

ORDER NO. 17 418

ENTERED OCT 16 2017

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1805

NORTHWEST AND INTERMOUNTAIN  
POWER PRODUCERS COALITION,  
COMMUNITY RENEWABLE ENERGY  
ASSOCIATION, and RENEWABLE  
ENERGY COALITION,

Complainants,

vs.

PORTLAND GENERAL ELECTRIC  
COMPANY,

Defendant.

ORDER

DISPOSITION: PETITION TO INTERVENE DENIED;  
APPLICATION STRICKEN

**I. SUMMARY**

In this order, we deny the Joint Petition to Intervene Out of Time filed by Dayton Solar I LLC, Starvation Solar I LLC, Tygh Valley Solar I LLC, Wasco Solar I LLC, Fort Rock Solar I LLC, Fort Rock Solar II LLC, Alfalfa Solar I LLC, Fort Rock Solar IV LLC, Harney Solar I LLC, and Riley Solar I LLC (collectively, "Petitioners"). We also strike Petitioners' Application for Reconsideration or Rehearing of Order No. 17-256.

**II. PROCEDURAL HISTORY**

In Order No. 17-256, we clarified our prior Order No. 05-584 with regard to the date upon which the 15-year period of fixed prices paid to Qualifying Facilities begins under standard contracts. On July 20, 2017, PGE made a Schedule 201 filing in compliance with that clarification.

On September 8, 2017, the Petitioners jointly filed a petition to intervene out of time and a request for reconsideration of Order No. 17-256.

On September 18, 2017, PGE filed an objection to the Petitioners' request to intervene out of time. Petitioners filed a response to the PGE motion on September 20, 2017. A ruling staying the proceedings was issued that same date.

On October 12, 2017, the Administrative Law Judge certified the decision on the petition to the Commission.

### **III. POSITIONS OF THE PARTIES AND PETITIONERS**

PGE asserts that we lack the statutory authority to grant the Petition under ORS 756.525, because the evidentiary record in the proceeding is closed. Alternatively, PGE argues that, even if we were to find the petition timely, we should still deny the Petition on the grounds that Petitioners' appearance and participation will unreasonably broaden the issues by seeking rulings on numerous contracts' unique language and delay the proceedings. Finally, PGE notes that the original complainants to this proceeding have also filed a request for clarification and reconsideration of Order No. 17-256, thereby providing the Commission the opportunity to address the issues raised by the Petitioners.

Petitioners respond that it was Order No. 17-256, not the initiating complaint, that raised the concerns leading to their filings in this docket. They explain that the initial complaint was prospective only and did not seek interpretations or action relative to executed contracts, and that the Commission order finding past PGE contracts compliant gave rise to their petition. Because the order impacts existing contracts, Petitioners contend they should be allowed to intervene.

### **IV. APPLICABLE LAW**

ORS 756.525(2) provides that

At any time before the final taking of evidence in a proceeding, any person may apply to the commission for permission to appear and participate in the proceeding. The commission shall determine the interest of the applicant in the proceeding and shall grant the application, subject to appropriate conditions, if the commission determines that such appearance and participation will not unreasonably broaden the issues or burden the record, and otherwise may deny the application.

### **V. DISCUSSION**

The petition to intervene out of time is denied. ORS 756.525(2) allows a party to file a petition to intervene prior to the conclusion of the taking of evidence. Here, the evidentiary record closed prior to our resolution of this matter in Order No. 17-256. Thus, Petitioners may not now seek to intervene for purposes of seeking review of an order. This result is consistent with ORS 183.315(6), which allows only parties to seek judicial review of Commission orders.

We clarify that our decision here does not preclude the Petitioners from seeking other relief from the Commission to address their concerns, including the filing of a complaint under ORS 756.500.

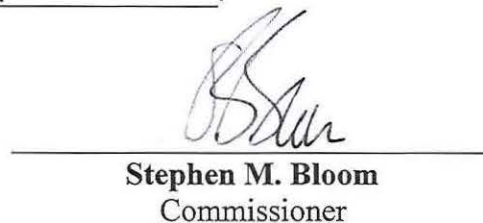
## VI. ORDER

IT IS ORDERED that:

1. The Joint Petition to Intervene Out of Time filed by Dayton Solar I LLC, Starvation Solar I LLC, Tygh Valley Solar I LLC, Wasco Solar I LLC, Fort Rock Solar I LLC, Fort Rock Solar II LLC, Alfalfa Solar I LLC, Fort Rock Solar IV LLC, Harney Solar I LLC, and Riley Solar I LLC is denied.
2. The Joint Motion for Clarification and Application for Rehearing or Reconsideration of Order No. 17-256 filed by Dayton Solar I LLC, Starvation Solar I LLC, Tygh Valley Solar I LLC, Wasco Solar I LLC, Fort Rock Solar I LLC, Fort Rock Solar II LLC, Alfalfa Solar I LLC, Fort Rock Solar IV LLC, Harney Solar I LLC, and Riley Solar I LLC is stricken.

Made, entered, and effective OCT 16 2017.

  
**Lisa D. Hardie**  
Chair

  
**Stephen M. Bloom**  
Commissioner



  
**Megan W. Decker**  
Commissioner