

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UM 2057

**Served electronically at Salem, Oregon, February 4, 2020, to:**

*Respondent's Attorney*  
Douglas C. Tingey  
Portland General Electric Company  
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*Complainant's Attorney(s) & Representative(s)*  
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Stephen Gates  
St. Louis Solar, LLC  
[stephengates888@gmail.com](mailto:stephengates888@gmail.com)

Re: UM 2057, ST. LOUIS SOLAR, LLC, Complainant, vs. PORTLAND GENERAL ELECTRIC COMPANY (PGE), Defendant. Pursuant to ORS 756.500.

ST. LOUIS SOLAR, LLC, has filed a complaint against PGE. A copy of the complaint is attached and served on Respondent, under ORS 756.512(1). The Commission has assigned Docket No. UM 2057 to this complaint. Please use this number whenever you refer to this case.

The Public Utility Commission must receive an Answer from the Respondent by February 24, 2020, under OAR 860-001-0400(4)(a). A copy must be served on the complainant.

After the filing of the answer, the PUC will contact the parties to provide information about further proceedings in this matter.

PUBLIC UTILITY COMMISSION OF OREGON

/s/Cheryl Walker  
Cheryl Walker  
Administrative Specialist 2  
Administrative Hearings Division  
(503) 378-2849

c: Helen Parker, [Helen.Parker@pgn.com](mailto:Helen.Parker@pgn.com)

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Attachments: Complaint  
Notice of Contested Case Rights and Procedures

## NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Oregon law requires state agencies to provide parties written notice of contested case rights and procedures. Under ORS 183.413, you are entitled to be informed of the following:

**Hearing:** The time and place of any hearing held in these proceedings will be noticed separately. The Commission will hold the hearing under its general authority set forth in ORS 756.040 and use procedures set forth in ORS 756.518 through 756.610 and OAR Chapter 860, Division 001. Copies of these statutes and rules may be accessed via the Commission's website at [www.puc.state.or.us](http://www.puc.state.or.us). The Commission will hear issues as identified by the parties.

**Right to Attorney:** As a party to these proceedings, you may be represented by counsel. Should you desire counsel but cannot afford one, legal aid may be able to assist you; parties are ordinarily represented by counsel. The Commission Staff, if participating as a party in the case, will be represented by the Department of Justice. Generally, once a hearing has begun, you will not be allowed to postpone the hearing to obtain counsel.

**Notice to Active Duty Servicemembers:** Active Duty Servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

**Administrative Law Judge:** The Commission has delegated the authority to preside over hearings to Administrative Law Judges (ALJs). The scope of an ALJ's authority is defined in OAR 860-001-0090. The ALJs make evidentiary and other procedural rulings, analyze the contested issues, and present legal and policy recommendations to the Commission.

**Hearing Rights:** You have the right to respond to all issues identified and present evidence and witnesses on those issues. *See* OAR 860-001-0450 through OAR 860-001-0490. You may obtain discovery from other parties through depositions, subpoenas, and data requests. *See* ORS 756.538 and 756.543; OAR 860-001-0500 through 860-001-0540.

**Evidence:** Evidence is generally admissible if it is of a type relied upon by reasonable persons in the conduct of their serious affairs. *See* OAR 860-001-0450. Objections to the admissibility of evidence must be made at the time the evidence is offered. Objections are generally made on grounds that the evidence is unreliable, irrelevant, repetitious, or because its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay. The order of presenting evidence is determined by the ALJ. The burden of presenting evidence to support an allegation rests with the person raising the allegation. Generally, once a hearing is completed, the ALJ will not allow the introduction of additional evidence without good cause.

## Notice of Contested Case Rights and Procedures continued

**Record:** The hearing will be recorded, either by a court reporter or by audio digital recording, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request, if available, a copy of the audio recording from the Commission for a fee set forth in OAR 860-001-0060. The hearing record will be made part of the evidentiary record that serves as the basis for the Commission's decision and, if necessary, the record on any judicial appeal.

**Final Order and Appeal:** After the hearing, the ALJ will prepare a draft order resolving all issues and present it to the Commission. The draft order is not open to party comment. The Commission will make the final decision in the case and may adopt, modify, or reject the ALJ's recommendation. If you disagree with the Commission's decision, you may request reconsideration of the final order within 60 days from the date of service of the order. *See* ORS 756.561 and OAR 860-001-0720. You may also file a petition for review with the Court of Appeals within 60 days from the date of service of the order. *See* ORS 756.610.

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

ST. LOUIS SOLAR, LLC,

Complainant,

v.

PORTLAND GENERAL ELECTRIC  
COMPANY,

Defendant.

DOCKET NO. \_\_\_\_\_

COMPLAINT

**I. INTRODUCTION**

This is a complaint (“Complaint”) filed by St. Louis Solar, LLC (“St. Louis Solar”) with the Oregon Public Utility Commission (“Commission”) against Portland General Electric Company (“PGE”) under ORS 756.500 and OAR 860-001-0170. St. Louis Solar is a 2.2-megawatt (“MW”) solar qualifying facility (“QF”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”) and has executed both a standard power purchase agreement (“PPA”) and an interconnection agreement with PGE.

PGE has refused to amend the PPA in light of significant delays that PGE caused to St. Louis Solar’s interconnection. These delays have forced St. Louis Solar to default

on the PPA by not achieving its Commercial Operation Date (“COD”). Because of PGE’s continuing delays, St. Louis Solar has been unable to cure the default. In addition, during the time that St. Louis Solar has been unable to sell power because the interconnection is incomplete, PGE has charged St. Louis Solar for alleged damages. On February 11, 2020, the cure period for St. Louis Solar will end, and PGE could terminate the PPA. If PGE terminates the PPA, St. Louis Solar will suffer catastrophic losses and not be able to operate its facility or sell its net output. St. Louis Solar has been working in good faith with PGE to avoid this filing. However, PGE has refused to provide adequate relief, so St. Louis Solar comes now before the Commission.

St. Louis Solar believed PGE when the utility said during PPA negotiations that interconnection would take approximately 12 months to complete. That was 2016. As of February 3, 2020, interconnection has still not been completed, due in large part to PGE’s errors and mistakes. The estimated completion date for interconnection has been delayed time and again. Twice the parties have agreed to amend the PPA by extending the COD, which has resulted in partial but not adequate relief to St. Louis Solar.

The most recent amendment extended the scheduled COD to February 10, 2019. This amendment was executed in November 2018, months after PGE and St. Louis Solar executed an interconnection agreement that set an interconnection schedule extending into late 2019. St. Louis Solar believed PGE when it represented that interconnection could be completed sooner than those dates, so St. Louis Solar agreed to the February 2019 COD. PGE also unlawfully and discriminatorily demanded that St. Louis Solar give up other legal rights to obtain an inadequate extension of its COD. The St. Louis Solar project has been complete and waiting to be energized since December 2018.

