for itself.

84. PGE admits the allegations contained in Paragraph 84.

85. PGE admits the allegations contained in Paragraph 85.

86. PGE admits the Final Draft Standard PPA provided to Complainant by PGE on August 3, 2017 was a Standard Off-System Non-Variable Power Purchase Agreement; PGE denies that Complainant requested a Standard Renewable Off-System Non-Variable Power Purchase Agreement in response to the initial draft PPA provided on July 7, 2017, which was also a Standard Off-System Non-Variable Power Purchase Agreement.

87. PGE admits that the Final Draft Standard PPA provided to Complainant by PGE on August 3, 2017, did not state in Exhibit A, or anywhere else, that Falls Creek Hydro's minimum delivery obligation would be 9,700,000 kWh. Complainant could have sent PGE a written request to change the initial Draft Standard PPA or the Final Draft Standard PPA to include a minimum delivery obligation of 9,700,000 kWh, but it never did so. PGE denies any other allegations contained in Paragraph 87.

88. PGE admits that Exhibit B to the August 3, 2017 Final Draft Standard PPA included detailed information about the Falls Creek Hydro project. PGE admits that the primary source for the information contained in Exhibit B was the information and documents provided by Complainant. PGE denies any other allegations contained in Paragraph 88.

89. PGE admits the allegations contained in Paragraph 89.

90. PGE admits that it intended to provide Complainant with a Final Draft Standard Off-System Non-Variable Power Purchase Agreement; PGE denies that Complainant requested a Final Standard Renewable Off-System Non-Variable Power Purchase Agreement.

91. PGE denies that it provided Complainant with a Final Draft Standard Off-System Non-Variable PPA by mistake.

92. PGE admits that Exhibit A to the Final Draft Standard PPA did not include a minimum delivery value of 9,700,000 kWh because Complainant had not requested that such a value be included either in Complainant's initial information submission or in Complainant's response to the initial Draft Standard PPA. PGE denies any other allegations contained in Paragraph 92.

93. PGE denies the allegations contained in Paragraph 93.

94. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 94 and therefore denies them.

95. PGE admits the allegations contained in Paragraph 95.

96. The allegations contained in Paragraph 96 are vague and ambiguous and PGE cannot determine what timeframe or alleged pattern of activity or alleged practice is being alleged; PGE therefore denies all allegations contained in Paragraph 96.

97. The allegations contained in Paragraph 97 characterize part of the content of an August 3, 2017 email and attached letter that PGE sent to Complainant ("August 3 Email and Letter"). A copy of the August 3 Email and Letter is attached to this Answer as Exhibit E. The August 3 Email and Letter speaks for itself.

98. The allegations contained in Paragraph 98 characterize part of the content of the August 3 Email and Letter, which is attached to this Answer as Exhibit E and speaks for itself.

99. The allegations contained in Paragraph 99 characterize part of the content of the August 3 Email and Letter, which is attached to this Answer as Exhibit E and speaks for itself.

100. The allegations contained in Paragraph 100 characterize part of the content of the August 3 Email and Letter, which is attached to this Answer as Exhibit E and speaks for itself.

101. The allegations contained in Paragraph 101 characterize comments filed with the Commission by PGE on August 4, 2017, in Docket No. LC 66, the Commission proceeding to address PGE's 2016 Integrated Resource Plan ("PGE's August 4 Comments on its 2016 IRP"). PGE has attached a copy of PGE's August 4 Comments on its IRP as Exhibit F to this Answer. PGE's August 4 Comments on its 2016 IRP speaks for itself.

102. The allegations contained in Paragraph 102 characterize PGE's August 4 Comments on its 2016 IRP, which have been attached as Exhibit F and which speaks for itself.

103. The allegations contained in Paragraph 103 characterize PGE's August 4 Comments on its 2016 IRP, which have been attached as Exhibit F and which speaks for itself.

104. Paragraph 104 does not contain any allegations of fact and therefore does not require any response. To the extent Paragraph 104 is deemed to contain any allegations of fact, PGE denies them.

105. PGE denies the allegations contained in Paragraph 105.

106. PGE admits that it did not provide Complainant with advanced notice that it would file PGE's August 4 Comments on its IRP, but PGE denies that it had any obligation to provide Complainant or any other entity with advanced notice of that filing or those comments.

107. PGE denies the allegations contained in Paragraph 107.

108. The allegations contained in Paragraph 108 are legal conclusions or legal argument and do not require a response.

109. The allegations contained in Paragraph 109 are vague and ambiguous. It is not clear to PGE what PGE request Complainant is referring to in Paragraph 109. To the extent Paragraph 109 is characterizing PGE's August 4 Comments on its IRP, the comments document is attached as Exhibit F and speaks for itself. To the extent that Paragraph 109 is intended to contain allegations other than a characterization of PGE's August 4 Comments on its IRP, PGE cannot ascertain what those allegations are and PGE therefore denies all allegations contained in Paragraph 109.

110. The allegations contained in Paragraph 110 characterize an email that Complainant sent to PGE on August 4, 2017 ("August 4 Email"). PGE has attached a copy of the August 4 Email to this Answer as Exhibit G. The August 4 Email speaks for itself.

111. The allegations contained in Paragraph 111 characterize the August 4 Email, which has been attached to this Answer as Exhibit G and which speaks for itself.

112. There are no factual allegations contained in Paragraph 112; rather, Paragraph 112 contains legal argument or legal conclusions that do not require a response. To the extent that Paragraph 112 is deemed to contain any factual allegations, PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 112 and therefore denies them.

113. The allegations contained in Paragraph 113 are a combination of legal argument or legal conclusions that do not require a response and factual allegations about which PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 112 and PGE therefore denies them.

114. PGE denies that it had any obligation to provide Complainant with advanced notice of the content of PGE's August 4 Comments on its IRP.

115. The allegations contained in Paragraph 115 characterize the August 4 Email, which has been attached to this Answer as Exhibit G and which speaks for itself.

116. The allegations contained in Paragraph 116 characterize the August 4 Email, which has been attached to this Answer as Exhibit G and which speaks for itself.

117. PGE admits that Complainant attached as Exhibit A to the original Complaint a copy of the final draft PPA that PGE had provided to Complainant on August 3, 2017, and that Complainant had signed that draft PPA and dated its signature August 6, 2017. Exhibit A to the original Complaint speaks for itself.

118. Paragraph 118 characterizes the content of an August 7, 2017 email sent by Complainant to PGE (“August 7 Email”). PGE has attached a copy of the August 7 Email to this Answer as Exhibit H. The August 7 Email speaks for itself.

119. PGE admits that it was due to provide Falls Creek an executable PPA on the same terms and conditions contained in the August 3, 2017 final Draft PPA prior to PGE’s avoided cost rate change effective September 18, 2017. PGE denies that it was due to provide Complainant with an executable PPA with any other terms or in any other form prior to September 18, 2017.

120. PGE admits the allegations contained in Paragraph 120.

121. PGE admits the allegations contained in Paragraph 121.

122. Paragraph 122 characterizes the content of Complainant’s September 1, 2017 written comments referred to in Paragraph 120 and attached to the First Amended Complaint as Attachment K (“September 1 Comments”). The September 1 Comments document speaks for itself. Paragraph 122 also characterizes the content of Complainant’s September 12, 2017 oral comments referred to in Paragraph 121 (“September 12 Statement”) and allegedly available for

public review in video of the Commission's September 1, 2017 public meeting; the video of Complainant's September 12 Statement speaks for itself.

123. PGE denies that Complainant could have reasonably assumed that it was receiving a Renewable Standard PPA at the renewable rates designated in PGE's Schedule 201 tables 4a and 4b because Complainant was not eligible for a Renewable Standard PPA at such renewable rates and because PGE provided Complainant with a Standard PPA, not a Renewable Standard PPA and Complainant unilaterally signed such Standard PPA and declared itself in writing to be unequivocally committed to sell the net output of its project to PGE under the terms and conditions of the Standard PPA that its signed (not a standard Renewable PPA). PGE lacks information or knowledge sufficient to form a belief as to the truth of any other allegations contained in Paragraph 123 and therefore denies them.

124. PGE denies the allegation contained in Paragraph 124.

125. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 125, and PGE therefore denies them.

126. PGE denies the allegations contained in Paragraph 126.

127. PGE admits that Complainant originally requested a Renewable Standard Contract. PGE denies Complainant is eligible for a Renewable Standard Contract. PGE admits it has consistently provided Complainant with a Standard Contract. PGE admits Complainant unilaterally signed a Standard Contract and unequivocally commit to sell to PGE under that Standard Contract. PGE denies that at any time prior to March 2018, Complainant objected to the fact that PGE refused to provide Complainant with a Renewable Standard Contract and instead provided Complainant with Standard Contracts. PGE admits that it is unwilling to agree

to enter into a Standard Renewable Contract with Complainant because Complainant is not eligible for a Standard Renewable Contract.

128. PGE denies the allegations contained in Paragraph 128.

129. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 129 and therefore denies them.

130. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 130 and therefore denies them.

131. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 131 and therefore denies them.

