

## IN THE COURT OF APPEALS OF THE STATE OF OREGON

IN THE MATTER OF THE  
 PETITION of NEW SUN ENERGY  
 LLC, a Delaware limited liability  
 company,

Petitioner-Appellant,

v.

OREGON PUBLIC UTILITY  
 COMMISSION, an agency of the State  
 of Oregon,

Respondent,

and

PORTLAND GENERAL ELECTRIC  
 COMPANY,

Intervenor-Respondent.

Marion County Circuit  
 Court No. 22CV05442

Court of Appeals No.

**NOTICE OF APPEAL**

1.

New Sun Energy LLC hereby gives notice of appeal from the General Judgment of Dismissal entered in this case on June 2, 2022 and signed by Judge Jodie A. Bureta in the Marion County Circuit Court.

2.

The parties to this appeal are:

Petitioner-Appellant:

New Sun Energy LLC

Respondent:Oregon Public Utility Commission,  
an agency of the State of OregonIntervenor-Respondent:

Portland General Electric Company

3.

The name, bar number, address, telephone number, and e-mail address of the attorney(s) for each party represented by an attorney is:

Representing Petitioner-Appellant NewSun Energy LLC

Keil M. Mueller, OSB No. 085535  
 Lydia Anderson-Dana, OSB No. 166167  
 STOLL STOLL BERNE LOKTING & SHLACHTER P.C.  
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 Telephone: (503) 227-1600  
 Email: kmueller@stollberne.com  
 landersondana@stollberne.com

Representing Respondent Oregon Public Utility Commission

Nicholas S. Mancuso, OSB No. 151262  
 Seth Karpinski, OSB No. 991907  
 OREGON DEPARTMENT OF JUSTICE  
 100 SW Market Street  
 Portland, OR 97201  
 Telephone: (971) 673-1880  
 Email: nicholas.mancuso@doj.state.or.us  
 seth.t.karpinski@state.or.us

Representing Intervenor-Respondent Portland General Electric Company

Dallas DeLuca, OSB No. 072992  
 Kathryn P. Roberts, OSB No. 064854

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1455 SW Broadway, Suite 1900  
Portland, OR 97201  
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4.

Petitioner-Appellant designates the record in its entirety. Thus, in addition to the trial court file, Petitioner-Appellant designates all briefing, memoranda, declarations, exhibits, all other writings for all motions and pretrial matters, and the record of oral proceedings and transcripts of those proceedings.

5.

This appeal is timely and otherwise properly before the Court of Appeals because the trial court's general judgment of dismissal is appealable pursuant to ORS 19.205 and ORS 183.500, and was entered in the record on June 3, 2022. This notice of appeal is filed and served within thirty (30) days of entry of the judgment as provided in ORS 19.255.

6.

Attached to this Notice of Appeal are: i) Exhibit A, which is a true and correct copy of the judgment being appealed, signed by Judge Jodie A. Bureta on June 2, 2022; ii) Exhibit B, which is the trial court's letter opinion on Respondent's and Intervenor's Motions to Dismiss for Lack of Subject Matter

Jurisdiction, dated May 10, 2022; and iii) Exhibit C, which is the Register of Actions.

7.

### CERTIFICATE OF SERVICE

I certify that on June 9, 2022, I served a true copy of this Notice of Appeal and its exhibits by:

1) Mailing a true copy by United States Postal Service first class mail, along with a courtesy copy by email, to the following:

**Representing Respondent Oregon Public Utility Commission**

Nicholas S. Mancuso  
Seth Karpinski  
Oregon Department of Justice  
100 SW Market Street  
Portland, OR 97201

**Representing Intervenor-Respondent Portland General Electric Company**

Dallas DeLuca  
Kathryn P. Roberts  
Markowitz Herbold P.C.  
1455 SW Broadway, Suite 1900  
Portland, OR 97201

2) Mailing a true copy by United States Postal Service first class mail, along with a courtesy copy by email, to the following:

Trial Court Administrator  
Linda Hukari  
Marion County Circuit Court

P.O. Box 12869  
Salem, OR 97309  
Email: Linda.Hukari@ojd.state.or.us

Transcript Coordinator  
Marion County Circuit Court  
P.O. Box 12869  
Salem, OR 97309

8.

### CERTIFICATE OF FILING

I certify that on June 9, 2022, I filed the original of this Notice of Appeal with the Appellate Court Administrator in .PDF, text-searchable format using the Oregon Appellate eCourt filing system in compliance with ORAP 16, as adopted by the Supreme Court.

DATED this 9<sup>th</sup> day of June, 2022.

STOLL STOLL BERNE LOKTING &  
SHLACHTER P.C.