February 10, 2019, passed, and St. Louis Solar missed its COD. On February 11, 2019, PGE provided a notice of default under the PPA. In March 2019, St. Louis Solar inquired about interconnection, and PGE asserted that St. Louis Solar had no claim to interconnection sooner than the last date in the interconnection agreement (October 31, 2019). In April 2019, PGE began sending monthly bills to St. Louis Solar for alleged damages from the failure to achieve COD pursuant to the PPA.

In addition to being unable to sell power, St. Louis Solar is unable to receive the benefits of the fixed-price payments in the PPA. The PPA provides 15 years of fixed-price payments starting from the date of execution (under the prevailing interpretation).<sup>1</sup> By February 10, 2020, St. Louis Solar will have missed the opportunity to earn fixed-price payments for 25% of that term. These payments are essential to QF financing.

St. Louis Solar has paid over \$600,000 for interconnection service, has paid over \$20,000 for PGE's alleged damages, and has lost substantial revenues under the PPA. If the PPA is terminated, St. Louis Solar's losses will be catastrophic, and the project may never be able to operate and delivery its net output.

St. Louis Solar wishes to be energized and sell power to PGE as agreed in 2016. For that purpose, St. Louis Solar has sought PGE's consent to amend the PPA dates to reflect at least some of the delay to interconnection. Considering the significant

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<sup>1</sup> St. Louis Solar has a PPA form which is similar to that of the NewSun parties, which the Commission recently determined starts the 15-year fixed price period at execution. *PGE vs. Alfalfa Solar I, LLC, et al.*, Docket No. UM 1931, Order No. 19-255 at 17 (Aug. 2, 2019). That decision is under appeal, and it is possible that St. Louis Solar form PPA provides that the 15-year fixed price period begins at the COD. *PGE vs. Alfalfa Solar I, LLC, et al.*, Docket No. UM 1931, Petition for Judicial Review (Jan. 10, 2020).

economic losses, St. Louis Solar has also sought PGE's consent to amend the commencement date of the fixed-price payments or to amend the termination date of the PPA to provide at least partial relief. PGE has refused to amend the PPA, has refused to stop sending invoices, has refused to offer relief for St. Louis Solar's revenue losses, and has still not completed interconnection.

Therefore, the Commission should require that PGE amend the PPA's COD, fixed-price payment commencement date, and termination date to reflect the *all* delays to interconnection service; require that PGE complete interconnection immediately so that St. Louis Solar can begin delivering power; require that PGE refund St. Louis Solar for the invoices PGE wrongfully billed for the alleged damages; and impose penalties on PGE for its unlawful and discriminatory practices.

## II. SERVICE

Copies of all pleadings and correspondence should be served on Complainant's counsel and representatives at the addresses below:

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In support of this Complaint, Complainant alleges as follows:

### **III. IDENTITY OF THE PARTIES**

1. PGE is an investor-owned public utility regulated by the Commission under ORS Chapter 757. PGE is headquartered at 121 Southwest Salmon Street, Portland, Oregon 97204.

2. St. Louis Solar, a limited liability company organized under the laws of the state of Oregon, is the controlling owner and manager of the St. Louis Solar project and will be the seller of the output from the St. Louis Solar project. St. Louis Solar's address is 1327 SE Tacoma St #235, Portland, OR 97202.

### **IV. APPLICABLE STATUTES AND RULES**

3. The Oregon statutes expected to be involved in this case include: ORS 746.040, 756.040-756.068, 756.500-756.558, 756.990, 757.020, 757.325, 758.010-758.035, and 758.505-758.555. The Oregon rules expected to be involved in this case include: OAR 860-001, 860-023, 860-024, 860-029, and 860-082.

4. The federal statute expected to be involved in this case is PURPA, 16 United States Code ("USC") 824a-3. The federal rules expected to be involved in this case include: 18 Code of Federal Regulations ("CFR") 292.101-292.602.

### **V. JURISDICTION**

5. FERC adopted regulations and policies governing utility purchases from QFs under PURPA. 18 CFR 292.101-292.602. State regulatory agencies are required to implement FERC's regulations. *See* 16 USC 824a-3(f); *FERC v. Mississippi*, 456 U.S. 742, 751 (1982).

6. Specifically, the state agencies that implement PURPA have authority to determine the manner for payment of interconnection costs by QFs. 18 CFR 292.306.



7. The Commission is the Oregon state agency that implements the state and federal PURPA statutes. ORS 758.505(3); OAR 860-029-0001; *Snow Mountain Pine Co. v. Maudin*, 84 Or App 590, 593 (1987). Public utilities are defined in ORS 758.505(7), and include PGE. The Commission has the power and jurisdiction to hear complaints by QFs against public utilities, including PGE. ORS 756.040, 756.500-756.558, and 758.505-758.555; OAR 860-001-0010(3), and 860-029-0030.

8. The Commission has the jurisdiction to represent the customers of any public utility, including interconnection customers, in all controversies respecting rates, valuations, service and all matters of which the Commission has jurisdiction, and has the jurisdiction to protect customers, and the public generally, from unjust and unreasonable exactions and practices and to obtain for them adequate service at fair and reasonable rates. ORS 756.040.

9. The federal District Court and/or an Oregon Circuit Court has concurrent and may have exclusive jurisdiction over certain claims in this Complaint. However, St. Louis Solar understands that the Commission has held that it has primary and concurrent jurisdiction over post-contract execution claims.<sup>2</sup> St. Louis Solar is not waiving any rights to have a District or Circuit court adjudicate and resolve its claims for relief by filing this Complaint before the Commission.

## **VI. FACTUAL BACKGROUND**

10. The St. Louis Solar project is a 2.2-megawatt (“MW”) nameplate capacity solar QF located in Marion County, Oregon.

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<sup>2</sup> *PGE v. Pacific Northwest Solar, LLC*, Docket No. UM 1894, Order No. 18-025 at 7 (Jan. 25, 2018).

11. On March 7, 2016, St. Louis Solar requested a PPA from PGE.
12. On April 26, 2016, St. Louis Solar filed an application for interconnection.
13. On June 3, 2016, PGE executed a Standard Renewable In-System Variable Power Purchase Agreement (“PPA”), which St. Louis Solar counter-signed on June 10, 2016 (available at: <https://edocs.puc.state.or.us/efdocs/HAQ/re143haq161630.pdf>).
14. The original PPA set forth an in-service date of September 30, 2017.
15. The original PPA set forth a scheduled Commercial Operation Date (“COD”) of October 31, 2017.
16. St. Louis Solar agreed to the in-service date and scheduled COD on the basis of representations made by PGE during the negotiations process that interconnection would likely be completed prior to those dates.
17. On November 1, 2016, St. Louis Solar received a Feasibility Study.
18. On April 24, 2017, St. Louis Solar received a System Impact Study Report.
19. The System Impact Study Report showed that the interconnection upgrades were expected to take 12 months from the time an interconnection agreement was executed (i.e., at the earliest, approximately April 2018).
20. PGE’s actions caused material and harmful interconnection delays.
21. On February 1, 2017, PGE and St. Louis executed the first amendment to the PPA.
22. The amendment postponed the scheduled COD to March 31, 2018.