LEGAL CLAIMS

COMPLAINANT'S FIRST CLAIM FOR RELIEF

FALLS CREEK HYDRO IS ENTITLED TO PGE'S STANDARD RENEWABLE CONTRACT AT THE SCHEDULE 201 RATES EFFECTIVE ON JUNE 1, 2017 BECAUSE FALLS CREEK HYDRO LEGALLY OBLIGATED ITSELF TO SELL THE NET OUTPUT PRIOR TO THE FILING OF THIS COMPLAINT

132. In answer to the allegations contained in Paragraph 132, PGE repeats and realleges the responses made to Paragraphs 1 through 131.

133. The allegations contained in Paragraph 133 are legal conclusions and do not require a response.

134. The allegations contained in Paragraph 134 are legal conclusions and do not require a response.

135. The allegations contained in Paragraph 135 are legal conclusions and do not require a response.

136. The allegations contained in Paragraph 136 are legal conclusions and do not require a response.

137. The allegations contained in Paragraph 137 characterize the Commission's decision in Order No. 16-174. That document speaks for itself. To the extent that the allegations in Paragraph 137 are legal conclusions, they do not require a response.

138. The allegations contained in Paragraph 138 characterize the Commission's decision in Order No. 16-174. That document speaks for itself. To the extent that the allegations in Paragraph 138 are legal conclusions, they do not require a response.

139. The allegations contained in Paragraph 139 characterize the Commission's decision in Order No. 16-174. That document speaks for itself. To the extent that the allegations in Paragraph 139 are legal conclusions, they do not require a response.

140. The allegations contained in Paragraph 140 characterize cited FERC decisions and are legal arguments. The FERC decisions speak for themselves. To the extent that the allegations in Paragraph 140 are legal arguments or legal conclusions, they do not require a response.

141. PGE denies the allegations contained in Paragraph 141. Complainant only has an option to select renewable avoided cost rates if PGE can use the renewable attributes associated with the project to meet PGE's RPS requirements.

142. PGE denies that Complainant repeatedly committed itself to sell power to PGE under the Schedule 201 renewable rates effective on June 1, 2017, and the terms and conditions of the draft PPA, with the changes noted in Paragraph 143, on June 13, July 7, July 26, August 2, and August 6, 2017. PGE admits that Complainant purported to commit itself to sell power to PGE under Schedule 201 standard avoided cost rates (rather than renewable avoided cost rates) and without stated value for minimum deliveries on June 13, July 7, July 26, August 2, and August 6, 2017. The allegations or implications contained in Paragraph 142 that Complainant

legally committed itself and the implication that such a commitment established a legally enforceable obligation are legal conclusions or legal arguments that do not require a response.

143. The allegations contained in Paragraph 143 appear to be legal argument or legal conclusions that do not require a response. To the extent that any of the allegations contained in Paragraph 143 are deemed to be factual allegations, PGE denies them.

144. The allegations contained in Paragraph 144 are legal conclusions or legal arguments and do not require a response.

145. The allegations contained in Paragraph 145 are legal conclusions or legal arguments and do not require a response. In addition, PGE denies that it refuses to execute the partially executed final PPA attached by Complainant to its original Complaint.

146. The allegations contained in Paragraph 146 are legal conclusions or legal arguments and do not require a response.

COMPLAINANT'S SECOND CLAIM FOR RELIEF

FALLS CREEK HYDRO IS ENTITLED TO PGE'S STANDARD RENEWABLE CONTRACT AT THE SCHEDULE 201 RATES EFFECTIVE ON JUNE 1, 2017 BECAUSE FALLS CREEK HYDRO LEGALLY OBLIGATED ITSELF TO SELL THE NET OUTPUT PRIOR TO THE FILING OF THIS COMPLAINT, AND PGE VIOLATED THE OPUC'S AND FERC'S POLICIES AND RULES, AND SCHEDULE 201

147. In answer to the allegations contained in Paragraph 147, PGE repeats and realleges the responses made to Paragraphs 1 through 146.

148. The allegations contained in Paragraph 148 characterize the Commission's decision in Order No. 05-584. That document speaks for itself. To the extent that the allegations in Paragraph 148 are legal argument or legal conclusions, they do not require a response.

149. The allegations contained in Paragraph 149 characterize FERC's regulations and a FERC order. FERC's regulations and FERC's order speak for themselves. To the extent the

allegations contained in Paragraph 149 are legal argument or legal conclusions, they do not require a response.

150. The allegations contained in Paragraph 150 quote and characterize a FERC order and provide legal argument or legal conclusions. FERC's order speaks for itself. To the extent that the allegations in Paragraph 150 are legal argument or legal conclusions, they do not require a response.

151. The allegations contained in Paragraph 151 are legal argument or legal conclusions and do not require a response.

152. The allegations contained in Paragraph 152 quote and characterize Commission Order No. 16-174. That document speaks for itself. To the extent that the allegations in Paragraph 152 are legal argument or legal conclusions, they do not require a response.

153. The allegations contained in Paragraph 153 characterize PGE's Schedule 201. That document speaks for itself. Paragraph 153 also includes allegations that are legal argument or legal conclusions and do not require a response.

154. The allegations contained in Paragraph 154 characterize Commission Order No. 16-174. That document speaks for itself. To the extent that the allegations in Paragraph 154 are legal argument or legal conclusions, they do not require a response.

155. PGE denies the allegations contained in Paragraph 155.

156. PGE denies the allegations contained in Paragraph 156. PGE has been and remains willing to enter into an executable standard (non-renewable) PPA with Complainant on the terms and conditions contained in the final draft PPA provided by PGE to Complainant on August 3, 2017, which terms were accepted by Complainant on August 4, 2017, through an

email in which Complainant unequivocally committed to the terms of the August 3, 2017 final draft PPA (see Exhibit G to this Answer).

157. The allegations contained in Paragraph 157 are legal argument or legal conclusions and do not require a response.

158. The allegations contained in Paragraph 158 are legal argument or legal conclusions and do not require a response.

159. The allegations contained in Paragraph 159 are legal argument or legal conclusions and do not require a response.

160. The allegations contained in Paragraph 160 are legal argument or legal conclusions and do not require a response.

161. The allegations contained in Paragraph 161 are legal argument or legal conclusions and do not require a response.

162. The allegations contained in Paragraph 162 are legal argument or legal conclusions and do not require a response. PGE denies that it delayed and obstructed progress toward executing a PPA, as alleged in Paragraph 162.

163. The allegations contained in Paragraph 163 are legal argument or legal conclusions and do not require a response. PGE denies that Complainant was eligible for a “Non-Renewable draft Standard PPA.”

164. The allegations contained in Paragraph 164 are legal argument or legal conclusions and do not require a response. PGE denies that Complainant was eligible for a Renewable draft Standard PPA.

165. PGE denies the allegations contained in Paragraph 165.

166. PGE denies the allegations contained in Paragraph 166.

167. The allegations contained in Paragraph 167 are legal argument or legal conclusions and do not require a response.

168. PGE denies the allegations contained in Paragraph 168.

169. The allegations contained in Paragraph 169 are legal argument or legal conclusions and do not require a response.

170. PGE denies the allegations contained in Paragraph 170.

171. PGE denies the allegations contained in Paragraph 171.

172. The allegations contained in Paragraph 172 are legal argument or legal conclusions and do not require a response. PGE denies that it refused to provide an executable PPA.

173. The allegations contained in Paragraph 173 are legal argument or legal conclusions and do not require a response.

COMPLAINANT'S THIRD CLAIM FOR RELIEF

FALLS CREEK HYDRO IS ENTITLED TO PGE'S STANDARD RENEWABLE CONTRACT WITH THE SCHEDULE 201 RATES EFFECTIVE JUNE 1, 2017 BECAUSE FALLS CREEK HYDRO LEGALLY OBLIGATED ITSELF TO SELL THE NET OUTPUT PRIOR TO THE FILING OF THIS COMPLAINT, AND PGE VIOLATED THE OPUC'S AND FERC'S POLICIES AND RULES, AND SCHEDULE 201 BY ATTEMPTING TO COMMIT REGULATORY FRAUD

174. In answer to the allegations contained in Paragraph 174, PGE repeats and realleges the responses made to Paragraphs 1 through 173.

175. The allegations contained in Paragraph 175 are legal argument or legal conclusions and do not require a response.

176. The allegations of Paragraph 176 are vague, ambiguous, confusing and appear to be incomplete or to contain error. PGE cannot ascertain what Paragraph 176 is intended to allege and therefore denies all allegations contained in Paragraph 176. To the extent the allegations

contained in Paragraph 176 are legal conclusions or legal argument, they do not require a response.

177. The allegations of Paragraph 177 are vague, ambiguous, confusing and appear to be incomplete. PGE cannot ascertain what Paragraph 177 is intended to allege and therefore denies all allegations contained in Paragraph 177. To the extent the allegations contained in Paragraph 177 are legal conclusions or legal argument, they do not require a response.

178. PGE admits the allegations in Paragraph 178. However, PGE acknowledges that a LEO can be formed before both parties executed a PPA.

179. The allegations of Paragraph 179 are vague and ambiguous. It is not clear to PGE what activities or statements by PGE are the subject of the allegations in Paragraph 179, and PGE therefore denies the allegations in Paragraph 179.

