

April 2, 2024

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

**Re: UM 1930—PacifiCorp Comments to the Community Solar Program
Administrator’s March 21, 2024, Project Recommendation for Certification
deadline extensions for Buckaroo Solar 1 and Buckaroo Solar 2**

On March 21, 2024, the Program Administrator (PA) issued the above-referenced recommendations for Buckaroo Solar 1, LLC and Buckaroo Solar 2, LLC (collectively referred to herein as the “Projects”) to receive “a Certification extension for twenty-two months due to a 5.5 month utility delay in executing a PPA and a revised interconnection agreement provided by PacifiCorp with an additional 17-month delay for the commercial operation date (COD).” The recommendation appears to be based off of correspondence from Sunthurst Energy, LLC (Sunthurst) dated November 2, 2023, in which Sunthurst provided unsupported allegations regarding power purchase agreements (PPAs) and revised interconnection agreement Commercial Operation Dates (COD). While PacifiCorp consistently works to help Community Solar Projects achieve commercial operation, Sunthurst is misleading the PA. Consequently, the PA’s findings that “The Program Administrator (PA) considers utility interconnection issues to be the primary reason for the delay” are inaccurate.¹ PacifiCorp provides further details below.

First, with respect to the alleged “5.5-month delay” for the PPAs, attached as Attachment 1 please find emails from Daniel Hale, of Sunthurst, to PacifiCorp dated August 15, 2022, regarding applications for the PPAs for both Projects. Also, attached as Attachment 2 please find emails dated September 12, 2022, from PacifiCorp to Daniel Hale with executable PPAs. The time period is ***less than one month*** from the receipt of the applications until executable PPAs were provided to Sunthurst.

Second, regarding the CODs in interconnection agreements for the Projects, in the November 3, 2023, correspondence to the PA, Sunthurst claims “a representative of the Projects requested that PacifiCorp modify the Interconnection Agreements to have a revised Interconnection Commercial Operation Dates (‘CODs’).” PacifiCorp cannot find any such request by Sunthurst. Instead, PacifiCorp received a letter from Sunthurst dated March 29, 2023, which requested extensions to several milestone payments for several projects, including Buckaroo Solar 1, LLC and Buckaroo Solar 2, LLC. The March 29, 2023, letter is included as Attachment 3 and does not address CODs.

¹ Unfortunately, the November 3, 2023, correspondence relied upon by the PA appears to be a trend by Sunthurst of misinforming the Commission. PacifiCorp notes Sunthurst submitted a letter dated December 1, 2023, in Docket No. UM 1930, which also consisted of misleading and inaccurate statements. PacifiCorp comprehensively invalidated the assertions in a response letter dated December 7, 2023.

PacifiCorp *agreed* to modify the milestone payment dates and issued amended interconnection agreements on April 19, 2023. The amended interconnection agreements included 2025 CODs. Sunthurst executed the amended interconnection agreements for the Projects without protest, on May 23, 2023. The executed amended interconnection agreements reflect Sunthurst's informed consent to 2025 CODs. If Sunthurst objected to the 2025 CODs, it could have raised those concerns and not signed the amended interconnection agreements. To that end, Sunthurst submitted a letter to PacifiCorp dated October 18, 2023, in which it requested acceleration of CODs for three other projects, but not Buckaroo Solar 1, LLC and Buckaroo Solar 2, LLC.

Based on the above, as well as the attachments to this letter, PacifiCorp respectfully disagrees with the PA's conclusion that utility actions are the primary reason for delays with the Projects.

Respectfully Submitted,



Matthew P. Loftus
Assistant General Counsel
PacifiCorp
825 N.E. Multnomah, Suite 2000
Portland, OR 97232
(503) 813-5612
Matthew.Loftus@PacifiCorp.com

Attachment 1

From: [Eberhardt, Heather \(PacifiCorp\) {Mkt Function}](#)
To: [Cunningham, Melanie \(PacifiCorp\) {Mkt Function}](#)
Cc: [Johnson, Paul J \(PacifiCorp\) {Mkt Function}](#)
Subject: FW: [INTERNET] Buckaroo Solar 1 PPA
Date: Monday, August 15, 2022 10:05:21 AM
Attachments: [FERC Acceptance Filing-OF22-628-000.pdf](#)
[Parcel 2 Legal Desc PPLAT 2017-07.pdf](#)
[220422_OCS062_IA Attachment 2.pdf](#)
[Buck1 Exhibit E.docx](#)
[CSPPA Request Form fillable Buckaroo Solar 1, LLC.pdf](#)
[Buckaroo 1 Project VC0 HourlyRes 0.CSV](#)

Melanie,

Dan/Sunthurst sent over two more requests. I'd like you to take the lead on processing these. Dan's request form shows he received the SGIAs, but he didn't attach them. The OSC interconnection queue shows these as not yet having SGIAs. Can you start by following up with Dan and asking him to provide the interconnection agreements?