23. The purpose of the first amendment was to provide partial relief to St. Louis Solar for delays in the interconnection process that PGE either caused or failed to anticipate.

24. On November 30, 2017, St. Louis Solar received a Facility Study.

25. The Facility Study showed that the interconnection upgrades were expected to take 18 months from the time an interconnection agreement was executed (i.e., at the earliest, approximately September 2018).

26. On March 14, 2018, PGE signed an Interconnection Agreement, which St. Louis Solar counter-signed on March 28, 2018.

27. The Interconnection Agreement includes a list of “critical milestones” for the project and an indication of the party responsible for meeting that critical milestone.

28. The Interconnection Agreement specifies that PGE was responsible for completing the interconnection facilities on or before September 27, 2019.

29. The Interconnection Agreement specifies that St. Louis Solar was responsible for conducting testing and commissioning after PGE completed the interconnection facilities and on or before October 11, 2019.

30. The Interconnection Agreement specifies that PGE was responsible for ensuring the project achieved its “in-service date” on or before October 31, 2019.

31. On November 16, 2018, PGE and St. Louis Solar executed the second amendment to the PPA.

32. The amendment postponed the date of initial deliveries of Net Output until January 10, 2019.

33. The amendment postponed the scheduled COD until February 10, 2019.

34. The purpose of the second amendment was to provide relief to St. Louis Solar for delays in the interconnection process that PGE either caused or failed to anticipate.

35. St. Louis Solar agreed to a scheduled COD of February 10, 2019, rather than a date after the in-service date of October 31, 2019, because that was the latest date that PGE would agree to..

36. On or before November 30, 2018, St. Louis Solar paid the remaining balance due to PGE under the interconnection agreement.

37. St. Louis Solar paid \$629,000 to PGE for interconnection services, including \$153,000 for communications requirements.

38. On December 15, 2018, the St. Louis Solar project was completed, with final electrical permit sign off on January 23, 2019.

39. Since December 2018, St. Louis Solar has been ready to be energized.

40. Since December 2018, St. Louis Solar has been waiting for PGE to complete the interconnection so that St. Louis Solar can begin to sell power pursuant to the PPA.

41. On January 10, 2019, St. Louis Solar was not able to meet its initial delivery date because PGE had not completed the interconnection.

42. St. Louis Solar was not able to complete interconnection testing and commissioning because PGE had not completed the interconnection.

43. On February 10, 2019, St. Louis Solar was not able to achieve its scheduled COD because PGE had not completed the interconnection facilities and testing had not been completed.

44. Failure to achieve COD constitutes a default under the PPA.
45. The PPA provides for a one-year cure period for failure to meet the COD.
46. After the one-year cure period ends, PGE may immediately terminate the PPA.
47. On February 11, 2019, PGE provided St. Louis Solar with a notice of default under the PPA for failure to achieve the scheduled COD.
48. The notice of default specified that St. Louis Solar had one year from February 11, 2019, the date of notice, to cure.
49. On March 25, 2019, PGE informed St. Louis Solar that they were still working on substation upgrades, had not been able to schedule fiber installation, and could take months to complete interconnection.
50. On March 25, 2019, PGE asserted that PGE had until October 31, 2019 to complete interconnection.
51. On April 3, 2019, PGE began sending St. Louis Solar monthly invoices for alleged damages arising from the failure to achieve COD.
52. On April 25, 2019, PGE sent St. Louis Solar a second invoice for alleged damages.
53. St. Louis Solar has consistently paid these invoices with the expectation that energization was imminent.
54. St. Louis Solar has not received an invoice since April 2019.
55. It is unclear if PGE attempted to send additional invoices.
56. It is unclear if PGE intends to send additional invoices.
57. PGE has refused to agree that it will not send future invoices.

58. In the letter dated August 14, 2019, PGE asserted that PGE “has been invoicing St. Louis Solar . . . since April 2019.”

59. St. Louis Solar has contacted PGE several times regarding interconnection.

60. One of the delays to achieving interconnection has been PGE’s errors and mistakes in running a communications line across a railroad.

61. PGE first informed St. Louis Solar of the need to cross a railroad on May 17, 2019.

62. On May 17, 2019, PGE informed St. Louis Solar that PGE had sought a railroad permit in December 2018.

63. On June 4, 2019, PGE informed St. Louis Solar that PGE had been unsuccessful in acquiring a necessary permit to install interconnection facilities across a railroad from the State Department of Lands and was now “attempting” to file for a permit with the Oregon Department of Transportation.

64. PGE spent several months working with a railroad that did not have rights to the property and with government agencies that did not have jurisdiction over the issue.

65. On July 26, 2019, St. Louis Solar sent PGE a letter expressing its concerns.

66. In the July 26 letter, St. Louis Solar requested that PGE either timely complete interconnection or allow St. Louis Solar to complete interconnection.

67. In the July 26 letter, St. Louis Solar requested that PGE refund St. Louis Solar for the invoices for alleged damages under the PPA and stop sending invoices for alleged damages.

68. In the July 26 letter, St. Louis Solar requested that PGE agree to amend the PPA in light of the interconnection delays.

69. On August 14, 2019, PGE sent St. Louis Solar a letter.

70. In the August 14 letter, PGE responded that St. Louis Solar had no basis to expect interconnection to be completed prior to October 31, 2019.

71. In the August 14 letter, PGE responded that PGE was on schedule to place the interconnection in service by October 31, 2019.

72. In the August 14 letter, PGE responded that PGE would not refund St. Louis Solar for the alleged damages and refused to agree not to bill St. Louis Solar for the alleged damages in the future.

73. In the August 14 letter, PGE responded that PGE would not agree to amend the PPA.

74. On September 27, 2019, PGE failed to meet the “critical milestone” under the interconnection agreement of ensuring that the interconnection facilities were complete.

75. On October 7, 2019, PGE notified St. Louis Solar that PGE had received some but not all of the documents needed to complete the interconnection facilities.

76. On October 7, 2019, PGE represented that interconnection would be completed quickly once the last permit was obtained.

77. On October 31, 2019, PGE failed to meet the “critical milestone” under the interconnection agreement of ensuring that the project was in-service.

78. On October 31, 2019, PGE notified St. Louis Solar that PGE had received the last permit needed to cross the railroad.