By: s/Lydia Anderson-Dana  
**Keil M. Mueller**, OSB No. 085535  
**Lydia Anderson-Dana**, OSB No. 166167

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*Attorneys for Petitioner-Appellant NewSun  
Energy LLC*

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION

NEWSUN ENERGY LLC, a Delaware limited liability company,  
Petitioner,  
v.  
OREGON PUBLIC UTILITY COMMISSION, an agency of the State of Oregon,  
Respondent.

Case No. 22CV05442  
GENERAL JUDGMENT OF DISMISSAL  
WITHOUT PREJUDICE  
  
**ORS 20.140 - State fees deferred at filing**

13 THIS MATTER came before the Court on Respondent Oregon Public Utility  
14 Commission and Respondent/Intervenor Portland General Electric Company’s Motions to  
15 Dismiss for Lack of Subject Matter Jurisdiction. Honorable Jodie A. Bureta, Marion County  
16 Circuit Court Judge, heard arguments of counsel for the parties on the motions on May 5, 2022.  
17 Petitioner NewSun Energy LLC was represented by Keil Mueller. Respondent Oregon Public  
18 Utility Commission was represented by Nicholas Mancuso. Intervenor/Respondent Portland  
19 General Electric Company was represented by Dallas DeLuca.

20 The Court, having considered the motions, and being fully advised, made findings in the  
21 Court’s Opinion Letter submitted on May 10, 2022, regarding the motions filed in this case. The  
22 Court’s Opinion Letter is attached hereto as *Exhibit 1* and is incorporated herein by reference as  
23 if set forth at length. Now therefore:

24 IT IS HEREBY ORDERED that Respondent Oregon Public Utility Commission and  
25 Respondent/Intervenor Portland General Electric’s Motions to Dismiss for Lack of Subject  
26 Matter Jurisdiction are GRANTED.

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IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Petitioner NewSun Energy LLC's Petition for Judicial Review is dismissed ~~with prejudice.~~ without prejudice.

6/2/2022 3:03:42 PM



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Circuit Court Judge Jodie A. Bureta

Submitted by: Nicholas Mancuso  
Senior Assistant Attorney General  
Attorneys for Respondent





CIRCUIT COURT OF OREGON  
THIRD JUDICIAL DISTRICT  
MARION COUNTY COURTHOUSE  
P.O. BOX 12869  
SALEM, OR 97309-0869

3/17/2022  
DIE A. BURETA  
Circuit Court Judge  
PHONE: (503) 588-8485  
FAX: (503) 566-6933

March 17, 2022

Verified Correct Copy of Original Filed 3/17/2022

Keil M. Mueller  
Attorney for Petitioner NewSun Energy LLC  
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209 SW Oak Street, Suite 500  
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Nicholas Mancuso  
Attorney for Respondent  
Oregon Department of Justice  
100 SW Market Street  
Portland, OR 97201

Dallas DeLuca  
Attorney for Intervenor Portland General Electric Company  
MARKOWITZ HERBOLD PC  
1455 SW Broadway, Suite 1900  
Portland, OR 97201

RE: *NewSun Energy LLC v. Oregon Public Utility Commission and Portland General Electric Company, Marion County Case Number 22CV05442*

Counsel,

The Petitioner has requested judicial review of PUC order 21-460, specifically they argue that the order does not comply with the mandate of HB 2021 because it does not include as a requirement for acknowledgment of PGE's RFP any language preferring in-state projects. This matter came before the Court for oral argument on May 5, 2022, on Respondent and Interveners Motions to Dismiss for Lack of Subject Matter Jurisdiction. All parties appeared through their respective counsel. The Court has considered the arguments of all parties, the written materials submitted and has carefully reviewed the cases cited by each party including *Teel Irrigation Dist. V. Water Resources Dep't*, 323 Ore. 663 (1996), *Grobovsky v. Bd. Of Med. Examiners*, 213 Ore. App. 136 (2007), and *Hawes v. State*, 203 Ore. App. 255 (2005).

The parties agree that jurisdiction in this case is governed by the Administrative Procedures Act which distinguishes between an “order” and a “final order” and allows judicial review of only a final order, or “except upon a showing that the agency is proceeding without probable cause, or that the party will suffer substantial and irreparable harm if interlocutory relief is not granted”. ORS 183.480(3).

Further, final orders are a “final agency action expressed in writing”. ORS 183.310(6)(b). That definition specifically excludes “any tentative or preliminary agency declaration or statement that:

- (A) precedes final agency action; or
- (B) Does not preclude further agency consideration of the subject matter of the statement or declaration.”