180. Paragraph 180 alleges that “each of the representations in paragraphs 176-179 are false,” but the allegations in Paragraph 176 through Paragraph 179 are vague and ambiguous; PGE cannot accurately evaluate the allegation in Paragraph 180 when it cannot understand the allegations in Paragraphs 176 through 179. PGE therefore denies all allegations contained in Paragraph 180.

181. Paragraph 181 alleges that “each of the representations in paragraphs 176-179 are material,” but the allegations in Paragraph 176 through Paragraph 179 are vague and ambiguous; PGE cannot accurately evaluate the allegation in Paragraph 181 when it cannot understand the allegations in Paragraphs 176 through 179. PGE therefore denies all allegations contained in Paragraph 181.

182. Paragraph 182 alleges that “PGE was aware that each of the representations in paragraphs 176-179 were false,” but the allegations in Paragraph 176 through Paragraph 179 are

vague and ambiguous; PGE cannot accurately evaluate the allegation in Paragraph 182 when it cannot understand the allegations in Paragraphs 176 through 179. PGE therefore denies all allegations contained in Paragraph 182.

183. Paragraph 183 alleges that “PGE’s intent in making the representations in paragraphs 176-179 were than Falls Creek would act in reliance upon them[,]” but the allegations in Paragraph 176 through Paragraph 179 are vague and ambiguous; PGE cannot accurately evaluate the allegation in Paragraph 183 when it cannot understand the allegations in Paragraphs 176 through 179; PGE therefore denies all allegations contained in Paragraph 183.

184. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 184 and therefore denies them.

185. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 185 and therefore denies them.

186. The allegations contained in Paragraph 186 are legal argument or legal conclusions and do not require a response.

187. PGE lacks information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 187 and therefore denies them. Alternatively, the allegations contained in Paragraph 187 are legal argument or legal conclusions and do not require a response.

188. The allegations contained in Paragraph 188 are legal argument or legal conclusions and do not require a response.

COMPLAINANT’S FOURTH CLAIM FOR RELIEF

FALLS CREEK HYDRO IS ENTITLED TO PGE’S STANDARD RENEWABLE CONTRACT WITH THE SCHEDULE 201 RATES EFFECTIVE JUNE 1, 2017 AND INCLUDING ITS MINIMUM DELIVERIES BECAUSE FALLS CREEK HYDRO LEGALLY OBLIGATED ITSELF TO SELL THE NET OUTPUT PRIOR

TO THE FILING OF THIS COMPLAINT, AND THE ERRORS IN DRFTING THE PPA WERE DUE TO MUTUAL MISTAKE

189. In answer to the allegations contained in Paragraph 189, PGE repeats and realleges the responses made to Paragraphs 1 through 188.

190. PGE denies the allegations contained in Paragraph 190.

191. PGE denies the allegations contained in Paragraph 191.

192. PGE admits that it did not provide a draft, final draft, or executable PPA in the Standard Renewable Off-System Non-Variable Power Purchase Agreement form (the “Renewable Standard Contract form”). PGE denies that it had any obligation to provide a draft, final draft, or executable PPA in the Renewable Standard Contract form because PGE denies that Complainant was eligible for a Renewable Standard Contract or to sell to PGE at renewable avoided cost rates.

193. PGE admits that it did not include a minimum annual delivery value of 9,700,000 kWh in the draft, final draft, or executable PPAs that it provided to Complainant because Complainant did not clearly state that this was the intended minimum annual delivery in its submittals to PGE and because Complainant did not request that PGE include such a minimum delivery value in response to the draft or final draft PPAs.

194. PGE denies that it committed errors when it provided a standard (non-renewable) contract with the default minimum delivery requirement. PGE lacks information of knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 194 and therefore denies them.

195. PGE denies the allegations contained in Paragraph 195.

196. The allegations contained in Paragraph 196 appear to be legal argument or legal conclusions that do not require a response.

PRAYER FOR RELIEF

197. PGE denies all allegations contained in Paragraph 1 of Complainant's Prayer for Relief on page 35 of the First Amended Complaint and requests that the Commission deny the relief requested in Paragraph 1 of Complainant's Prayer for Relief.

198. PGE denies all allegations contained in Paragraph 2 of Complainant's Prayer for Relief on pages 35 and 36 of the First Amended Complaint and requests that the Commission deny the relief requested in Paragraph 2 of Complainant's Prayer for Relief.

199. PGE denies all allegations contained in Paragraph 3 of Complainant's Prayer for Relief on page 36 of the First Amended Complaint and requests that the Commission deny the relief requested in Paragraph 3 of Complainant's Prayer for Relief.

200. PGE denies that it has violated any of the statutes or orders listed in Paragraph 4 of Complainant's Prayer for Relief on page 36 of the First Amended Complaint and requests that the Commission deny the relief requested in Paragraph 4 of Complainant's Prayer for Relief.

201. PGE requests that the Commission deny the relief requested in Paragraph 5 of Complainant's Prayer for Relief on page 36 of the First Amended Complaint.

IV. AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

202. The First Amended Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

203. Failures by PGE to meet a deadline established by Schedule 201 or by any PGE communication with Complainant, if any, were caused by the unprecedented volume of QF contract requests being processed by PGE or by the uncertainty associated with proceedings

pending before the Commission and were not the result of an intentional effort by PGE to prevent Complainant from obtaining a draft, final or executable PPA within the deadlines established by Schedule 201 or any PGE communications, and were ultimately immaterial.

THIRD AFFIRMATIVE DEFENSE

204. PGE provided Complainant with a Standard Off-System Non-Variable Power Purchase Agreement or “Standard PPA” rather than a Standard Renewable Off-System Non-Variable Power Purchase Agreement or “Renewable Standard PPA” because Complainant is not eligible for a Renewable Standard PPA because it appears PGE cannot use the renewable attributes associated with the project to satisfy PGE’s Renewable Portfolio Standard requirements.

FOURTH AFFIRMATIVE DEFENSE

205. PGE did not include a 9,700,000 kWh minimum delivery obligation in any draft PPA, final draft PPA, or executable PPA that it provided to Complainant because Complainant had not clearly requested such a value for a minimum delivery obligation.

206. Complainant appeared to accept the default minimum delivery value when it purported to unequivocally commit itself to the terms and conditions contained in the final draft PPA provided to Complainant to PGE on August 3, 2017, which Complainant subsequently signed and attached as Exhibit A to its original Complaint.

FIFTH AFFIRMATIVE DEFENSE

207. PGE addressed Complainant’s requests for changes in response to the draft PPA provided by PGE on July 7, 2017. Complaint did not request any changes to the final draft PPA provided by PGE on August 3, 2017. Both the draft PPA and final draft PPA were standard

(non-renewable) contracts and both contained the default provisions regarding minimum delivery obligation and did not contain a 9,700,000 kWh minimum delivery obligation value.

208. In accepting the final draft PPA without change and requesting an executable PPA on August 4, 2017 (see Exhibit G to this Answer), Complainant did not object to the facts stated in paragraph 207 and did not request changes with regard to the form of contract or the minimum delivery obligation.

209. PGE reasonably relied on Complainant's lack of a request for changes to conclude that Complainant agreed with and accepted the terms and conditions of the final draft PPA provided by PGE on August 3, 2017.

210. PGE reasonably relied on Complainant's assertions on August 4, 2017 (see Exhibit G to this Answer) that it was unequivocally committed to sell its output to PGE under the terms and conditions of the final draft standard (non-renewable) contract provided by PGE on August 3, 2017 to conclude that the Complainant agreed with and accepted the terms and conditions of the final draft PPA provided by PGE on August 3, 2017.

V. CONCLUSION

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

Dated this 3rd day of May 2018.

Respectfully submitted,



Donald Light, OSB #025415
Assistant General Counsel
Portland General Electric Company
121 SW Salmon Street, 1WTC1301
Portland, Oregon 97204
(503) 464-8315 (phone)
(503) 464-2200 (fax)
donald.light@pgn.com



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Law Offices of Jeffrey S. Lovinger
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(503) 230-7120 (office)
(503) 709-9549 (cell)
jeff@lovingerlaw.com

EXHIBIT A

UM 1859

Falls Creek Hydro Limited Partnership
vs.
Portland General Electric Company

Portland General Electric Company's Answer

From: [Ryin Khandoker](#)
To: ["GaryMarcus1@aol.com"](#)
Cc: [Brett Greene](#); [John Morton](#); [DMoore@frontier-technology.com](#); [kfuller@frontier-technology.com](#); [irion@sanger-law.com](#); [Angeline Chong](#)
Bcc: [Denise Saunders](#); ["jeff@lovingerlaw.com"](#)
Subject: RE: Looking forward to Draft PPA
Date: Monday, June 26, 2017 1:36:00 PM

Gary,

In your response to PGE's Schedule 201 Initial Information Request (IRR), you have indicated your request to deliver your project's output to the PGE.PACW POD. Unfortunately, Available Transmission Capacity (ATC) at that POD is extremely limited. For this reason, your POD request cannot be accommodated.