79. On November 25, 2019, PGE notified St. Louis Solar that the interconnection facilities were not complete because the site was lacking a necessary relay.

80. On November 25, 2019, PGE asserted that St. Louis Solar was responsible for installing the relay.

81. PGE never previously informed St. Louis Solar of PGE’s position that St. Louis Solar was responsible for installing the relay.

82. On November 26, 2019, St. Louis Solar responded that the interconnection agreement required PGE to install the relay.

83. On December 2, 2019, PGE responded that the relay was St. Louis Solar’s responsibility and cited PGE’s 2019 Distribution Interconnection Standards. PGE did not cite Distribution Interconnection Standards published prior to 2019.

84. PGE did not previously provide St. Louis Solar with any of its Distribution Interconnection Standards but only with the Interconnection Agreement.

85. St. Louis Solar disagreed with PGE’s interpretation of the interconnection agreement but proceeded to order and install the relay in the interest of obtaining energization as soon as possible.

86. PGE was obligated under the interconnection agreement to perform the work regarding the relay.



87. PGE caused delay by demanding that St. Louis Solar complete a task that PGE was obligated to perform under the interconnection agreement.

88. On December 31, 2019, PGE notified St. Louis Solar that PGE would inspect the facility in the coming week.

89. On January 8, 2020, St. Louis finished installing the relay.

90. On January 8, 2020, St. Louis Solar responded that the relay was installed and inquired when PGE would finish the interconnection work.

91. On January 9, 2020, PGE responded that the work could not be completed before PGE approved St. Louis Solar's relay settings.

92. On January 15, 2020, St. Louis Solar inquired with PGE about when PGE might complete interconnection.

93. On January 15, 2020, PGE responded that it was scheduling the work to be done.

94. On January 15, 2020, PGE responded that the work could not be completed before PGE approved St. Louis Solar's relay settings.

95. On January 16, 2020, St. Louis Solar inquired with PGE about what relay settings and equipment would meet PGE's standards.

96. On January 20, 2020, PGE responded with information about the necessary relay specifications.

97. On January 20, 2020, St. Louis Solar confirmed that the necessary relay specifications had been met and that the project was ready for PGE to finalize.

98. As of February 3, 2020, PGE has failed to complete the interconnection facilities.

99. The failure to complete interconnection is due to PGE's actions and inactions.
100. St. Louis Solar believes that interconnection could have been completed months earlier but for PGE's ineffective approach and mistakes.
101. If PGE's actions were not mistakes, then they were negligent.
102. If PGE's actions were not negligent, then they were malfeasant.
103. St. Louis Solar cannot conduct the necessary testing and commissioning that the interconnection agreement states must be done until after the interconnection facilities are complete.
104. St. Louis Solar has been unable to sell power pursuant to the PPA because of PGE's failure to complete interconnection.
105. St. Louis Solar is at risk of PGE terminating its PPA.
106. Failure to achieve COD constitutes a default under the PPA.
107. The PPA provides for a one-year cure period for failure to meet the COD.
108. After the one-year cure period ends, PGE may immediately terminate the PPA.
109. PGE's failure to complete interconnection is the reason why COD has not been achieved.
110. On February 11, 2020, the one-year cure period may end.
111. On February 11, 2020, PGE could demand to immediately terminate the PPA.
112. On January 24, 2020, St. Louis Solar sent PGE a letter.

113. In the January 24 letter, St. Louis Solar asked PGE to agree to amend the PPA.

114. In the January 24 letter, St. Louis Solar asked PGE to change the initial delivery date to April 12, 2019.

115. In the January 24 letter, St. Louis Solar asked PGE to change the scheduled COD to May 13, 2019.

116. In the January 24 letter, St. Louis Solar asked PGE to change the commencement date for fixed price payments to at least 92 days from the PPA's effective date.

117. On January 30, 2020, PGE responded to St. Louis Solar via letter.

118. In the January 30 letter, PGE refused to change the initial delivery date.

119. In the January 30 letter, PGE refused to change the scheduled COD.

120. In the January 30 letter, PGE refused to change the commencement date for fixed price payments.

121. In addition to being unable to meet COD and sell power, St. Louis Solar has suffered additional harm due to the delayed interconnection.

122. St. Louis Solar has lost valuable months of fixed-price payments.

123. The PPA required PGE to offer St. Louis Solar up to 15 years of Renewable Fixed Price Option pricing.

124. The PPA has been interpreted to begin fixed price payments beginning on the date of PPA execution.<sup>3</sup>

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<sup>3</sup> *NIPPC et al. vs. PGE*, Docket No. UM 1805, Order No. 17-256 at 1 (July 13, 2017).

125. This interpretation is being appealed and may change.<sup>4</sup>

126. Fixed Price payments provide financial certainty to QFs and are essential to QF financing.

127. In July 2017, the Commission ordered PGE to change its standard contracts to offer pricing beginning on the date of power delivery.<sup>5</sup>

128. The Commission has stated, “Prices paid to a QF are only meaningful when a QF is operational and delivering power to the utility. Therefore, we believe that, to provide a QF the full benefit of the fixed price requirement, the 15-year term must commence on the date of power delivery.”<sup>6</sup>

129. Because St. Louis Solar’s PPA is currently interpreted to begin fixed price payments on the date of execution rather than the “date of power delivery,” St. Louis Solar is significantly harmed by every delay to power delivery.

130. In the amendment to the PPA dated November 16, 2018, parties agreed to amend the PPA in order to provide some relief to St. Louis Solar from the harm of delays caused by PGE.

131. At the time of the amendment, the Commission was considering the question of whether fixed price payments for QFs who, like St. Louis Solar, had executed standard contracts with PGE should begin at the date of PPA execution or at the scheduled COD.<sup>7</sup>

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<sup>4</sup> Docket No. UM 1931, Order No. 19-255 (August 2, 2019); Docket No. UM 1931, Petition for Judicial Review (Jan. 10, 2020).

<sup>5</sup> Docket No. UM 1805, Order No. 17-256 at 4.

<sup>6</sup> *Id.*

<sup>7</sup> *PGE vs. Alfalfa Solar I, LLC, et al.*, Docket No. UM 1931, PGE’s Complaint (Jan. 25, 2018); Docket No. UM 1931, Order No. 19-255.

132. If PGE must begin fixed-price payments at power delivery, rather than the earlier date of PPA execution, then St. Louis Solar would have benefited from having fewer lost fixed price payments prior to power delivery.

133. Rather than choose to abide by whatever decision the Commission reached, PGE demanded a one-sided term be added to the second amendment that was unrelated to the issue of interconnection delays.