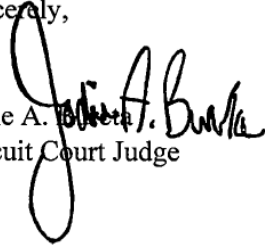
**On the record before it, the Court makes the following findings:**

- PUC Order 21-460 (*f. Resolution*) reads “we noted that we will continue to consider this provision as we work through HB 2021 implementation, and there will be discussion beginning in multiple other forums of capturing community benefits from HB 2021 implementation.”
- PUC Order 21-460 acknowledges or approves, with modifications, PGE’s RFP for resource acquisition consistent with the Commission’s rules.
- PGE is free to proceed with any RFP as drafted, regardless of whether the PUC acknowledges or approves the RFP. PUC acknowledgment or approval is not required for PGE to implement a RFP, though not having acknowledgment at that stage might make a later rate case more difficult.
- Following Order 21-460 there are multiple avenues for subsequent agency action regarding this subject, and therefore the Order is not the ultimate decision on the matter. In fact, the OAR’s outline at least 5 additional steps that are taken prior to the rate case determination.
- PUC Order 21-460 is not a final order for purposes of judicial review.
- Pursuant to caselaw, the provisions in ORS 183.480(3) allowing relief upon a showing that the agency is proceeding without probable cause, or that a party will suffer substantial and irreparable harm if relief is not granted, must be addressed in an “action or suit” and not through a petition for judicial review. Proceeding without probable cause or substantial and irreparable harm do not provide an independent basis for jurisdiction to judicially review an agency action.
- Nothing in this opinion restricts any right of the Petitioner to proceed pursuant to any other statute that might confer jurisdiction.

Therefore, the Court is granting the Respondent and Intervenors Motions to Dismiss for Lack of Subject Matter Jurisdiction. Mr. Mancuso would you kindly prepare an order consistent with the Court's ruling.

Sincerely,

Jodie A. Burke  
Circuit Court Judge

A handwritten signature in black ink, appearing to read "Jodie A. Burke". The signature is written in a cursive style with a large, looping initial "J".

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**CERTIFICATE OF READINESS**

This proposed **GENERAL JUDGMENT OF DISMISSAL** is ready for judicial signature because:

- 1.  Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.
- 2.  Each party affected by this order or judgment has approved the order or judgment, as shown by each party's signature on the document being submitted or by written confirmation of approval sent to me.
- 3.  I have served a copy of this order or judgment on each party entitled to service and:
  - a.  No objection has been served on me.
  - b.  I received objections that I could not resolve with a party despite reasonable efforts to do so. I have attached a copy of the objections as Exhibit 2.
  - c.  After conferring about objections, [role and name of objecting party] agreed to independently file any remaining objection.
- 4.  Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
- 5.  This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of this rule.

DATED this 23 day of May, 2022.

s/ Nicholas Mancuso  
 \_\_\_\_\_  
 NICHOLAS MANCUSO #151262  
 SETH T. KARPINSKI #991907  
 Senior Assistant Attorneys General  
 Trial Attorneys  
 Tel (971) 673-1880  
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 Of Attorneys for Respondent

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION

NEWSUN ENERGY LLC, a Delaware  
limited liability company,  
  
                                Petitioner,  
  
                                v.  
  
OREGON PUBLIC UTILITY  
COMMISSION, an agency of the State of  
Oregon,  
  
                                Respondent.  
  
                                and  
  
PORTLAND GENERAL ELECTRIC  
COMPANY,  
  
                                Intervenor.

Case No. 22CV05442  
  
Hon. Jodie Bureta  
  
**NEWSUN ENERGY LLC’S  
OBJECTIONS TO PROPOSED  
GENERAL JUDGMENT OF DISMISSAL**

18           Petitioner NewSun Energy LLC (“NewSun”) objects to the Oregon Public Utility  
19 Commission’s (the “PUC”) proposed general judgment of dismissal on one ground: the judgment  
20 of dismissal should entered be *without* prejudice, given the unequivocal case law on the matter.  
21           The Court dismissed NewSun’s claims for lack of subject matter jurisdiction. The case  
22 law is clear that a dismissal for lack of subject matter jurisdiction does not adjudicate a party’s  
23 claims on the merits and therefore must be entered without prejudice. *See, e.g., In re Hall,*  
24 *Bayoutree Assocs., Ltd.*, 939 F2d 802, 804 (9th Cir 1991) (dismissals for lack of jurisdiction are  
25 not on the merits and must be entered without prejudice); *Huang v. City of Los Angeles*, 637 Fed  
26 Appx 363, 364 (9th Cir 2016) (unpublished) (“A dismissal for lack of subject matter jurisdiction,

1 because it does not go to the merits of the case, is without prejudice.”); *Textile Prods., Inc. v.*  
2 *Mead Corp.*, 134 F3d 1481, 1486 (Fed Cir 1998) (“However, a lack of subject matter jurisdiction  
3 usually justifies only a dismissal, not a dismissal with prejudice.”); *Fishburn v. Brown*, 125 F3d  
4 979, 981 (6th Cir 1997) (“[A]bsent subject matter jurisdiction the court has no authority to rule  
5 on the merits of [a] claim[ ].”); *Crotwell v. Hockman–Lewis Ltd.*, 734 F2d 767, 769 (11th Cir  
6 1984) (“The district court properly concluded that it lacked subject matter jurisdiction. For some  
7 inexplicable reason, the defendants’ motion to dismiss was granted ‘with prejudice.’ This was  
8 error. Since the court lacked subject matter jurisdiction over the action, it had no power to  
9 render a judgment on the merits.”).

