

May 19, 2020

Via Electronic Filing

Public Utility Commission of Oregon
Attn: Filing Center
PO Box 1088
Salem, OR 97308-1088


Re: UM 2051 - Fossil Lake Solar, LLC v. Portland General Electric Company

Attention Filing Center:

Enclosed for filing today in the above-named docket is the Declaration of Robert Macfarlane in Support of Portland General Electric Company's Motion for Summary Judgment.

Thank you for your assistance.

Very truly yours,


Jeffrey S. Lovinger

Attachment
1001283

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 2051**

FOSSIL LAKE SOLAR, LLC,

Complainant,

vs.

PORTLAND GENERAL ELECTRIC
COMPANY,

Defendant.

**DECLARATION OF ROBERT
MACFARLANE IN SUPPORT
OF PORTLAND GENERAL
ELECTRIC COMPANY'S
MOTION FOR SUMMARY
JUDGMENT**

I, Robert Macfarlane, declare:

1. I am Manager of Pricing and Tariffs at Portland General Electric Company (“PGE”), and I make this declaration in support of PGE’s Motion for Summary Judgment. The following statements are true and correct and, if called upon, I could competently testify to the facts averred herein.

2. I am responsible for leading PGE’s Pricing and Tariff team, having done so since September 2019. My prior title was Regulatory Consultant. Since joining PGE in 2008, I have worked as an analyst in the Rates and Regulatory Affairs Department. My duties at PGE have included pricing, revenue requirement, Public Utility Regulatory Policies Act avoided costs, and regulatory issues. I have been responsible for pricing and policy related to avoided cost matters for PGE since 2010.

3. PGE and Fossil Lake Solar, LLC (“Fossil Lake”) entered into a Standard Renewable Off-System Power Purchase Agreement (the “Fossil Lake PPA”) effective April 29, 2015. The Fossil Lake PPA includes a Renewable Resource Deficiency Period starting January 2020. The Fossil Lake PPA is based on PGE’s Commission-approved standard contract form that became effective on December 16, 2014. This was the first time the renewable avoided cost was available from PGE. The version of Schedule 201 that was effective at that time was included as an attachment to the Fossil Lake PPA. That version of Schedule 201 become effective on

December 16, 2014 (the “2014 Schedule 201”). In the 2014 Schedule 201, the Renewable Resource Deficiency Period starts in January 2020.

4. The 2014 Schedule 201 attached to the Fossil Lake PPA as Exhibit D includes table 6a and table 6b on Sheet No. 201-17 and Sheet No. 201-18. The tables provide the fixed prices that PGE is required to pay for any net output delivered during the first 15 years following the contract effective date. The prices increase significantly in January 2020, when the Renewable Resource Deficiency Period begins. Prior to January 2020, during the Renewable Resource Sufficiency Period, prices are based on a market forecast of on- and off-peak electricity and Fossil Lake keeps its renewable energy certificates (“RECs”). In January 2020 and thereafter, renewable avoided cost prices are based on an avoided renewable resource and Fossil Lake then provides its RECs to PGE to be used to satisfy PGE’s obligations relating to Oregon’s renewable portfolio standards (“RPS”) for the benefit of PGE’s retail electricity customers.

5. The higher prices under the Fossil Lake PPA beginning January 1, 2020, reflect the fact that PGE is renewable resource deficient (as defined by the Commission) for purposes of the Fossil Lake PPA beginning January 1, 2020. Prior to January 1, 2020, the fixed prices in tables 6a and 6b of the 2014 Schedule 201 compensate for renewable energy only. After January 1, 2020, the fixed prices in tables 6a and 6b of the 2014 Schedule 201 compensate the Seller not only for renewable energy, but also for renewable capacity and RECs. PGE is obligated to pay these higher prices for net output delivered after January 1, 2020, because PGE becomes renewable resource deficient for purposes of the Fossil Lake PPA on January 1, 2020, and thereafter is purchasing not just renewable energy, but also renewable capacity and RECs.

6. As a practical matter, PGE is never renewable resource deficient in real time. The Commission’s decision about when PGE will be renewable resource deficient is based on the timing of PGE’s next planned renewable action under its integrated resource plan (“IRP”). PGE plans well in advance to meet its RPS obligations and to avoid ever becoming resource deficient in real time. The combination of development and acknowledgement of the IRP process, the

competitive bidding process, and building or contracting for the renewable resource means that the renewable deficiency date in PGE's most recent Schedule 201 is always years away.

7. In addition, PGE uses a bank of RECs to manage its RPS obligations in the shorter term. Renewable resources are variable, and output varies from year to year. In addition, PGE's retail loads vary. The REC bank helps to manage those variations.

8. In the current version of Schedule 201, PGE's renewable deficiency period is 2025. Before 2025, PGE will take actions to procure renewable resources to avoid actually becoming resource deficient in 2025 (or determine that it doesn't need additional renewable resources to avoid becoming resource deficient in 2025). At that point, in future versions of Schedule 201, PGE's renewable resource deficiency period will move out to some later year and will no longer be 2025.

9. Each of PGE's Commission-approved standard contracts incorporates the terms and conditions of the version of PGE's Schedule 201 that is in effect at the time the standard contract is executed. No standard contract executed by PGE states that it incorporates the terms of a version of Schedule 201 that will be approved by the Commission *after* the effective date of the standard contract.

10. When the Commission approves new versions of PGE's Schedule 201, it always does so by making the new version of Schedule 201 effective on a going forward basis. The Commission has never approved a version of Schedule 201 and made it retroactively effective to standard contracts that were fully executed and effective before the date on which the Commission approved the new version of Schedule 201.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED this 18th day of May, 2020.



Robert Macfarlane