134. The following term was included: “During the Term, in the event the Oregon Public Utility Commission orders PGE to amend the Agreement to modify the commencement date for the Standard Fixed Price Option pricing set forth in the Schedule, the parties agree to utilize October 31, 2017 (the original scheduled commercial operation date for the Project) as the commencement date for such Standard Fixed Price Option pricing, rather than any modified dates set forth in this Second Amendment to the Agreement.”

135. The effect of this term is limited to a potential circumstance in which the Commission specifically orders PGE to modify the commencement date for fixed price payments.

136. The one-sidedness of this term was egregious, particularly in light of the intent of the second amendment, which was to remedy some of the harm PGE caused to St. Louis Solar through delays.

137. In effect, PGE offered to remedy the harm it had caused through delays to St. Louis Solar only if St. Louis Solar agreed to risk suffering additional harm specifically in contravention of any relief that might have been offered by the Commission.

138. The potential harm amounted to, at minimum, the loss of fixed price payments for more than 15 months, i.e., the amount of time between the original scheduled COD of October 31, 2017 and the then-amended scheduled COD of February 10, 2019.

139. The potential harm also included the risk of additional delays to COD being achieved.

140. The risk of additional delays to COD was high, as demonstrated by the current petition for an extension of the project's COD.

141. The Commission did not order PGE to change the commencement date.<sup>8</sup>

142. Under the PPA, as currently amended, fixed price payments to St. Louis Solar are interpreted to begin on the date of execution (i.e., June 10, 2016).

143. On February 10, 2020, St. Louis Solar will have lost 25% of its potential fixed price payments (i.e., 45 months out of 180 total).

144. In the amendment to the PPA, if the Commission ordered PGE to change the date, the parties agreed to change the commencement date to 509 days after the date of execution (i.e., October 31, 2017) (an extension of approximately 17 months).

145. In its letter dated January 24, 2020, St. Louis Solar requested the date be changed to at least 92 days from the Effective Date (i.e., at least November 9, 2016) (an extension of approximately 3 months).

146. An extension of 92 days would not remedy all of the harm that St. Louis Solar has suffered.

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<sup>8</sup> Docket No. UM 1805, Order No. 17-256 at 2.

147. St. Louis Solar's request on January 24, 2020, was made in the interest of avoiding a dispute with PGE.

148. PGE did not address St. Louis Solar's request in its responsive letter dated January 30, 2020.

149. PGE has not provided any indication of willingness to change the commencement date of fixed price payments.

150. St. Louis Solar continues to suffer harm from lost fixed-price payments for every delay to power delivery.

151. In addition to the above harms, St. Louis Solar has been forced to make payments to PGE for alleged damages arising from the failure to achieve COD.

152. On April 3, 2019, PGE sent an invoice to St. Louis Solar demanding payment for alleged damages in the amount of \$12,569.94 due on or before April 30, 2019.

153. On April 25, 2019, PGE sent an invoice to St. Louis Solar demanding payment for alleged damages in the amount of \$11,215.76 due on or before May 5, 2019.

154. St. Louis Solar does not know whether PGE will send additional invoices in the future, demanding payment for alleged damages.

155. As of February 3, 2020, PGE has demanded payments from St. Louis Solar for alleged damages totaling more than \$23,000.

156. PGE has denied St. Louis Solar's requests for relief from these invoices.

157. Collecting delay damages provided PGE an economic incentive to continue to delay interconnection service.

158. St. Louis Solar paid the bills sent by PGE because St. Louis Solar wished to simply continue to work toward energization and avoid disputes with PGE.

159. St. Louis Solar paid the bills sent by PGE because St. Louis Solar believed that PGE would complete interconnection soon and St. Louis Solar's ability to energize the project was imminent.

160. PGE has displayed a pattern of misbehavior towards and discrimination against QFs generally.

161. PGE's behavior in failing to complete interconnection in a timely manner reflects a pattern of misbehavior towards and discrimination against QFs.

162. PGE's behavior in billing QFs for alleged damages from delays to COD caused by PGE's delayed interconnection service reflects a pattern of misbehavior towards and discrimination against QFs.

## VII. LEGAL CLAIMS

### **Complainant's First Claim for Relief**

**St. Louis Solar is entitled to relief because PGE has breached the PPA by unreasonably withholding its agreement to a later COD that St. Louis Solar has shown to be reasonable and necessary.**

163. Complainant re-alleges all the preceding paragraphs.

164. PGE is obligated to purchase a QF's net output that is directly or indirectly made available to PGE. 18 CFR 292.303(a), 292.304(d); ORS 758.525(2), 758.535(2)(a)&3(b); OAR 860-029-0030(1).

165. PGE and St. Louis Solar have executed a standard renewable PPA for the purpose of enabling St. Louis Solar to sell its net output directly to PGE.



166. Section 2.2.3 of the PPA provides that PGE will not unreasonably withhold agreement to a COD that is more than three years from the Effective date if St. Louis Solar has demonstrated that a later COD is reasonable and necessary.

167. PGE violated this term in negotiating the second amendment to the PPA.

168. In November 2018, PGE and St. Louis Solar executed an amendment for a revised COD of February 10, 2019.

169. PGE refused at that time to agree to a later date.

170. St. Louis Solar demonstrated at that time that a later COD was reasonable and necessary.

171. If St. Louis Solar did not demonstrate that a later COD was reasonable and necessary, then it was obvious from PGE's interconnection studies.

172. The System Impact Study Report showed that the interconnection upgrades were expected to take 12 months from the time an interconnection agreement was executed (i.e., at the earliest, approximately April 2018).

173. The Facility Study showed that the interconnection upgrades were expected to take 18 months from the time an interconnection agreement was executed (i.e., at the earliest, approximately September 2018).

174. PGE and St. Louis Solar executed an interconnection agreement in March 2018.

175. If interconnection took 12 months from execution, as PGE estimated in the System Impact Study Report, then interconnection could not possibly be accomplished prior to the scheduled COD of February 10, 2019.

176. If interconnection took 18 months from execution, as PGE estimated in the Facility Study, then interconnection could not possibly be accomplished prior to the scheduled COD of February 10, 2019.

177. If interconnection took until October 31, 2019, as the interconnection agreement itself expected, then interconnection would not be complete prior to the scheduled COD of February 10, 2019.

178. PGE refused to agree to a COD later than February 10, 2019.

179. PGE's refusal was unreasonable because it knew that it would not complete interconnection prior to the scheduled COD of February 10, 2019.

180. PGE is currently violating this term by unreasonably withholding its agreement to a later COD that is reasonable and necessary.

181. St. Louis Solar has requested that PGE agree to amend the PPA to adopt a later COD.

182. St. Louis Solar has demonstrated that a later COD is reasonable and necessary due to the delayed interconnection.

183. PGE has refused to amend the PPA to adopt a later COD.

184. A later COD is necessary because the delayed interconnection made achieving the scheduled COD impossible.

185. A later COD is necessary because the delayed interconnection made achieving COD within the one-year cure period impossible.