The only POD interconnecting with PGE's system with available capacity is the Bonneville Power Administration BPAT.PGE. Given these circumstances, please inform us within 15 days if you would like to revise your requested POD from PACW.PGE to BPAT.PGE

If we do not receive a revised request within 15 days, we will consider your request for a PPA to be withdrawn.

Regards,

Ryin Khandoker | Structuring and Origination
Portland General Electric | 121 SW Salmon Street, 3WTC0306, Portland, Oregon 97204
☎: 503-464-8448 | ✉: ryin.khandoker@pgn.com

EXHIBIT B

UM 1859

Falls Creek Hydro Limited Partnership
vs.
Portland General Electric Company

Portland General Electric Company's Answer

Sanger Law PC

1117 SE 53rd Ave. Portland, OR 97215

tel (503) 756-7533 fax (503) 334-2235 irion@sanger-law.com

July 3, 2017

Via Email

Denise Saunders
Portland General Electric Company
1 World Trade Center, Ste 1300
121 SW Salmon Street
Portland, OR 97204

RE: Falls Creek Power Purchase Agreement

Dear Ms. Saunders:

Falls Creek H.P., Limited Partnership (“Falls Creek”) is sending this letter to request that Portland General Electric Company (“PGE”) timely process its power purchase agreement (“PPA”) request. Although PGE has had complete information for almost a month, PGE has stated that it will either a draft Standard PPA or a request for any additional or clarifying information that PGE may require by July 24, 2017. Falls Creek would like to collaboratively work with PGE, and requests that PGE process its PPA request expeditiously so that it can be finalized prior to avoided cost rates changing, which is likely to occur later this year. PGE, however, has refused to timely process Falls Creek’s PPA request, and Falls Creek intends to file a complaint unless PGE commits to promptly provide a draft PPA, and provide future documents in a timely fashion.

Fall Creek initially requested a PPA on June 6, 2017, and has yet to receive a draft PPA. PGE has provided inaccurate information, raised inappropriate objections to providing a draft PPA, and not provided information regarding when a draft PPA will be provided. Falls Creek requests that PGE immediately provide a draft PPA, and reduce future response times to reflect that the first draft PPA (if and when provided) was late.

Falls Creek sent PGE a complete copy of all required information on June 6, 2017 both in hard copy and electronic form. On June 13, 2017, PGE responded incorrectly stating that PGE received the request on June 9, 2017 and that by June 29, 2017 PGE would send a draft standard PPA or a request for any additional or clarifying information. Falls Creek corrected PGE’s incorrect date with a copy of the FedEx delivery receipt. Various communications have occurred, including Falls Creek resubmitting information in a more recent format requested by PGE, but which was simply a restating of information which PGE already possessed. In these early communications, PGE did not inform Falls Creek, which clearly informed PGE that it was an off-system PPA interconnected to PacifiCorp, that a draft PPA would not be provided if any specific point of delivery (“POD”) was listed.

Denise Saunders Letter re Falls Creek Hydro
July 3, 2017
Page 2 of 3

On June 26, 2017, PGE refused to provide a draft PPA, and instead requested two items that: 1) Falls Creek identify a POD for the project that was not PACW.PGE; and 2) Falls Creek fill out exactly the same electronic form that Falls Creek had already completed. Falls Creek originally listed PAC-PGE as a potential POD; however, transmission arrangements for Falls Creek have not been finalized, especially over the entire duration of a 15 year PPA. On both June 26, 2017 and June 30, 2017, Falls Creek agreed to PGE's request to look into a different POD, and made one change to the electronic form to list the POD as "BPAT.PGE." PGE has not given any indication as to when it will provide a draft PPA or that additional information is needed, but has indicated that it will wait another 15 business days before either providing a draft PPA or requesting additional information.

Apparently, PGE is refusing to even provide a draft PPA unless the project lists a PPA other than PACW.PGE or Roundbutte. This is inappropriate because PGE did not clearly communicate this fact to Falls Creek, which it could have done for weeks before sending a letter on June 26, 2017. In addition, PGE has specifically and publicly stated to at least five different qualifying facilities that it will accept delivery at the PACW.PGE POD, if those QFs make arrangements to deliver their power by paying for required studies and upgrades to the PACW.PGE POD. It is discriminatory for PGE to accept deliveries at PACW.PGE for certain qualifying facilities but not others. PGE's Schedule 201 also states that PGE will not execute a PPA unless the QF makes necessary transmission arrangements,¹ which does not mean that PGE can refuse to provide even a draft PPA until after the transmission arrangements have been established.

If PGE had concerns about Falls Creek's transmission arrangements, then it would have been appropriate for PGE to identify those, but it should also have provided a draft PPA, and at the time also listed any other line item that PGE believed might be deficient. There is no provision in the standard PPA which lists the POD, and there is no reason why a complete draft PPA could not have been provided with PGE's request to identify a different POD.

On July 3, 2017, PGE sent an email to Mr. Marcus stating that "PGE will send you either a draft Standard PPA or a request for any additional or clarifying information that PGE may require" by July 24, 2017. PGE has raised no other objections and has complete information to provide Falls Creek with a draft standard PPA; however, PGE is vaguely reserving the right to identify additional concerns rather than provide a draft PPA.

Falls Creek is concerned that PGE is delaying the PPA process so that PGE will not execute a PPA before avoided cost rates change again. Falls Creek is aware that PGE's integrated resource plan ("IRP") is scheduled for acknowledgement by August 31, 2017. According to the Oregon Public Utility Commission rules, PGE should file an avoided cost rate update 30 days after IRP acknowledgement, with rates effective 30 days

¹ PGE Schedule 201-3.

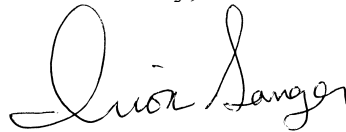
Denise Saunders Letter re Falls Creek Hydro
July 3, 2017
Page 3 of 3

thereafter. Thus, Falls Creek is counting on rates changing about November 1, 2017. Falls Creek is concerned that these delays may impact the ability to complete a PPA prior to the rate change, and requests that PGE move expeditiously to finalize the PPA.

Falls Creek is also concerned that PGE may request an early effective date of any post-IRP avoided cost rate update. Falls Creek requests to be informed prior to PGE making an early rate decrease request, if PGE intends to make such a request, so that it can finalize its PPA prior to the rate decrease.

Falls Creek requests that PGE provide the draft standard PPA immediately, and reduce the response times for future PPAs to reflect the delays that have already occurred. If PGE does not commit to provide a PPA immediately, then Falls Creek will file a complaint.

Sincerely,

A handwritten signature in black ink that reads "Irion A. Sanger". The signature is written in a cursive style with a large initial "I" and "S".

Irion A. Sanger

cc: Gary Marcus
Diane Moore

EXHIBIT C

UM 1859

Falls Creek Hydro Limited Partnership
vs.
Portland General Electric Company

Portland General Electric Company's Answer

From: [Ryin Khandoker](#)
To: "[GaryMarcus1@aol.com](#)"
Cc: [Brett Greene](#); [Angeline Chong](#); [John Morton](#); [DMoore@frontier-technology.com](#); [kfuller@frontier-technology.com](#); [irion@sanger-law.com](#)
Bcc: [Denise Saunders](#); [jeff@lovingerlaw.com](#)
Subject: RE: Please send Executable PPA - Falls Creek Hydro
Date: Friday, July 14, 2017 1:32:00 PM

Mr. Marcus,

Thank you for your interest in obtaining a Standard Power Purchase Agreement (Standard PPA) from Portland General Electric (PGE).

On July 7, 2017, PGE provided you with an original draft Standard PPA. The cover letter accompanying the draft Standard PPA explained PGE's Schedule 201 process. On July 13, 2017, PGE received your request for an executable Standard PPA and a change to the original draft Standard PPA.

PGE intends to continue to follow its regular Schedule 201 process. Under that process the next step is for PGE to evaluate your July 13, 2017 submission and to respond within 15 business days (i.e., by August 3, 2017) with either a final draft Standard PPA (if any changes you request are non-substantive), a new draft Standard PPA (if any changes you request are substantive), or a request for any additional or clarifying information that PGE requires to further process your request for a Standard PPA.

Sincerely,

Ryin Khandoker | Structuring and Origination
Portland General Electric | 121 SW Salmon Street, 3WTC0306, Portland, Oregon 97204
☎: 503-464-8448 | ✉: ryin.khandoker@pgn.com

EXHIBIT D

UM 1859

Falls Creek Hydro Limited Partnership
vs.
Portland General Electric Company

Portland General Electric Company's Answer

From: GaryMarcus1@aol.com
To: [Rvin Khandoker](#)
Cc: [Brett Greene](#); [Angeline Chong](#); [John Morton](#); [DMoore@frontier-technology.com](#); [kfuller@frontier-technology.com](#); [irion@sanger-law.com](#)
Subject: Re: Please send Executable PPA by July 20
Date: Monday, July 17, 2017 3:37:47 PM

Please take care when opening links, attachments or responding to this email as it originated outside of PGE.

