



Portland General Electric Company
Legal Department
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V. Denise Saunders
Associate General Counsel

August 24, 2017

Via Electronic Filing

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

Re: UM 1859 to UM 1890- PORTLAND GENERAL ELECTRIC COMPANY, [list complaints]

Dear Filing Center:

Enclosed for filing in the above-captioned dockets is Portland General Electric Company's ("PGE") Motion for Request for Emergency Stay and Conference with expedited consideration requested.

This document is being filed by electronic mail with the Filing Center.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "V. Denise Saunders". The signature is written in a cursive, flowing style.

V. Denise Saunders
Associate General Counsel

VDS:bp

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1859, UM 1860, UM 1861, UM 1862, UM 1863, UM 1864, UM 1865, UM 1866,
UM 1867, UM 1868, UM 1869, UM 1870, UM 1871, UM 1872, UM 1873, UM 1874,
UM 1875, UM 1876, UM 1877, UM 1878, UM 1879, UM 1880, UM 1881, UM 1882,
UM 1883, UM 1884, UM 1885, UM 1886, UM 1888, UM 1889, UM 1890

Falls Creek Hydro Limited Partnership; Red
Prairie Solar, LLC; Volcano Solar LLC;
Tickle Creek Solar LLC; SSD Marion 4
LLC; SSD Clackamas 4 LLC; SSD Marion
1 LLC; SSD Clackamas 7 LLC; SSD
Marion 2 LLC; SSD Marion 6 LLC; SSD
Clackamas 1 LLC; SSD Clackamas 2 LLC;
SSD Marion 3 LLC; SSD Marion 5 LLC;
SSD Marion 6 LLC; SSD Yamhill 1 LLC;
Klondike Solar LLC; Saddle Butte Solar
LLC; Bottlenose Solar LLC; Valhalla Solar
LLC; Whipsnake Solar LLC; Skyward Solar
LLC; Leatherback Solar LLC; Pika Solar
LLC; SSD Clackamas 3 LLC; Cottontail
Solar LLC; Osprey Solar LLC; Wapiti Solar
LLC; Bighorn Solar LLC; Minke Solar
LLC; and Harrier Solar LLC,

Complainants,

v.

Portland General Electric Company,

Defendant.

**PORTLAND GENERAL ELECTRIC
COMPANY’S MOTION FOR
REQUEST FOR EMERGENCY STAY
AND CONFERENCE**

Expedited Consideration Requested

Portland General Electric Company (“PGE”) respectfully requests an emergency stay and conference to discuss and resolve a dispute regarding the deadline for PGE to file answers in the above captioned 31 complaint proceedings.

On August 7, 2017, PGE was served with 24 separate complaints from qualifying facilities (“QFs”), these complaints were docketed as UM 1859 through UM 1882. On August 8, 2017, PGE was served with one QF complaint, which was docketed as UM

1883. On August 10, 2017, PGE was served with three QF complaints, which were docketed as UM 1884 through UM 1886. On August 14, 2017, PGE was served with three QF complaints, which were docketed as UM 1888 through UM 1890. The same counsel represents all 31 of these QF complainants and the same PGE employees are involved in reviewing and confirming the alleged facts in all 31 complaints.

Under the Commission's rules, unless otherwise directed by the Commission or Administrative Law Judge ("ALJ"), a motion against any of the 31 complaints is due within 10 days after the complaint is filed¹ and PGE's answers to the 31 complaints are due within 20 days after the complaints are filed.² Accordingly, unless otherwise directed by the Commission or ALJ, PGE's answers to the first 25 complaints are due August 28, 2017, PGE's answers to the next 3 complaints are due August 30, 2017, and PGE's answers to the final 3 complaints are due September 5, 2017.³

PGE requires significant additional time to respond to 31 complaints. While the complaints all involve pending requests for contracts, each complaint involves a unique set of facts. Each complaint is relatively complex, typically involving approximately 60 paragraphs of factual or jurisdictional allegations and multiple claims involving approximately 30 additional paragraphs.⁴ Many of these paragraphs involve more than a single allegation. Each of the 31 complaints involves a series of dozens of communications between PGE and the Complainant.

¹ OAR 860-001-420(3).

² OAR 860-001-0400(4)(a).

³ PGE understands that its deadline to file responsive motions and answers is counted from the date the Commission served PGE with each of the 31 complaints.

⁴ *See e.g.* Docket No. UM 1860, Red Prairie Solar, LLC's Complaint (Aug. 7, 2017) (complaint contains 89 numbered paragraphs not including a four page introduction and a four paragraph prayer for relief; there are 59 numbered paragraphs addressing party identity, applicable statutes and rules, jurisdiction, and factual background; there are 30 number paragraphs addressing two claims for relief).

