



Parties desire certainty on the approval of this schedule in advance of that time. Therefore, the Parties request expedited ruling on this motion without waiting for responses from any party.

### **RELEVANT PROCEDURAL BACKGROUND**

On August 23, 2018, ALJ Arlow issued a ruling in this proceeding (the “August 23rd ruling”) in which, among other rulings, he encouraged the parties to cooperate to develop a procedural schedule consistent with the ruling.

On November 1, 2018, ALJ Arlow issued a ruling (the “November 1st ruling”) in response to the NewSun Parties’ August 31, 2018 motion for clarification and certification. The November 1st ruling explained, “as PGE acknowledges, there are no procedural impediments facing the defendants with respect to this matter. Nothing in our rules prevents NewSun QFs from raising previous arguments after discovery has been completed and testimony offered into evidence . . . .” November 1st Ruling at 2. The November 1st ruling concluded that the NewSun Parties “are in no way precluded from filing summary judgment motions in the future[.]” *Id.*

Since ALJ Arlow’s August 23rd ruling, the NewSun Parties and PGE reached agreement on the materials to be produced in discovery consistent with that ruling and have now completed production of those materials. The Parties have also conferred and agreed to a schedule that they believe is consistent with ALJ Arlow’s rulings and with the parties’ agreement in a related federal court proceeding to litigate before the Commission on an expedited basis.

### **MOTION**

In light of ALJ Arlow’s August 23rd ruling and November 1st ruling and the parties’ agreement to litigate on an expedited basis, the Parties jointly propose the Commission set a procedural schedule that includes the filing of testimony, followed by the filing of a joint statement of undisputed material facts and motions for summary judgment with oral argument.

The jointly proposed schedule is as follows:

Event	Date
Initial Discovery Complete	October 26, 2018
PGE's Opening Testimony	Dec. 7, 2018
Defendants'/Intervenors' Response Testimony	Dec. 28, 2018
PGE's Reply Testimony	Jan. 11, 2019
Parties exchange proposed statements of undisputed material facts and subsequently confer to resolve any differences.	Jan. 18, 2019
Parties file: (A) the joint statement of undisputed facts; and (B) separate statements of any additional facts that each party contends are undisputed.	Jan. 25, 2019
Parties file simultaneous Motions for Summary Judgment.	Jan 29, 2019
All Parties' Simultaneous Response Briefs	Feb. 15, 2019
All Parties' Simultaneous Reply Briefs	Mar. 1, 2019
Oral Argument	TBD by Commission
Commission Decision on Cross-Motions for Summary Judgment (target date)	Apr. 5, 2019
Remaining Schedule if Cross-Motions for Summary Judgment are all denied (parties to propose specific dates to the ALJ)	
Additional Discovery	TBD
Cross-examination statements	TBD
Hearing	TBD
Cross Opening Briefs	TBD
Cross Closing Briefs	TBD
Oral Argument	TBD
Commission Decision (target date)	TBD

The NewSun Parties and PGE have conferred in good faith to develop a schedule consistent with ALJ Arlow's rulings. Intervenors agree to the schedule. All Parties agree that the procedural schedule is consistent with ALJ Arlow's August 23rd ruling and November 1st ruling. The schedule allows for the filing of testimony but also allows for the case to be resolved on motions for summary judgment. The schedule is designed with goal of providing the Commission with sufficient undisputed material evidence to allow it to rule on the cross-motions

for summary judgment and to reduce the potential for the Commission to deny motions for summary judgment in favor of an evidentiary hearing. The schedule is also mindful of the previously agreed-to need for expedited resolution of this dispute before the Commission. However, if the Commission determines that further process is needed after ruling on the motions for summary judgment, the schedule contains placeholders to allow for an evidentiary hearing.

### CONCLUSION

For the reasons stated above, the Parties jointly request the Commission adopt the procedural schedule proposed in this motion.

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