Dear Mr. Khandoker,

Falls Creek requests that PGE sends Falls Creek a final, executable PPA no later than July 20, 2017 in compliance with the PGE's Commission approved Schedule 201 procedures. PGE has violated those procedures by sending Falls Creek a draft PPA that contained two non-substantive errors created by PGE. These errors were inserted by PGE and should not result in delaying the delivery of an executable contract to Falls Creek until PGE's QF prices fall.

PGE sent Falls Creek a draft PPA on July 7, 2017. Falls Creek's generator has a nameplate capacity of 4,100 kW, and PGE had that information. Yet the draft contract stated that the nameplate capacity was 4,960 kW. The Falls Creek Project is located in Linn, County. PGE had the correct GPS coordinates for the project as 44.396 N, -122.348, and PGE had the physical address of the project located in Cascadia, OR 97329. Both the GPS coordinates and Cascadia, Oregon are in Linn County, yet the draft PPA misstates the county as Lane instead of Linn. If PGE had sent Falls Creek a draft contract that had correctly stated the Falls Creek nameplate and county; Falls Creek would have approved the draft contract, and PGE would have been required to send Falls Creek an executable contract.

As stated in early correspondences, the draft PPA with correct information should have been presented to Falls Creek on June 26, 2017. Instead, a draft PPA with PGE created misinformation was presented on July 7. This was 10 business days after it was due. Therefore, Falls Creek requests that PGE deducts 10 business days from its 15-day turn-around time from July 13, 2017, and send Falls Creek an executable contract in 5 business days from July 13, or on July 20.

PGE's email to Falls Creek on July 14 states in part:

PGE intends to continue to follow its regular Schedule 201 process. Under that process the next step is for PGE to evaluate your July 13, 2017 submission and to respond within 15 business days (i.e., by August 3, 2017) with either a final draft Standard PPA (if any changes you request are non-substantive), a new draft Standard PPA (if any changes you request are substantive), or a request for any additional or clarifying information that PGE requires to further process your request for a Standard PPA.

PGE's pattern of intentional delay is clear. Falls Creek suspects that PGE will find some minor technicality to further delay presenting Falls Creek with an executable contract. This would be further evidence that PGE is not proceeding in good faith, but subverting the Schedule 201 procedure and abusing it in order to delay sending an executable contract to Falls Creek until PGE's QF prices fall.

Once again, Falls Creek request that PGE follow the intent of PGE's Commission approved Schedule 201 procedures and sends Falls Creek an executable contract no later than July 20, 2017.

Best regards,

Gary Marcus

Falls Creek H.P., Limited Partnership

EXHIBIT E

UM 1859

Falls Creek Hydro Limited Partnership
vs.
Portland General Electric Company

Portland General Electric Company's Answer

From: [Ryin Khandoker](#)
To: ["GaryMarcus1@aol.com"](mailto:GaryMarcus1@aol.com)
Cc: [Brett Greene](#); [Angeline Chong](#); [John Morton](#)
Bcc: [Denise Saunders](#); jeff@lovingerlaw.com
Subject: Final Draft PPA - Falls Creek Hydro
Date: Thursday, August 03, 2017 1:31:00 PM
Attachments: [Transmittal of Final Draft Standard PPA - Falls Creek Hydro.pdf](#)
[Final Draft PPA - Falls Creek Hydro.pdf](#)

Mr. Marcus,

Attached is the Final Draft Standard PPA and supporting letter for Falls Creek Hydro.

Regards,

Ryin Khandoker | Structuring and Origination
Portland General Electric | 121 SW Salmon Street, 3WTC0306, Portland, Oregon 97204
☎: 503-464-8448 | ✉: ryin.khandoker@pgn.com



8/3/17

Via Electronic Mail

RE: Transmittal of Final Draft Standard PPA
Falls Creek Hydro project, a proposed 4.1 megawatt Hydro QF

Mr. Marcus,

Thank you for your interest in entering into a Standard Power Purchase Agreement (Standard PPA) with Portland General Electric (PGE). We received your written request for a final draft Standard PPA on 7/13/17. PGE has determined that you have provided sufficient information to allow PGE to prepare a final draft Standard PPA.

Enclosed please find a final draft Standard PPA for your Falls Creek Hydro project, 4.1 megawatt hydro generating facility that was self-certified as a qualifying facility (QF) pursuant to 18 CFR 292.207. PGE understands that Falls Creek H.P., a limited partnership company formed under the laws of the State of Oregon is the owner of the Falls Creek Hydro project and will be the Seller under the Standard PPA. If any of this information or any of the factual details contained in the enclosed final draft Standard PPA are incorrect or change, please inform PGE immediately.

The enclosed final draft Standard PPA is a discussion draft; it is not a binding offer and PGE reserves the right to revise any of its variable terms, including exhibits. No binding Standard PPA will exist between PGE and Falls Creek H.P. unless and until PGE has provided Falls Creek H.P. with an executable Standard PPA and both Falls Creek H.P. and PGE have executed the document.

At this stage in the process you have several options: you can decide not to pursue a contract any further; you can propose in writing substantive changes to your project proposal or to the variable terms of the final draft Standard PPA; or you can send PGE a written request to prepare an executable Standard PPA without proposing any substantive changes to your project or the final draft contract.

If you propose substantive changes to your project or the variable terms of the final draft Standard PPA, PGE will treat your proposal as a new request for a draft Standard PPA. Within 15 business days of receiving your written proposal, PGE will send you either a new draft Standard PPA or PGE will request additional or clarifying information if PGE reasonably determines that it requires more information before it can prepare a new draft Standard PPA in response to your proposal to change contract terms or project details.

If you request an executable Standard PPA without proposing substantive changes to your project proposal or the variable terms of the final draft Standard PPA, then within 15

Falls Creek Hydro
Page 2 of 2

business days of receiving your written request, PGE will send you either an executable Standard PPA or request additional or clarifying information if PGE reasonably determines that additional information is necessary to prepare an executable Standard PPA.

Once you receive an executable Standard PPA, you can execute it without alteration and establish a legally enforceable obligation. Pursuant to PGE's Schedule 201 at Sheet No. 201-3 and OPUC Order No. 16-174 at 3, the power purchase prices you are entitled to receive under your Standard PPA will be based on PGE's Standard Avoided Costs or Renewable Avoided Costs in effect at the time that you execute an executable Standard PPA provided to you by PGE.

This letter summarizes certain aspects of the Standard PPA process; it does not address every detail of the process.

Sincerely,

Ryin Khandoker | Structuring and Origination

Portland General Electric | 121 SW Salmon Street, 3WTC0306, Portland, Oregon 97204

☎: 503-464-8448 | ✉: ryin.khandoker@pgn.com

enclosure: Final Draft Standard PPA for Falls Creek H.P.'s Falls Creek Project

EXHIBIT F

UM 1859

Falls Creek Hydro Limited Partnership
vs.
Portland General Electric Company

Portland General Electric Company's Answer



Portland General Electric Company
Legal Department
121 SW Salmon Street • Portland, Oregon 97204
503-464-7701 • Facsimile 503-464-2200

David F. White
Associate General Counsel

August 4, 2017

Via Electronic Filing

Oregon Public Utility Commission
Attention: Filing Center
PO Box 1088
Salem OR 97308-1088

Re: LC 66 – Portland General Electric Company’s 2016 Integrated Resource Plan (IRP)

Dear Filing Center:

Enclosed for filing in the above-referenced docket is Portland General Electric Company's ("PGE") Response to Staff's Report.

Thank you in advance for your assistance.

Sincerely,

David F. White
Associate General Counsel

DFW:bop

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
DOCKET NO. LC 66**

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY

2016 Integrated Resource Plan.

**PORTLAND GENERAL ELECTRIC
COMPANY'S**

RESPONSE TO STAFF'S REPORT

On July 28, 2017, Public Utility Commission of Oregon ("OPUC" or "Commission") Staff issued a Staff Report recommending that the Commission acknowledge, in part, Portland General Electric Company's ("PGE" or "the Company") 2016 Integrated Resource Plan ("IRP") with certain considerations. While PGE will comment on the Staff Report at the August 8, 2017 Commission meeting, the Company submits these written comments for the Commission's consideration.

Table of Contents

INTRODUCTION..... 3

LONG-TERM PLANNING 3

RPS ACTION..... 4

INTERGENERATIONAL EQUITY 5

CAPACITY PROCUREMENT PROCESS 5

AVOIDED COSTS..... 7

CONCLUSION 8

APPENDIX A..... 9

Introduction

PGE continues to appreciate the high-level of engagement from Staff and stakeholders in the Company's 2016 IRP. Throughout this process, PGE has used widely accepted methods to quantify risk and reduce uncertainty, and presented a flexible plan in order to be responsive to the evolving nature of the utility industry and rapid technological advances. PGE has also recognized customers' focus on cleaner energy and more renewable energy resources. PGE and stakeholders have worked diligently over the past two and a half years to balance customer sentiment with the Company's responsibility to provide safe, reliable, and affordable electricity.