Heather Eberhardt

O: 503-813-6421 | M: 503-432-1236

From: daniel@buckaroosolar.com <daniel@buckaroosolar.com>
Sent: Monday, August 15, 2022 12:00 AM
To: Eberhardt, Heather (PacifiCorp) {Mkt Function} <Heather.Eberhardt@pacificorp.com>
Cc: 'Ken Kaufmann' <Ken@kaufmann.law>; Oregon Community Solar <ORCommunitySolar@PacifiCorp.com>
Subject: [INTERNET] Buckaroo Solar 1 PPA

You don't often get email from daniel@buckaroosolar.com. [Learn why this is important](#)

THIS MESSAGE IS FROM AN EXTERNAL SENDER.

Look closely at the **SENDER** address. Do not open **ATTACHMENTS** unless expected. Check for **INDICATORS** of phishing. Hover over **LINKS** before clicking. [Learn to spot a phishing message](#)

Hi Heather,

Please find attached, our application for PPA for Buckaroo Solar 1 project.

The hourly generation file is offered for completing the monthly generation table. You likely have a column of formula from other CSV files to paste in and total in format you prefer for this table.

Please confirm receipt and return Draft PPA to review and work toward execution as timely as possible.

Sincerely,

Daniel Hale, Principal
MRED, LEED AP, STI Certified



Buckaroo Solar, LLC

P: 323.480.3835 | F: 323.782.0760

W: BuckarooSolar.com

[LinkedIn Profile](#)

From: [Eberhardt, Heather \(PacifiCorp\) {Mkt Function}](#)
To: [Cunningham, Melanie \(PacifiCorp\) {Mkt Function}](#)
Cc: [Johnson, Paul J \(PacifiCorp\) {Mkt Function}](#)
Subject: FW: [INTERNET] Buckaroo Solar 2 PPA
Date: Monday, August 15, 2022 10:05:21 AM
Attachments: [CSPPA Request Form fillable Buckaroo2.pdf](#)
[FERC Acceptance Filing-QF22-629-000.pdf](#)
[220422_OCS063_IA_Attachment 2 SLD.pdf](#)
[Boundary Survey-Parcel Description.pdf](#)
[Buck2 Exhibit E.docx](#)
[Buckaroo 2 Project_VC0_HourlyRes_0.CSV](#)

Heather Eberhardt
O: 503-813-6421 | M: 503-432-1236

From: daniel@buckaroosolar.com <daniel@buckaroosolar.com>
Sent: Monday, August 15, 2022 12:00 AM
To: Eberhardt, Heather (PacifiCorp) {Mkt Function} <Heather.Eberhardt@pacificorp.com>
Cc: 'Ken Kaufmann' <Ken@kaufmann.law>; Oregon Community Solar <ORCommunitySolar@PacifiCorp.com>
Subject: [INTERNET] Buckaroo Solar 2 PPA

You don't often get email from daniel@buckaroosolar.com. [Learn why this is important](#)

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Hi Heather,

Please find attached, our application for PPA for Buckaroo Solar 2 project.

The hourly generation file is offered for completing the monthly generation table. You likely have a column of formula from other CSV files to paste in and total in format you prefer for this table.

Please confirm receipt and return Draft PPA to review and work toward execution as timely as possible.

Sincerely,

Daniel Hale, Principal

MRED, LEED AP, STI Certified



Buckaroo Solar, LLC

P: 323.480.3835 | F: 323.782.0760

W: BuckarooSolar.com

[LinkedIn Profile](#)

Attachment 2

From: [Cunningham, Melanie \(PacifiCorp\) {Mkt Function}](#)
To: daniel@buckaroosolar.com
Cc: [Ken Kaufmann](#); [Cunningham, Melanie \(PacifiCorp\) {Mkt Function}](#)
Subject: Buckaroo Solar 1, LLC - CSP Executable PPA September 12, 2022
Date: Monday, September 12, 2022 4:33:03 PM
Attachments: [Buckaroo 1 - CSP Purchase Agreement - PAC Executable 9-12-22.pdf](#)

Daniel,

Please find attached the executable Buckaroo Solar 1, LLC Community Solar Program QF power Purchase Agreement, please execute and send back for counter execution.

Thank you.