186. A later COD is necessary because the end of the cure period means the PPA could be terminated.

187. PGE's refusal is unreasonable because PGE is responsible for the delays to interconnection that have made a later COD necessary.

188. PGE's refusal is unreasonable because the delays to the interconnection caused by PGE are the only reason that St. Louis Solar has not yet achieved COD.

189. St. Louis Solar is entitled to relief because PGE's unreasonable withholding of agreement to a later COD is a violation of Section 2.2.3 of the PPA.

190. St. Louis Solar is entitled to relief because PGE's unreasonable withholding of agreement to a later COD in the second amendment to the PPA is a violation of Section 2.2.3 of the PPA.

### **Complainant's Second Claim for Relief**

**St. Louis Solar is entitled to relief because PGE has violated its contractual duty towards St. Louis Solar of good faith and fair dealing under the PPA.**

191. Complainant re-alleges all the preceding paragraphs.

192. PGE has an obligation of good faith and fair dealing to facilitate performance of the contracts it signs, including its power purchase agreement with St. Louis Solar, where it is consistent with and in furtherance of the agreed-upon terms of the contracts or where it effectuates the reasonable contractual expectations of the parties.

193. PGE violated the duty of good-faith and fair dealing under the PPA by refusing to agree to amend the initial delivery date and the scheduled COD in light of the unexpected interconnection delays.

194. PGE violated its obligation of good faith and fair dealing by refusing to agree to amend the scheduled COD when St. Louis Solar demonstrated that the extension was reasonable and necessary.

195. PGE violated its obligation of good faith and fair dealing by refusing to agree to amend the scheduled COD to align with the schedule for interconnection in the interconnection agreement.

196. PGE violated its obligation of good faith and fair dealing by refusing to agree to amend the scheduled COD despite expecting interconnection to take as much as eight months or longer beyond the scheduled COD.

197. PGE violated its obligation of good faith and fair dealing by refusing to amend the PPA to reflect the delays to interconnection when interconnection is a clear prerequisite to St. Louis Solar being able to achieve COD.

198. If PGE terminates the PPA for failure to achieve COD, then PGE has violated its obligation of good faith and fair dealing because the PPA only provides for termination for failure to achieve COD where St. Louis Solar is “unable to cure the default” and St. Louis Solar would have been able to cure the default but for PGE’s failure to provide interconnection.

199. If PGE terminates the PPA for failure to achieve COD, then PGE has violated its obligation of good faith and fair dealing because the PPA only provides for termination for failure to achieve COD where St. Louis Solar is “unable to cure the default” and St. Louis Solar would have been able to cure the default but for PGE’s errors or mistakes in procuring interconnection service.

200. If PGE terminates the PPA for failure to achieve COD, then PGE has violated its obligation of good faith and fair dealing because the PPA only provides for termination for failure to achieve COD where St. Louis Solar is “unable to cure the

default” and St. Louis Solar would have been able to cure the default but for PGE’s refusal to allow St. Louis Solar to finalize interconnection.

201. PGE violated its duty of good faith and fair dealing by billing St. Louis Solar for alleged damages when PGE did not suffer any damages.

202. PGE has failed to demonstrate that it suffered damages.

203. PGE violated its duty of good faith and fair dealing by billing St. Louis Solar for alleged damages without demonstrating that PGE suffered actual damages.

204. If PGE suffered actual damages, they were self-inflicted.

205. PGE has failed to demonstrate that St. Louis Solar caused PGE damages.

206. St. Louis Solar has not caused PGE to suffer damages.

207. PGE violated its duty of good faith and fair dealing by billing St. Louis Solar for alleged damages when St. Louis Solar did not cause PGE to suffer damages.

208. PGE violated its obligation of good faith and fair dealing by billing St. Louis Solar for alleged damages for failure to achieve COD when PGE was responsible for COD not being met.

209. PGE violated its obligation of good faith and fair dealing by billing St. Louis Solar for alleged damages for failure to achieve COD without demonstrating that the billing was proper under the PPA.

210. PGE violated its obligation of good faith and fair dealing by refusing to refund St. Louis Solar for the payments St. Louis Solar paid PGE for alleged damages for failure to achieve COD when PGE was responsible for the failure to achieve COD.

211. PGE violated its obligation of good faith and fair dealing by refusing to stop billing St. Louis Solar for the payments St. Louis Solar paid PGE for alleged

damages for failure to achieve COD when PGE was responsible for the failure to achieve COD.

212. Even if billing for alleged damages was not a violation of good faith and fair dealing, it was inappropriate under the circumstances.

213. It was inappropriate and unreasonable for PGE to bill St. Louis Solar.

214. If PGE has suffered damages and those damages are assigned to St. Louis Solar, the amount of damages should be reassessed in light of any change that is made to the scheduled COD.

215. PGE should refund St. Louis Solar for all amounts paid that do not reflect actual damages to PGE caused by St. Louis Solar.

216. PGE should pay St. Louis Solar for interest on all amounts paid that do not reflect actual damages to PGE caused by St. Louis Solar.

217. PGE should pay St. Louis Solar for interest on all amounts paid that were not yet due when billed.

218. PGE violated its obligation of good faith and fair dealing by demanding that the second amendment to the PPA contain a term benefitting PGE when the purpose of the second amendment was to provide partial relief to St. Louis Solar for PGE's delays to interconnection.

219. PGE violated its obligation of good faith and fair dealing by demanding that the second amendment to the PPA contain a term unrelated to providing relief from interconnection delays.

220. PGE violated its obligation of good faith and fair dealing by demanding that the second amendment to the PPA contain a term that was unreasonable and unfair.

221. PGE violated its obligation of good faith and fair dealing by demanding that the second amendment to the PPA contain a term that would specifically allow PGE to avoid complying with an order of the Commission.

222. PGE violated its obligation of good faith and fair dealing by demanding that the second amendment to the PPA contain a term that would specifically allow PGE to violate PURPA.

223. St. Louis Solar is entitled to relief because PGE violated its obligation of good faith and fair dealing under the PPA.

### **Complainant's Third Claim for Relief**

**St. Louis Solar is entitled to relief because PGE has breached the interconnection agreement by failing to provide interconnection on schedule or within a reasonable amount of time.<sup>9</sup>**

224. Complainant re-alleges all the preceding paragraphs.

225. PGE is obligated to make interconnections with any QF that may be necessary to accomplish the required purchases. 18 CFR 292.303(c); OAR 860-029-0030(3).

226. PGE and St. Louis Solar executed an interconnection agreement for the purpose of PGE's completion of the interconnection.