The proposed plan allows PGE to take incremental but important steps toward meeting the shared goals of the Company, the State of Oregon, its customers and constituents for reducing carbon emissions while maintaining reliable and affordable electric service. Delaying the addition of renewable resources to PGE's generating portfolio until 2030, as some stakeholders have suggested, will not only forgo savings from production tax credits, it will also mean that over 692,000 short tons more carbon is emitted annually. The addition of renewable resources now also reduces risk and uncertainty because it allows PGE to integrate renewables on to the grid in a measured, responsible way. PGE's proposed Action Plan is a responsible path forward that presents the best combination of expected costs and associated risks and uncertainties for the Company and our customers. As such, the Commission should find that PGE's 2016 IRP adheres to the principles of resource planning established in Order No. 07-002 and acknowledge PGE's IRP. The Action Plan is set forth in the table provided in Appendix A. For convenience, PGE highlights the Major Resource, as defined in the Commission's competitive bidding guidelines ("Competitive Bidding Guidelines"), actions here.

Renewable Resources ("RPS Action"):

- Acknowledge the issuance of a Request for Proposal ("RFP") to acquire 175 MWa of new renewable resources.

Capacity Resources:

- Acknowledge a capacity need of 561 MW, 240 MW of which must be dispatchable, in 2021;
- Acknowledge PGE's procurement approach via bilateral negotiations and intention to file a waiver of the Competitive Bidding Guidelines;
- Acknowledge the issuance of an all-source RFP for any capacity needs (including dispatchable capacity) that may remain unfilled after completing the waiver and bilateral negotiation process.

Long-term planning

The IRP Guidelines set forth a process that requires the utility to thoughtfully consider how potential conditions may impact the utility and customers well into the future (at least 20 years) and to inform near-term resource decisions on the basis of these considerations. The presence of uncertainty is inherent in the process of planning for the future and it will not be resolved in the near-term. More importantly, uncertainty does not obviate the need for long-term planning. In

Order No. 07-002, the Commission understood that long-term planning is an appropriate response to risk and uncertainty, requiring that utilities evaluate such risks with a goal of “long-run public interest.”

Responsible long-term planning has always and will always rely on analysis of inherently uncertain variables. PGE accounts for these uncertainties by testing resource performance under the current forecast – or Reference Future – as well as a set of robust alternative future environments that diverge over time. The futures tested by PGE intentionally explore a broad range of possible circumstances and environments that range from evolutionary change to conditions that are markedly different from the current state. For example, in the 2016 IRP, this scenario analysis approach yielded futures with average market prices ranging from \$17/MWh to \$61/MWh by 2040,¹ when the current minimum Renewable Portfolio Standard will be 50%. Across these varying futures—as well as across sensitivities that address capital costs, hydro output, variable renewable performance, and load growth—the IRP analysis found the proposed Action Plan to be robust relative to all tested alternatives.

The proposed plan also allows PGE to take incremental, but important steps toward meeting the shared goals of the Company, the State of Oregon, our customers, and constituents for reducing carbon emissions while preserving reliable and affordable electric service. Incremental action allows PGE and customers to harness the benefits of technology improvements and an evolving electric grid over time, rather than confronting the system and customers with extensive and potentially expensive changes all at once. A measured approach to new resource additions will help supplement and sustain the value of the existing system and reduce risk and uncertainty compared to extensive future changes over a short time period. While we may not know every aspect of what future technology and pricing will hold for customers, we do know the majority have emphatically stated they want a greener, cleaner electric system. PGE’s Action Plan takes incremental actions to provide customers the electric service they need in an environmentally and economically sustainable manner.

The notion that long-term uncertainties are so great as to prevent moving forward with a vision for the future that achieves the objectives of the IRP, as well as the desires of our customers and policy goals of the State, fundamentally undermines the principles of long-term planning as set forth by the Commission. The future will always be uncertain, and the uncertainties of tomorrow will merely be different from those of today. PGE believes that it would be incongruous to delay or avoid actions that are clearly needed and cost-effective across a range of assumptions merely due to some unquantifiable uncertainty. To do so is to ignore the IRP Guidelines, the clear interests of the public and stakeholders, and the thorough evidence presented by PGE in support of its Action Plan.

RPS Action

PGE’s proposed RPS Action is consistent with the renewable energy targets codified in Senate Bill 1547 and meet the standards of balanced cost and risk set forth in the IRP Guidelines. In addition to meeting the letter of the law and the regulatory standards for long-term planning, near-term procurement of renewables puts PGE on a path to fulfilling

¹ Market prices expressed in real 2016\$.

the ultimate goal of SB 1547 (a decarbonized energy system for Oregon customers) in a meaningful way. As noted by the Commission in Order No. 89-507 related to least-cost planning, “[t]he objective is to find ways to get utilities and ratepayers' private interest to converge towards society's public interest. . . . Commission decisions should promote the public interest. The Commission should strive to pilot Oregon toward socially appropriate conduct.”² PGE’s rigorous quantitative analysis and stakeholder engagement demonstrate that the Company’s proposed RPS Action represents the convergence of the utility’s interests, its customers’ interests, and the public interest with respect to both environmental and economic considerations. Given this strong alignment, the Commission should carefully scrutinize the arguments against PGE’s recommended near-term RPS Action. Careful analysis of those arguments will reveal that they offer no specific and convincing evidence to rebut the Company’s well-supported recommendation.

Intergenerational Equity

Staff incorrectly asserts that early RPS Action violates the principles of intergenerational equity, arguing that PGE’s pursuit of near-term RPS procurement is asking today’s customers to pay for a resource that predominantly serves future generations. As discussed thoroughly in PGE’s Final Reply Comments (dated June 23, 2017), physical RPS resources procured in the near-term would help meet our customers’ capacity and energy needs immediately, while reducing carbon emissions and providing the economic benefit of federal tax credits. Furthermore, the IRP Guidelines are clear on how to treat inter-annual or “generational” costs and benefits over the planning horizon—and PGE adhered to these IRP Guidelines. The net present value revenue requirement (“NPVRR”) calculation weighs the costs and benefits over time through the use of a Commission-required discount factor. The resulting analysis confirms that the near-term RPS Action is justified on the basis of cost and risk under every quantifiable sensitivity suggested by Staff, confirming that near-term RPS Action supports intergenerational economic equity, as codified in the IRP Guidelines.

Outside of this docket, the term “intergenerational equity” often applies to the concept of resource sustainability—actions that do not compromise the ability of future generations to benefit from a healthy planet and vibrant natural environment. Customers today benefit from the renewable hydro resources and electric system investments made many decades ago. Investing in new renewable energy resources carries forward this concept, equitably benefitting customers today and into the future. As our customers reiterated several times at the Special Public Meeting on May 15, 2017, non-carbon resources procured today will have a cumulative effect on reducing the concentration of CO₂ in the atmosphere for future generations. PGE’s proposed RPS actions meet this broader standard of intergenerational equity valued by our customers, as well as the standards of intergenerational economic equity addressed in the IRP Guidelines.

Capacity procurement process

During the IRP review process, the Commissioners, Staff, and other stakeholders encouraged PGE to explore short- and medium-term opportunities to acquire capacity in the marketplace

² Order 89-507 at 13.

from existing regional resources, such as hydro generation, instead of pursuing the resources included in the preferred portfolio. In light of this guidance and collaborative discussions with stakeholders about the bi-lateral approach, PGE contacted owners of existing capacity resources in the Pacific Northwest to determine whether there was available capacity starting in 2021. This market outreach confirmed that there is available medium-term capacity in the region that could be offered to meet the capacity need identified in PGE's Action Plan. Because any such bilateral transactions would occur outside of an RFP process, PGE will be submitting a request for waiver of the Competitive Bidding Guidelines to the Commission. The waiver request will also include term sheets and bid proposals for the bilateral capacity resources, as well as information respecting PGE's evaluation and ranking of the proposals. The Company is optimistic that the bilateral process will ultimately result in transactions that meet a significant portion of the remaining capacity need in 2021 (561 MW), including the portion of that need that is required to be dispatchable (240 MW). PGE intends to submit the waiver filing before the end of August and will move forward with negotiating definitive agreements subject to Commission acknowledgement of the IRP and approval of the competitive bidding guidelines waiver.

PGE requests that the Commission also acknowledge the issuance of a capacity RFP to fulfill any remaining capacity requirements (including dispatchable capacity). With respect to Staff's proposal for additional steps and conditions on moving forward with an RFP to satisfy any residual capacity needs, PGE has concerns with regard to both practicality and timing. Completing a market study, re-running IRP portfolio analysis and reporting those results back to the Commission and stakeholders prior to conducting an RFP would likely compromise PGE's ability to have the needed capacity available by the end of 2020 when Boardman is removed from service. PGE believes this would be an unnecessary and unwise risk to providing continued reliable and affordable service for our customers. The Company's concern in this area is accentuated by the significant amount of thermal unit retirements (beyond Boardman) planned from the regional electric system over the next three to five years.

