

ORDER NO. 15 126

ENTERED APR 15 2015

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1538

In the Matter of

KAMANA O'KALA, LLC,

Request for Waiver of the 12-month Solar
Photovoltaic System Installation Requirement
under OAR 860-084-0210(1).

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

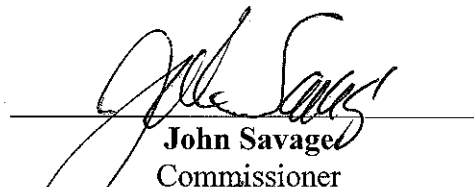
This order memorializes our decision, made and effective at the public meeting on April 14, 2015, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 15th day of April, 2015, at Salem, Oregon.



Susan K. Ackerman
Chair




John Savage
Commissioner


Stephen M. Bloom
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. 1

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: April 14, 2015

REGULAR X CONSENT EFFECTIVE DATE April 14, 2015

DATE: April 7, 2015

TO: Public Utility Commission

FROM: Cindy Dolezel *CD*

THROUGH: *JE* Jason Eisdorfer and *E for AA* Aster Adams

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1538) Request by Kamana O'Kala, on behalf of their customers, for a waiver, pursuant to OAR 860-084-0210(1), of the 12-month solar photovoltaic system installation requirement.

STAFF RECOMMENDATIONS:

Staff recommends that:

1. The request for a waiver for the completion of the seven solar photovoltaic systems, listed as projects 1 through 7 in Table 1 (*i.e.* reserved by Columbia Farms) be granted, which results in an extension from March 31, 2015, to July 31, 2015;
2. By May 15, 2015, Kamana O'Kala be required to provide a written progress update for the seven projects listed as projects 1 through 7 in Table 1; and
3. The request for a waiver for projects 8 through 19 in Table 1 (*i.e.* the non-Columbia Farms reserved projects) be denied because Kamana O'Kala has not provided evidence of securing the necessary financing and a likelihood of completing the projects in a timely manner.

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**Table 1. Projects Requesting Waivers -
 Kamana O'Kala, LLC**

	Site/Project Name	Size Reserved	Code
1	Columbia Farms 1	99.89 KW	DKUN68
2	Columbia Farms 2	99.89 KW	DKUN67
3	Columbia Farms 3	27.15 KW	DKU059
4	Columbia Farms 4	99.89 KW	LCJA63
5	Columbia Farms 5	99.89 KW	COL058
6	Columbia Farms MaryBell	99.89 KW	COLU64
7	Columbia Farms Pump House	99.89 KW	COLU66
8	Bella Organics	99.89 KW	BEL060
9	Enyart 1	99.89 KW	JOEN65
10	Enyart 2	99.89 KW	JENY62
11	Alder Royal 1	5.88 KW	L87368
12	Alder Royal 2	5.88 KW	W4K5Q0
13	Alder Royal 3	5.88 KW	06D4F2
14	Rain Tree 1	8.5 KW	06F4L8
15	Rain Tree 2	8.5 KW	7254E8
16	Rain Tree 3	8.5 KW	R9S748
17	Rain Tree 4	8.5 KW	7505S9
18	Rain Tree 5	8.5 KW	6267R0
19	Rain Tree 6	10 KW	H0M108
		996.3 KW	
All projects are in Portland General Electric territory, were awarded capacity reservations on October 22, 2013, with an original installation deadline of October 22, 2014, which was extended to March 31, 2015, by Commission Order No. 14-053 issued on October 14, 2014.			

DISCUSSION:

The Applicable Law

Each project that receives a capacity reservation holds that reservation for 12 months from its reservation start date as long as:

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1. a preliminary interconnection application is submitted and approved by the utility within two months of the reservation start date;
2. the deposit fees are paid;
3. the project is installed within 12 months of its reservation start date; or
4. if needed, the project receives a waiver to extend the installation deadline. See OAR 860-084-0210(1).
5. the Commission may waive any of the Division 084 rules "good cause shown." See OAR 860-084-000(3).

Analysis and Recommendation

In 2014, Kamana O'Kala (Kamana) requested and received waivers from the Commission for 20 projects¹ that extended their original solar photovoltaic system installation deadlines from October 22, 2014, to March 31, 2015.

Kamana is now requesting an additional set of waivers to extend the installation deadlines for 19 of those 20 original projects from March 31, 2015, to July 31, 2015, under OAR 860-084-0000(3). This extension request is based on Kamana's need for more time to finalize financing arrangements that are close to completion and for the construction of these projects. The 19 projects are located in Portland General Electric's (PGE) Solar Incentive Program and are identified in Table 1. All of the 19 projects were awarded capacity reservations on October 22, 2013. By Order No. 14-353, issued on October 14, 2014, the Commission granted a waiver request for these projects, extending their installation deadline from October 22, 2014, to March 31, 2015. This new waiver request will extend the installation deadline for 19 projects from March 31, 2015, to July 31, 2015.