227. The interconnection agreement provides a schedule of "critical milestones."

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<sup>9</sup> To the extent that OAR 860-082-0085 applies to a complaint regarding a PPA, St. Louis Solar seeks a waiver of this rule pursuant to OAR 860-001-0000(2). For purposes of the waiver, if required, this Complaint shall serve as a request in writing.

228. The designation of the milestones as critical demonstrates that time was of the essence in performing under the interconnection agreement.

229. The interconnection agreement provides for PGE to “complete the interconnection facilities” no later than September 27, 2019.

230. PGE failed to complete the interconnection facilities by September 27, 2019.

231. As of February 3, 2020, PGE has still not completed the interconnection facilities.

232. PGE failed to complete the interconnection facilities within a reasonable amount of time.

233. The interconnection agreement calls for PGE to place the St. Louis Solar facility “in-service” no later than October 31, 2019.

234. PGE failed to place the St. Louis Solar facility in-service by October 31, 2019.

235. As of February 3, 2020, PGE has still not placed the St. Louis Solar facility in-service.

236. PGE failed to place the St. Louis Solar facility “in-service” within a reasonable amount of time.

237. PGE’s failure to complete the facilities on schedule is a violation of the interconnection agreement.

238. PGE’s failure to complete the facilities within a reasonable amount of time is a violation of the interconnection agreement.



239. PGE's failure to place the facility in-service on schedule is a violation of the interconnection agreement.

240. PGE's failure to place the facility in-service within a reasonable amount of time is a violation of the interconnection agreement.

241. St. Louis Solar is entitled to relief because PGE has breached the interconnection agreement.

242. St. Louis Solar is entitled to relief because PGE should complete the interconnection.

243. St. Louis Solar is entitled to relief because PGE should agree to amend the PPA to provide relief to St. Louis Solar for the delays to interconnection.

#### **Complainant's Fourth Claim for Relief**

**St. Louis Solar is entitled to relief because PGE has violated the Commission's rules by failing to provide interconnection within a reasonable amount of time.**

244. Complainant re-alleges all the preceding paragraphs.

245. PGE is obligated to make interconnections with any QF that may be necessary to accomplish the required purchases. 18 CFR 292.303(c); OAR 860-029-0030(3).

246. PGE has failed to make interconnection with St. Louis Solar.

247. PGE has failed to make interconnection with St. Louis Solar on the timeline agreed in the interconnection agreement.

248. PGE has failed to make interconnection with St. Louis Solar within a reasonable amount of time.

249. St. Louis Solar is entitled to relief because PGE's failure to provide interconnection is in violation of the Commission's rules and will subject St. Louis Solar to additional cost and time delay.

250. St. Louis Solar is entitled to relief because PGE should complete the interconnection.

251. St. Louis Solar is entitled to relief because PGE should provide agree to amend the PPA to provide relief to St. Louis Solar for the delays to interconnection.

### **Complainant's Fifth Claim for Relief**

**St. Louis Solar is entitled to relief because PGE has violated ORS 757.020 by charging an unreasonable and unjust rate for interconnection service.**

252. Complainant re-alleges all the preceding paragraphs.

253. PGE is obligated to furnish adequate and safe interconnection service to its customers for a reasonable and just charge. ORS 757.020.

254. PGE failed to provide adequate interconnection service.

255. PGE failed to provide adequate interconnection service in a timely manner.

256. PGE's failure to provide adequate interconnection service in a timely manner has caused economic damages to St. Louis Solar from the loss of power sales.

257. PGE's failure to provide adequate interconnection service in a timely manner has caused economic damages to St. Louis Solar from the loss of power sales at fixed prices.

258. PGE's failure to provide adequate interconnection service in a timely manner has caused economic damages to St. Louis Solar from PGE's assertion of damages billable to St. Louis Solar from the delay in achieving COD.

259. The economic losses suffered by St. Louis Solar amount to an unreasonable and unjust increase in the cost of interconnection service from PGE.

260. PGE has incorrectly charged for interconnection service that PGE was obligated to perform under the interconnection agreement.

261. Billing for work that PGE was obligated to perform amounts to an unreasonable and unjust increase in the cost of interconnection service from PGE

262. PGE has violated its statutory obligation to provide interconnection service at a "reasonable and just charge."

263. St. Louis Solar is entitled to relief because PGE violated ORS 757.020 and caused St. Louis Solar to suffer significant economic losses.

264. PGE should refund St. Louis Solar for the amount incorrectly billed for work that PGE was obligated to perform.

265. PGE should agree to amend the scheduled COD.

266. PGE should agree to amend the commencement date of fixed price payments.

267. PGE should agree to amend the termination date.

268. PGE should agree to amend the PPA so that St. Louis Solar does not suffer lost power sales.

269. PGE should agree to amend the PPA so that St. Louis Solar does not suffer lost power sales at fixed prices.

270. PGE should agree that St. Louis Solar should receive fixed-price payments beginning on the date that power is delivered, not on the date of execution.

271. PGE should agree that St. Louis Solar should receive fixed-price payments beginning on the date that PGE represented that St. Louis Solar was likely to achieve commercial operations.

272. PGE should agree to extend the PPA termination date to provide for the full term of the PPA, beginning on the amended scheduled COD that aligns with the date interconnection is complete.

### **Complainant's Sixth Claim for Relief**

**St. Louis Solar is entitled to relief because PGE has violated its contractual duty towards St. Louis Solar of good faith and fair dealing under the interconnection agreement.**

273. Complainant re-alleges all the preceding paragraphs.

274. PGE has an obligation of good faith and fair dealing to facilitate performance of the contracts it signs, including its interconnection agreement with St. Louis Solar, where it is consistent with and in furtherance of the agreed-upon terms of the contracts or where it effectuates the reasonable contractual expectations of the parties.

275. PGE violated its obligation of good faith and fair dealing by refusing to agree that interconnection work should be done as soon as possible.

276. PGE violated its obligation of good faith and fair dealing by asserting that interconnection work did not need to be performed before the last possible date for completion.

277. PGE violated its obligation of good faith and fair dealing by refusing to allow St. Louis Solar to complete interconnection when it appeared PGE would not be able to perform on time and delays cause St. Louis Solar to suffer losses.

278. PGE violated its obligation of good faith and fair dealing by agreeing to charge St. Louis Solar a certain amount and later refusing to complete work until St. Louis Solar paid more than agreed.

279. PGE violated its obligation of good faith and fair dealing by agreeing to perform certain work and later refusing to complete interconnection unless St. Louis Solar performed the work that PGE was obligated to perform.

280. PGE violated its obligation of good faith and fair dealing by failing to provide adequate notice that PGE would require St. Louis Solar to complete the work that PGE was obligated to perform.

281. PGE violated its obligation of good faith and fair dealing by delaying interconnection on the basis of a dispute over billing.