PGE interprets Staff's request for a market study to be focused on excess capacity that can be firmly delivered to PGE loads in order to meet the Company's remaining capacity needs, and reiterates that the 2016 IRP accounted for market depth with respect to energy (inclusive of phenomena like low-cost excess renewables from California). Most of the capacity in the region is already subscribed to load serving entities to meet their resource adequacy needs. The availability and cost of unsubscribed capacity resources in the future is commercially sensitive information belonging to potential counterparties. PGE typically gains information of this type either through bilateral negotiations or RFPs. However, information disclosed by a counterparty in these processes is provided under a non-disclosure agreement ("NDA") and legally cannot be used for other purposes, including resource planning activities. Without an executed agreement, PGE does not have any rights to a resource and the future cost and quantity becomes unknown. While Staff proposes a market study as a practical planning step, its scope is undefined and the implementation of such a study with the aim of informing resource adequacy-driven actions is both practically and legally problematic. PGE requests the Commission consider these factors and not require a market study as it would be ineffective in reducing uncertainty in the planning or procurement processes.

Staff also suggests that PGE conduct an RFP for “specific short- to medium-term resources,”³ based, in part, on the findings of the market study, prior to issuing an all-source RFP. From a practical perspective, because PGE has reached out to the owners of existing capacity resources in the region that were understood to have appreciable amounts of un-subscribed capacity, an RFP for “specific short- to medium-term resources” would effectively amount to a repeat of the bilateral negotiation process. Such a process would potentially require PGE to pursue offers that were not competitive in the bilateral process, regardless of whether these offers would be competitive with potential new resource options that might bid into an RFP. Staff predicates its proposed process on the false assumption that existing resources will necessarily be more cost-effective for customers than new resources. In reality, potential counterparties have sole discretion in pricing their offers and there is no guarantee that their pricing will produce cost-effective solutions for customers relative to new resource options.

Finally, the time required to follow the process proposed by Staff would necessarily limit new resource options to those that could be procured, sited, and constructed at an accelerated pace relative to traditional generating resources. By limiting the resource options in this way, Staff is effectively proposing that new resource procurement should not align with the established least-cost, least-risk planning and procurement framework, but should instead favor the resources that can be deployed most quickly.

Avoided Costs

PGE’s customers must pay for QF generation for 15 years at fixed prices. PGE’s current avoided cost prices are substantially above the actual avoided cost for new resources as reflected in its IRP. Given this fact, and the fact that the IRP prices are still likely to be above the actual avoided cost for new renewable resources, PGE urges the Commission to issue an IRP order that effectively recognizes that the Company’s real avoided cost is considerably lower than currently filed standard offer prices for QF contracts. Under the standard avoided cost update and consistent with an acknowledgement of an IRP, PGE must file to update avoided cost prices within 30 days of Commission acknowledgement. Once PGE files, there is a 90-day review period before prices become effective. For QFs that enter into a contract or achieve a legally enforceable obligation after acknowledgement of the IRP, but before approval of updated standard prices, PGE’s customers would be locked into payments for QFs at prices that would be considerably out of date and higher than prices based on the 2016 IRP acknowledgement.

Given the significant decrease in PGE’s actual avoided cost prices and administrative delay in making those new avoided cost prices effective, customers are exposed to the substantial risk that many QFs will seek to obtain standard contracts or achieve a legally enforceable obligation before new prices based on the Commission’s decision can become effective. Entering into QF contracts that are known to be substantially above the new standard offer prices that will result from the Commission’s IRP acknowledgement is unwarranted and should be prevented if at all possible.

We ask the Commission to work with the Company to protect customers from this danger. Without protection, PGE customers will be locked into paying for up to 18 years in the future

³ Staff at 37.

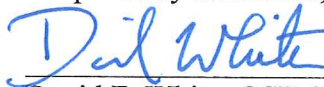
avoided costs prices that are considerably greater than the Company's actual avoided cost as recognized by the Commission's IRP acknowledgement. PGE will be asking the Commission to ensure that the avoided cost prices paid to QFs that enter into contracts or achieve a legally enforceable obligation after the Commission's acknowledgement match PGE's actual avoided cost based on the Commission's IRP order. Such an alignment between PGE's actual avoided costs as recognized by the Commission and the avoided cost prices customers pay for QF power is necessary to ensure that customers are paying just and reasonable prices and in the public interest.⁴ PGE will submit this request separately and stakeholders will have the opportunity to review PGE's updated avoided cost prices as part of the standard avoided cost update process. The request will also recognize that QF projects of less than 100 kW will be permitted to receive PGE's currently filed avoided cost prices until completion of PGE's standard avoided cost update.

Conclusion

PGE's 2016 IRP meets, and often exceeds, the Commission's procedural and substantive requirements. PGE has demonstrated through a robust public process and rigorous and sound analysis that its IRP and proposed Action Plan present the best combination of expected costs and associated risks for customers. Additionally, the plan aligns well with the desired direction of PGE customers and the energy policy goals of Oregon and the communities that we serve. PGE respectfully requests that the Commission acknowledge the Action Plan as described herein.

DATED this 4th day of August, 2017.

Respectfully submitted,



David F. White, OSB 011382

Associate General Counsel

Portland General Electric Company

121 SW Salmon Street, 1WTC1301

Portland, Oregon 97204

Telephone: 503-464-7701

Email: david.white@pgn.com

⁴ 16 U.S.C. § 824a-3(b) (providing that avoided costs shall not exceed the incremental cost to the electric utility of alternative energy); Docket No. R 58, Order No. 81-319 (May 6, 1981) (established Commission policy that rates for QF purchases would be at avoided costs); Docket No. UM 1129, Order No. 05-584 at 20 (May 13, 2005) (“[T]he goal of calculating avoided costs is to accurately estimate the costs a utility would incur to obtain an amount of power that it purchases from a QF, either by the utility’s self generation or by purchase from a third party.”); Docket No. UM 1610, Order No. 14-058 at 3 (Feb. 24, 2014) (“PURPA requires that the rates utilities pay for electric energy purchased from QFs may not exceed the incremental cost to the electric utility of alternative electric energy, and defines ‘incremental cost’ as ‘the cost to the electric utility of the electric energy which, but for the purchases from such [QF], such utility would generate or purchase from another source.’”); ORS 758.515 (rates paid to qualifying facility “shall over the term of a contract be just and reasonable to the electric consumers of the electric utility, the qualifying facility, and in the public interest”).

APPENDIX A – Comparison of Staff’s proposed revisions to PGE’s Action Plan and PGE’s proposed Final Action Plan

APPENDIX A

Area	Staff Proposed Revisions to PGE’s Action Plan	PGE’s Proposed Final Action Plan
Demand-Side Actions	<p><u>Energy Efficiency (EE):</u></p> <ul style="list-style-type: none"> ▪ Acknowledge the acquisition of 135 MWa cost-effective EE from 2017 through 2020 ▪ Other conditions: <ul style="list-style-type: none"> ○ Changes to 2021 capacity need and must use the Energy Trust's most recent forecast data. ○ PGE to provide an update on Energy Trust's activities and progress on the Large Customer funding issue in its annual IRP update in 2018. ○ Require PGE to make available Energy Trust's EE forecast data and provide an explanation of PGE's model in its next IRP. 	<p><u>Energy Efficiency (EE):</u></p> <ul style="list-style-type: none"> ▪ Acknowledge the acquisition of 135 MWa of cost-effective EE
	<p><u>Demand Response (DR):</u></p> <ul style="list-style-type: none"> ▪ Acknowledge the acquisition of 77 MW (winter) and 69 MW (summer) as minimum levels of DR and establish 162 MW (summer) and 191MW (winter) as reach goals. ▪ Other conditions: <ul style="list-style-type: none"> ○ Launch studies on DR and consider DR committee. ○ Identify potential DR test beds within nine months of a Commission order in this docket and establish a DR test bed no later than July 1, 2019. 	<p><u>Demand Response (DR):</u></p> <ul style="list-style-type: none"> ▪ Acknowledge the acquisition of 77 MW of winter and 69 MW of summer ▪ Enable DR beyond PGE's current targets. ▪ Scope & define DR test bed. ▪ Launch a DR review committee.
	<p><u>Conservation Voltage Reduction (CVR):</u></p> <ul style="list-style-type: none"> ▪ Acknowledge PGE’s plan with the requirement to conduct analysis and reporting. 	<p><u>Conservation Voltage Reduction (CVR):</u></p> <ul style="list-style-type: none"> ▪ Acknowledge the deployment of 1 MWa, along with the following: <ul style="list-style-type: none"> ○ Expansion of AMI ○ Continued research & development around analytics ○ Development of an expansion plan ○ Continue providing reports and updates through Docket UM 1657, PGE’s Smart Grid Report.
Supply-Side Actions	<p><u>Renewable Resources:</u></p> <ul style="list-style-type: none"> ▪ Not acknowledge 	<p><u>Renewable Resources:</u></p> <ul style="list-style-type: none"> ▪ Acknowledge the issuance of an RFP to acquire 175 MWa of new renewable resources

APPENDIX A – Comparison of Staff’s proposed revisions to PGE’s Action Plan and PGE’s proposed Final Action Plan