Of the 19 projects for which Kamana is seeking waivers, seven projects are located at Columbia Farms on Sauvie Island and the remaining 12 are spread across four other sites near Portland. As stated in the 2014 Staff report, attached to Order No. 14-353, Staff recommended that no further extensions be granted to Kamana if they did not install the systems by March 31, 2015.

Staff reviewed the information submitted by Kamana and found numerous errors and discrepancies between the original application, a subsequent information submittal, and PGE's data, regarding the projects' application status and financing. PGE informed Staff that several of the interconnection applications were not approved, had expired, or needed re-submittal. Errors and discrepancies in the submissions to Staff and a lack of

¹Order No. 14-353 states that 14 waivers were granted, however, there were actually 20 capacity reservations that resulted from that waiver extension. A number of reservations had the same site addresses.

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responsiveness by Kamana caused several delays in Staff being able to complete its investigation of this waiver request. Staff contacted Mr. Schellerup, President of Kamana O'Kala, LLC., by email and telephone more than eight times requesting that Mr. Schellerup call to clarify missing information and inaccuracies for this waiver request. Staff has not heard further from Mr. Schellerup since a short email exchange on March 6, 2015. Staff also called Wiser Capital LLC to receive an update on the financing status of the projects.

There are seven projects at the Columbia Farms site that are listed as projects 1 through 7 in Table 1. Staff notes that the projects at Columbia Farm are significantly further along in the process toward construction as demonstrated by the fact that Kamana indicates that approximately \$65,000 has been already invested in these projects in terms of interconnection, engineering and design, geotechnical reporting, permit submittals, and completing the necessary steps to ensure the proper and safe execution of these projects. Additionally, Kamana and Wiser Capital LLC are in the process of finalizing a financing agreement for the seven projects reserved for Columbia Farms totaling nearly 626.5 kW, subject to the projects receiving an additional extension of the 12-month installation requirement to July 31, 2015, in order to provide certainty that the investment may be completed once construction has begun.² Considering that Kamana appears to have secured financing for the seven projects reserved by Columbia Farms, the substantial capital investment already spent by Kamana toward these projects, and the fact that the capacity not allocated during the May 2015 enrollment window could be allocated in a future enrollment window, Staff recommends that the Commission grant a conditional waiver for these seven projects.

Staff was unable to directly contact Mr. Schellerup, but left a voice mail on March 31, 2015, informing him that he could attend the Commission's April 14, 2015, public meeting to contest Staff's recommendations. Staff further contacted Mr. Schellerup on April 3, 2015, left him a voice message to call Staff and provide the needed information, but Staff has received no response as of the morning of April 6, 2015.

Staff notes that the waiver application submitted by Kamana states that seven projects have approved financing from Wiser Capital, but that Staff ultimately received no further clarification from Kamana as to whether or not financing for the remaining twelve projects was secured. However, representatives of Wiser Capital LLC confirmed the accuracy of their letter to Kamana with their intent to finance seven of the 19 projects listed as project 1 through 7 in Table 1.

² Kamana submitted in the filing a letter by Stephen Honikman, President of Wiser Capital LLC on February 3, 2015, which shows an "Intention to Finance" the seven projects listed as projects 1 through 7 in Table 1, subject to Kamana receiving the additional extension of the waiver.

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PGE commented that it will be challenging for Kamana to finish all 19 installations of these projects by July 31, 2015, considering that several interconnection applications have expired and need re-submittal.

In analyzing the "good cause" rule criterion, Staff notes that Kamana has been non-responsive to numerous requests for clarifying information. Staff also notes that contractor has not secured all of the necessary interconnection approvals, financing, or permits for 12 of the 19 projects, making installation for these 12 projects by July 31, 2015, very unlikely.

Due to a lack of demonstrated progress and non-responsiveness for detailed and accurate information by Kamana, Staff recommends that the waiver requests for 12 of the 19 projects, listed as projects 8 through 19 in Table 1, be denied.

PROPOSED COMMISSION MOTION:

1. The request for a waiver for the completion of the seven solar photovoltaic systems, listed as projects 1 through 7 in Table 1 (*i.e.* reserved by Columbia Farms), be granted, which results in an extension from March 31, 2015, to July 31, 2015;
2. By May 15, 2015, Kamana O'Kala be required to provide a written a progress update for the seven projects, listed as projects 1 through 7 in Table 1;
3. The request for a waiver for projects 8 through 19 in Table 1 (*i.e.* the non-Columbia Farms reserved projects), be denied because Kamana O'Kala has not provided evidence of securing the necessary financing or a likelihood of completing the projects in a timely manner.

RA1-UM 1538 Kamana VIR waiver