Melanie Cunningham | Originator, Resource & Commercial Strategy

PacifiCorp

825 Multnomah Street, Suite 600

Portland, Oregon 97232

O: (503) 813-6559

melanie.cunningham@pacificorp.com



From: [Cunningham, Melanie \(PacifiCorp\) {Mkt Function}](#)
To: daniel@buckaroosolar.com
Cc: [Ken Kaufmann](#); [Cunningham, Melanie \(PacifiCorp\) {Mkt Function}](#)
Subject: Buckaroo Solar 2, LLC - CSP Executable PPA September 12, 2022
Date: Monday, September 12, 2022 4:33:08 PM
Attachments: [Buckaroo 2 - CSP Purchase Agreement - PAC Draft 9-12-22 Executable.pdf](#)

Daniel,

Please find attached the executable Buckaroo Solar 2, LLC Community Solar Program QF power Purchase Agreement, please execute and send back for counter execution.

Thank you.

Melanie Cunningham | Originator, Resource & Commercial Strategy

PacifiCorp

825 Multnomah Street, Suite 600

Portland, Oregon 97232

O: (503) 813-6559

melanie.cunningham@pacificorp.com



Attachment 3



3/29/2023

PacifiCorp
Jarrod Martin, Project Manager
Generation Interconnection

Re: Pilot Rock Solar 1 (Q0666)
Pilot Rock Solar 2 (Q1045)
Tutuilla Solar (OCS 024)
Buckaroo Solar 1 (OCS 062)
Buckaroo Solar 2 (OCS 063)

Dear Jarrod,

This letter responds to your several e-mails sent February 6-8 serving notice of past due Interconnection Agreement milestone payments for the above projects and reserving PacifiCorp's right to declare a default if not cured within 60 days of notice. For the reasons below, Sunthurst requests that the milestone dates in the Interconnection Agreements be extended.

Inflation Reduction Act (IRA). Pilot Rock Solar 1 -2 and Tutuilla Solar are located in low-income qualifying communities, making the projects eligible for a 10% federal tax credit adder under IRA. All projects are also likely capable of achieving the 10% domestic content adder. But federal guidance on how to qualify for the credit has not yet been published by the IRS and is a real pain point for the industry nationally. Projects are coupled to federal guidance to validate tax credit and equity projection in the funding stack.

Solar Panel Cost/Availability. After the Department of Commerce announced it would investigate alleged dumping by Chinese solar manufacturers, in March 2022, the availability of solar panels crashed, and wholesale prices spiked. Solar deployments "ground to a near-halt" as industry-wide uncertainty over the investigation unfolded.¹ Final resolution of the investigation is not expected before May 2023.

PacifiCorp Merchant Function's delay signing Power Purchase Agreements (PPAs). Last year, PacifiCorp Merchant withheld signing PPAs with Sunthurst Community Solar Projects until PacifiCorp Interconnection executed corresponding Interconnection Agreements, in spite of the Commission's prior order that PacifiCorp not do so. PacifiCorp stopped withholding signing after Sunthurst complained to the PUC, but PacifiCorp's delay prevented Sunthurst from finalizing project finance for all five of its projects for approximately three months, during which time loan rates increased substantially.

Since the signed interconnection agreements or amendments, we secured tax equity financing commitments for all projects. However, valuation is tied to IRA guidance unilaterally delayed by the IRS and the chief reasons contributing to Sunthurst's failure to make milestone payments. These were all beyond Sunthurst's reasonable control. Sunthurst has preserved its project rights and has pending construction financing for all five projects

¹ *Commerce pushes preliminary solar antidumping tariff decision to December 1, 2022*, PV Magazine, Nov 15, 2022 (<https://pv-magazine-usa.com/2022/11/15/commerce-pushes-solar-antidumping-tariff-decision-to-2023/>)



Sunthurst Energy, LLC

but not until some or all of the above delays resolve. Accordingly, Sunthurst respectfully requests that the milestone payments dates be delayed as follows:

Revised Milestones	PRS1	PRS2	Tutuilla	Buckaroo 1	Buckaroo 2
Payment 1	Done	Done	Done	5/1/23	5/1/23
Payment 2	Done	X	Done	X	X
Payment 3	9/1/23	9/1/23	9/1/23	X	X
Payment 4	1/1/24	1/1/24	1/1/24	3/1/24	3/1/24
Payment 5	4/1/24	4/1/24	4/1/24	10/1/24	10/1/24

X- indicates further refinement based on PacifiCorp's reasonable interim date/charges.

Y-The revised milestone dates assume the IRS Guidance for Inflation Reduction Act's domestic content and low-income communities with application and project acceptance is received by August 30, 2023, and December 1, 2023, respectively.

I am enclosing a copy of this letter with my status report to the Commission in UM 2177. Reasonable extension of the milestones is necessary for the success of all five Projects, and I look forward to reaching an agreement before the 60-day notice period expires.

Thank you for your continuing patience and help.

Sincerely,

Dan Hale
Sunthurst Energy, LLC
Managing-Member