PGE finds that it takes at least two full work days for a PGE employee to review the allegations of a single complaint, compile the record related to the complaint, and assemble PGE's version of the relevant events. It will then require at least two days for PGE's legal counsel to assemble a draft answer based on those inputs. And PGE will then need at least two days to internally review the draft answer before it can be deemed accurate, approved by management, and filed. In sum, PGE requires approximately six business days *at an absolute minimum* to review a complaint and prepare an answer. This assumes that the relevant PGE staff, attorneys and management work on nothing but reviewing the complaint in question and developing the corresponding answer during the days in question. This also allows no additional time for internal review and discussions to consider the feasibility of settling any of the complaints. Under this extremely aggressive six-business day schedule, it would take PGE 186 business days to review and answer all 31 complaints (again assuming that developing answers to the 31 complaints was the only task that PGE's relevant staff and counsel engaged in over that time frame). However, the relevant PGE personnel must simultaneously process pending requests for PURPA contracts from dozens of QF projects, including approximately 26 new request for contract received since August 1, 2017. The same personnel must also develop an initial and subsequent monthly reports on the status of pending QF requests for contract as recently directed by the Commission in Order 17-310. And the same personnel are involved in a number of pending QF proceedings including Docket No. UM 1854 and Docket No. UM 1728.

PGE acknowledges that there are likely "efficiencies of scale" and it may be possible for PGE staff to assemble the facts regarding one complaint while PGE's

attorneys are drafting an answer to another complaint (for which PGE's staff has already assembled the facts); as a result, it may be possible for PGE to develop answers to all 31 complaints in less than the 186 business days calculated above. However, the estimate of six business days per complaint is very aggressive, when the requirements of other QF-related demands on the time of PGE staff is considered, it is clear that PGE requires substantially more than 30 days to file answers to 31 complaints.

PGE has conferred with counsel for the 31 complainant QFs and requested additional time to answer the 31 complaints. PGE and QF complainants in 12 cases have agreed to a 45 calendar day extension. PGE and QF complainants in 2 more cases have agreed to a 30 calendar day extension. PGE and the QF complainants in the remaining 17 cases were not able to reach agreement on an extension of time to file an answer.

The sheer volume of complaints involved is unprecedented in PGE's experience. PGE submits that the regular timelines for answers or motions against the complaints are simply inadequate to allow PGE to process so many complaints and to develop meaningful, accurate answers. PGE requests that the Commission or ALJ issue an immediate order or ruling approving the 14 extensions the parties have agreed to and tolling, suspending or staying PGE's deadline to file answers to, or motions against, the remaining 17 complaints; and PGE requests that the ALJ schedule a prehearing conference to discuss and set a reasonable schedule for PGE's initial motions or answers in response to the remaining 17 complaints.

PGE notes that 16 of the 17 complaints requiring resolution involve requests for contract from proposed QFs that have not yet been constructed and that most propose to begin commercial operations in approximately three years. Each of the 17 complaints

also appears to allege that the QF complainant has already established a legally enforceable obligation (“LEO”) and is entitled to the avoided cost prices that were in effect on the date the QF allegedly established a LEO. As a result, there does not appear to be an urgent need to resolve the complaints in a matter of weeks or even in a few months. There appears to be no harm or prejudice to QF complainants caused by immediately tolling, suspending or staying PGE’s deadline to file answers or motions against the complaints pending a prehearing conference to establish a reasonable schedule for responsive motions and pleadings.

Because the first 25 answers are due Monday, August 28, 2017, PGE respectfully requests that the Commission or the ALJ issue an order or ruling by **Friday, August 25, 2017**, and that such order or ruling:

1. Toll, suspend or stay PGE’s obligation to file any motion or responsive pleading in response to the unresolved 17 complaints (UM 1859, UM 1860, UM 1861, UM 1862, UM 1863, UM 1864, UM 1865, UM 1866, UM 1867, UM 1868, UM 1869, UM 1870, UM 1871, UM 1872, UM 1873, UM 1874, UM 1883) until after a prehearing conference to discuss and set a schedule for responsive motions and pleadings; and
2. Schedule a prehearing conference to discuss and set a schedule for motions and pleadings responding to the unresolved 17 complaints in question.
3. Approve a 45 calendar day extension of the deadline to file answers in the following 12 cases – UM 1877, UM 1878, UM 1879, UM 1880, UM 1881, UM 1882, UM 1884, UM 1885, UM 1886, UM 1888, UM 1889, and UM 1890.
4. Approve a 30 calendar day extension of the deadline to file answers in the following 2 cases – UM 1875 and UM 1876.

PGE respectfully requests that the prehearing conference be scheduled either as a telephone conference on August 25, or as a telephone or in person conference during the week of August 28, 2017. Counsel for PGE is not available on the morning of August 28,

2017, or the afternoon of September 1, 2017, but is otherwise available for a prehearing conference from August 24 through September 1, 2017. PGE attempted to resolve this issue informally with counsel for the complainant QFs but was not completely successful. The Commission or ALJ has the authority to modify or waive the deadlines for responsive motions and pleadings.⁵

Dated this 24th day of August 2017.

Respectfully submitted,

/s/ Jeffrey S. Lovinger

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⁵ OAR 860-001-0000(2).