Area	Staff Proposed Revisions to PGE’s Action Plan	PGE’s Proposed Final Action Plan
	<p>Capacity Resources: Acknowledge issuance of RFP(s) for up to 415 MW of Dispatchable Capacity and 400 MW of Flexible Capacity Resources for 2021 Capacity Need, subject to the following conditions being fully met prior to issuing an All Source RFP for any remaining capacity need:</p> <ul style="list-style-type: none"> ▪ Complete bilateral negotiations and report to Commission. ▪ Complete market study. ▪ Re-run models and develop new preferred portfolio using data from bilateral contracts, market study and any other analyses. ▪ Issue an RFP for specific short" to medium-term resources. <p>Dispatchable Standby Generation:</p> <ul style="list-style-type: none"> ▪ Acknowledge 16 MW expansion of DSG 	<p>Capacity Resources:</p> <ul style="list-style-type: none"> ▪ Acknowledge a capacity need of 561 MW, 240 MW of which must be dispatchable, in 2021 ▪ Acknowledge PGE’s procurement approach via bilateral negotiations and intention to file a waiver of the Competitive Bidding Guidelines ▪ Acknowledge the issuance of an all-source RFP for any capacity needs (including dispatchable capacity) that may remain unfilled after completing the bilateral negotiation process <p>Dispatchable Standby Generation:</p> <ul style="list-style-type: none"> ▪ Acknowledge 16 MW expansion of DSG
Integration	<p>Energy Storage:</p> <ul style="list-style-type: none"> ▪ Acknowledge submittal of storage proposal, per HB 2193, by 1/1/2018 	<p>Energy Storage:</p> <ul style="list-style-type: none"> ▪ Acknowledge submittal of storage proposal, per HB 2193, by 1/1/2018
Enabling Studies	<p>Studies: Acknowledge the following enabling studies for the next IRP:</p> <ul style="list-style-type: none"> ▪ Treatment of Market Capacity ▪ Flexible Capacity and Curtailment Metrics ▪ Customer Insights ▪ De-Carbonization ▪ Accessing Resources from Montana ▪ Load Forecasting Improvements ▪ Study Risks Associated with Direct Access 	<p>Studies: Acknowledge the following enabling studies for the next IRP:</p> <ul style="list-style-type: none"> ▪ Flexible Capacity and Curtailment Metrics ▪ Customer Insights ▪ De-Carbonization ▪ Direct Access Risks
General Recommendations	<p>Load Forecast:</p> <ul style="list-style-type: none"> ▪ PGE’s current load forecast should not serve as the basis for the long-term investments in new generating resources ▪ Develop probabilistic load forecasts. ▪ Conduct ongoing workshops with interested stakeholders to continually improve PGE’s forecasts. ▪ Conduct out-of-sample testing and select models based on these results. ▪ Include a technical appendix in future IRPs that describes forecast methodology and contains a bulleted list of the forecast modeling assumptions (and explanations) and the model specifications (equations). 	<p>Load Forecast:</p> <ul style="list-style-type: none"> ▪ Conduct ongoing workshops with interested stakeholders to continually improve PGE’s forecasts. ▪ Conduct out-of-sample testing and select models based on these results. ▪ Include a technical appendix in future IRPs that describes forecast methodology and contains a list of the forecast modeling assumptions (and explanations) and the model specifications (equations).

APPENDIX A – Comparison of Staff’s proposed revisions to PGE’s Action Plan and PGE’s proposed Final Action Plan

Area	Staff Proposed Revisions to PGE’s Action Plan	PGE’s Proposed Final Action Plan
	<p><u>Portfolio Ranking & Scoring Metrics:</u></p> <ul style="list-style-type: none"> ▪ Do not acknowledge PGE's preferred portfolio and portfolio ranking system. ▪ Direct PGE to hold workshops with interested parties to develop a simple and clear set of portfolio scoring metrics for use in future IRPs, with a focus on using only metrics that have a clear interpretation and robust discussions on the appropriate way to incorporate short- and medium-term options and the relative importance of high-cost versus low-cost outcomes. 	<p><u>Portfolio Ranking & Scoring Metrics:</u></p> <ul style="list-style-type: none"> ▪ Acknowledge PGE's preferred portfolio and that PGE’s cost, severity, and variability metrics comply with the IRP guidelines. ▪ Direct PGE to hold workshops with interested parties to develop scoring metrics for use in future IRPs.
	<p><u>Distribution System Planning:</u></p> <ul style="list-style-type: none"> ▪ Direct PGE to work with Staff and other parties to advance DER forecasting and DER representation in the IRP process to be included in the 2019 IRP. ▪ PGE should work with Staff to define a proposal for opening a distribution system planning process. 	<p><u>Distribution System Planning:</u> PGE is willing to work with Staff on these efforts.</p>
	<p><u>PURPA Avoided Costs:</u></p> <ul style="list-style-type: none"> ▪ Capacity Deficiency period: <ul style="list-style-type: none"> ○ Acknowledge PGE’s 2021 capacity need and acknowledge an action with conditions that PGE follow a specific order of action to fill the need. ○ If the Commission were to acknowledge this resource action, the nonrenewable deficiency period would begin in 2021. ▪ Renewable Deficiency period <ul style="list-style-type: none"> ○ Acknowledge that PGE’s renewable deficiency period is 2029 and that the proxy renewable resource cost from the IRP should be used for the avoided cost price. 	<p><u>PURPA Avoided Costs:</u></p> <ul style="list-style-type: none"> ▪ Capacity Deficiency period <ul style="list-style-type: none"> ○ Acknowledge that PGE’s capacity deficiency period begins in 2021, updating to 2025 following completion of bilateral negotiations and, if needed, a capacity RFP. ▪ Renewables deficiency period <ul style="list-style-type: none"> ○ Acknowledge that PGE’s renewable deficiency period begins in 2021, updating to 2030 following selection of a resource from a renewables RFP. ○ Acknowledge that the proxy renewable resource cost from the IRP should be used for the avoided cost price.
	<p><u>Transmission:</u></p> <ul style="list-style-type: none"> ▪ Convene a working group or hold a workshop to explore the issue of transmission and the potential access to higher capacity wind resources in Montana and Wyoming before the next IRP. 	<p><u>Transmission:</u></p> <ul style="list-style-type: none"> ▪ Convene a working group or hold a workshop to explore the issue of transmission and the potential access to higher capacity wind resources in Montana and Wyoming before the next IRP.

EXHIBIT G

UM 1859

Falls Creek Hydro Limited Partnership
vs.
Portland General Electric Company

Portland General Electric Company's Answer

From: GaryMarcus1@aol.com
To: Rvin.Khandoker
Cc: Brett.Greene; Angeline.Chong; John.Morton; lrion@sanger-law.com; DMoore@frontier-technology.com
Subject: Please Send Executable Contract by Monday
Date: Friday, August 04, 2017 3:56:58 PM

Please take care when opening links, attachments or responding to this email as it originated outside of PGE.

Mr. Khandoker,

Thank you for sending me the final draft PPA for the Falls Creek Project. I accept it as is. Your letter states that PGE will send an executable PPA after I accept the document, which only includes the two ministerial changes that I previously identified.

PGE has delayed the process, and I request that PGE immediately provide an executable PPA. Your letter did not mention it, but I was made aware of a filing that PGE made today that says it will not provide current rates to QFs that execute a PPA or form a LEO after the PUC acknowledges your IRP, which could occur as early as Tuesday.

Therefore, I request that PGE immediately:

- 1) confirm that it will commit to provide Falls Creek Hydro with the current prices; and,
- 2) provide an executable PPA on Monday.

I reiterated that Falls Creek Hydro is ready, willing, and able to sign a PPA with PGE and is unequivocally committed itself to sell the net output to PGE at the Schedule 201 avoided cost rates and standard PPA terms and conditions that are currently in effect, as reflected in the Draft Standard PPA. This includes Falls Creek Hydro obligating itself to provide power or be subject to penalty pursuant to the Standard PPA terms and conditions for failing to deliver energy on the scheduled commercial on-line date.

Sincerely,

Gary Marcus

Falls Creek H.P. Limited Partnership

EXHIBIT H

UM 1859

Falls Creek Hydro Limited Partnership
vs.
Portland General Electric Company

Portland General Electric Company's Answer

From: GaryMarcus1@aol.com
To: GaryMarcus1@aol.com; [Ryin Khandoker](mailto:Ryin.Khandoker)
Cc: [Brett Greene](mailto:Brett.Greene); [Angeline Chong](mailto:Angeline.Chong); [John Morton](mailto:John.Morton); lrion@sanger-law.com; DMoore@frontier-technology.com
Subject: Executed Contract - part one - Please sign and return
Date: Monday, August 07, 2017 8:26:03 AM
Attachments: [PGE Executed Contract- Part 1 .august 6 .2017.pdf](#)

Please take care when opening links, attachments or responding to this email as it originated outside of PGE.

Mr. Khandoker,

PGE should have provided Falls Creek H.P. Limited Partnership with an executable PPA. Since PGE has not done so, Falls Creek has executed the last final draft that PGE provided and is providing a copy with this email. Falls Creek is again committing itself to sell power to PGE under the currently effective Schedule 201 rates, and the terms and conditions of the partially executed PPA, and is obligating itself to provide power or be subject to penalty for failing to deliver energy on the scheduled commercial on-line date.

Please execute and return the attached PPA. Because the PDF for the full contract was over 20 MB, I divided it into two parts. This is the first part that includes the signature page which PGE should sign and return both part one and part two to me.

Sincerely,

Gary Marcus