282. PGE violated its obligation of good faith and fair dealing by delaying interconnection on the basis of a dispute over which party was obligated to perform.

283. St. Louis Solar is entitled to relief because PGE violated its obligation of good faith and fair dealing under the interconnection agreement.

### **Complainant's Seventh Claim for Relief**

**St. Louis Solar is entitled to relief because PGE violated ORS 757.325 by discriminating against St. Louis Solar.**

284. Complainant re-alleges all the preceding paragraphs.

285. PGE cannot make or give undue preference, unreasonable preference or advantage to any particular person, or subject any particular person to any undue or unreasonable prejudice or disadvantage in any respect. ORS 757.325.

286. PGE subjected St. Louis Solar to undue and/or unreasonable prejudice or disadvantage by not completing interconnection in a timely manner.

287. PGE subjected St. Louis Solar with undue and unreasonable disadvantage by refusing to agree to amendments in light of delays caused by PGE.

288. PGE subjected St. Louis Solar with undue and unreasonable disadvantage by billing St. Louis Solar for delay damages when PGE was causing the delay.

289. PGE gave undue preference and/or unreasonable preference to itself by delaying interconnection and collecting damages from St. Louis Solar on the basis of the delay.

290. PGE gave undue preference and/or unreasonable preference requiring the inclusion of a term in the second amendment to the PPA to allow PGE to avoid following a potential order by the Commission.

291. St. Louis Solar is entitled to relief because PGE has violated ORS 757.325 with respect to St. Louis Solar.

### **Complainant's Eighth Claim for Relief**

**St. Louis Solar is entitled to relief because PGE violated ORS 746.040 by engaging in unjust and unreasonable practices with respect to St. Louis Solar and other interconnection customers.**

292. Complainant re-alleges all the preceding paragraphs.

293. PGE is obligated to refrain from engaging in unjust and unreasonable practices with respect to its customers, including interconnection customers, and the public generally. ORS 746.040.

294. PGE's behavior in delaying a QF's interconnection and subsequently billing the QF for delay damages is unjust and unreasonable.

295. PGE subjected St. Louis Solar to interconnection delays and subsequently billed for delay damages.

296. PGE has subjected other QFs to interconnection delays and subsequently billed for delay damages.

297. PGE has established a practice of subjecting QFs to interconnection delays and subsequently billing the QFs for delay damages.

298. PGE has established a practice that is unjust and unreasonable with respect to its interconnection customers.

299. PGE has established a practice that is unjust and unreasonable with respect to its interconnection customers and which harms the public generally.

300. PGE has a statutory obligation to refrain from engaging in a practice that is unjust and unreasonable with respect to its interconnection customers and the public generally.

301. PGE violated its statutory obligation by engaging in a practice that is unjust and unreasonable with respect to its interconnection customers and the public generally.

302. St. Louis Solar is entitled to relief because the actions of PGE towards St. Louis Solar were part of a practice of PGE that violates ORS 746.040.

## **VIII. PRAYER FOR RELIEF**

WHEREFORE, Complainant respectfully requests the Commission issue an order:

303. Finding that relief is warranted due to PGE's slowed interconnection process.

304. Finding that St. Louis Solar's inability to cure the default of not achieving COD has been due entirely or in part to PGE.

305. Requiring PGE not to terminate the PPA with St. Louis Solar on the grounds of St. Louis Solar's default in not achieving COD.

306. Finding that PGE has violated the PPA by unreasonably withholding agreement to a later COD that St. Louis Solar has demonstrated is reasonable and necessary.

307. Requiring PGE to complete the interconnection with St. Louis Solar, if such interconnection has not been completed as of the filing of this Complaint.

308. Requiring that PGE grant an extension of St. Louis Solar's PPA COD to account for the delayed in-service date PGE caused.

309. Requiring that PGE grant an extension of St. Louis Solar's PPA COD and commencement date of fixed price payments to coincide with the actual interconnection in-service date.

310. Alternatively, requiring PGE to extend the COD and fixed-price period under the PPA to reflect the delay from the date that PGE represented that St. Louis Solar was likely to achieve commercial operations to when the interconnection is actually finalized.



311. Alternatively, requiring PGE to extend the COD and fixed-price period under the PPA for the period from October 31, 2019, when PGE should have completed the interconnection, to when the interconnection is actually finalized.

312. Finding that the inclusion of a term in the second amendment to the PPA to allow PGE to avoid following a potential order by the Commission was discriminatory, unjust and unreasonable.

313. Requiring that PGE file any amendments to standard contract PPAs, or summaries thereof, with the Commission as updates to the filings made pursuant to OAR 860-029-0030(7).

314. Finding that PGE is not authorized to charge damages from any QF for not achieving COD unless PGE suffered actual damages.

315. Finding that PGE was not authorized to charge damages from St. Louis Solar for not achieving COD because St. Louis Solar did not cause PGE to suffer damages.

316. Finding that PGE was not authorized to charge damages from St. Louis Solar for not achieving COD, because the damages, if any, were self-inflicted by PGE through its own failure to complete the interconnection.

317. Requiring PGE to refund St. Louis Solar for the alleged damages that PGE wrongfully charged to St. Louis Solar.

318. Requiring PGE to pay St. Louis Solar interest on the money St. Louis Solar paid PGE for the alleged damages which St. Louis Solar did not owe or did not owe at that time.

319. Finding PGE in violation of its obligation to not make or give undue preference, unreasonable preference to any other person or itself, or subject St. Louis Solar to undue or unreasonable prejudice or disadvantage in any respect.

320. Requiring that PGE not make or give undue preference, unreasonable preference to any other person or itself, or subject St. Louis Solar to undue or unreasonable prejudice or disadvantage in any respect.

321. Finding PGE in violation of its obligation to refrain from engaging in unjust and unreasonable practices with respect to its customers, including interconnection customers, and the public generally

322. Requiring PGE to refrain from engaging in unjust and unreasonable practices with respect to its customers, including interconnection customers, and the public generally.

323. Instituting penalties up to \$10,000 pursuant to ORS 756.990 against PGE and paid by PGE's shareholders for each violation of ORS 757.020, ORS 758.325, ORS 758.525(2), ORS 758.535(2), ORS 758.535(2)(b), ORS 758.535(3)(b), 18 CFR 292.303(a), 18 CFR 292.303(c), 18 CFR 292.304(d), OAR 806-029-0030(1), and OAR 806-029-0030(3).

324. Granting any other such relief as the Commission deems necessary.

Dated this 3rd day of February 2020.

Respectfully submitted,



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Of Attorneys for St. Louis Solar, LLC

## CERTIFICATE OF FILING

I certify that on February 3, 2020, I filed the foregoing Complaint on behalf of St. Louis Solar, LLC with the Oregon Public Utility Commission by electronic communication as consistent with OAR 860-001-0170.



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