10 “In Oregon, as elsewhere, ‘a dismissal with prejudice normally creates a *res judicata* bar  
11 to any major action.’” *Sandgathe v. Jagger*, 165 Or App 375, 380–81, 996 P2d 1001 (2000)  
12 (quoting *Te–Ta–Ma Truth Found. v. Vaughan*, 114 Or App 448, 451, 835 P2d 938 (1992)). And  
13 “[t]he term ‘with prejudice,’ expressed in a judgment of dismissal, has a well-recognized legal  
14 import; and it indicates an adjudication of the merits, operating as *res judicata*, concluding the  
15 rights of the parties, terminating the right of action, and precluding subsequent litigation of the  
16 same cause of action, to the same extent as if the action had been prosecuted to a final  
17 adjudication adverse to the plaintiff.” *Te–Ta–Ma Truth Found.*, 114 Or App at 451 (quoting 46  
18 Am Jur 2d 609 *Judgments*, § 609 at 883 (1995)).

19 But “where a court dismisses a plaintiff’s action on a matter of procedure—*e.g.*, improper  
20 venue, *lack of jurisdiction*, or nonjoinder of an essential party—without ruling as to the  
21 substantive validity of plaintiff’s claim for relief, that dismissal will not generally be *res*  
22 *judicata* so as to preclude subsequent action based on the same claim.” *Rennie v. Freeway*  
23 *Transport*, 294 Or 319, 330-31, 656 P2d 919 (1982), (emphasis added). “Thus, generally, a  
24 dismissal for lack of jurisdiction is not a decision ‘on the merits’ and therefore, does not preclude  
25 a subsequent action based on the same claim in the proper forum.” *Wallace v. Holden*, 297 Or  
26 App 824, 840, 445 P3d 914 (2019), *rev den*, 365 Or 557 (2019) (concluding that dismissal for

1 lack of personal jurisdiction “is a matter of procedure, not a decision on the merits” and  
2 dismissal should be without prejudice); *see also Sandgathe*, 165 Or App at 384 (concluding trial  
3 court erred in entering judgment of dismissal with prejudice for unripe claim); *cf.* ORCP B(4)  
4 (default rule for involuntary dismissal is that “[u]nless the court in its judgment of dismissal  
5 otherwise specifies, a dismissal under this section operates as an adjudication without  
6 prejudice”).

7         Dismissal here should be without prejudice. The Court’s Order dismisses NewSun’s  
8 claims on the basis of subject matter jurisdiction, a “matter of procedure” that is not a decision  
9 on the merits. *See* Order Granting Motion to Dismiss. Dismissal with prejudice would be  
10 particularly inappropriate here, given the PUC’s and PGE’s prior arguments that, in order to  
11 bring valid claims about HB 2021’s applicability to the RFP process, NewSun must raise its  
12 arguments at a future date. In addition, dismissal with prejudice does not comport with the  
13 Court’s acknowledgment in its Order that “[n]othing in this opinion restricts any right of the  
14 Petitioner to proceed pursuant to any other statute that might confer jurisdiction.” Order  
15 Granting Motion to Dismiss at 2.

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1 NewSun therefore requests that the Court modify the PUC’s proposed form of judgment  
2 to dismiss NewSun’s claims without prejudice.

3 DATED this 19<sup>th</sup> day of May, 2022.

4 STOLL STOLL BERNE LOKTING &  
5 SHLACHTER P.C.  
6 By: s/ Keil M. Mueller  
7 **Keil M. Mueller**, OSB No. 085535  
8 **Lydia Anderson-Dana**, OSB No. 166167

9 209 SW Oak Street, Suite 500  
10 Portland, OR 97204  
11 Telephone: (503) 227-1600  
12 Facsimile: (503) 227-6840  
13 Email: kmueller@stollberne.com  
14 landersondana@stollberne.com

15 **Attorneys for Petitioner NewSun Energy LLC**

16 Trial Attorney: Keil M. Mueller, OSB No. 085535



**CERTIFICATE OF SERVICE**

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I certify that on May 23, 2022, I served the foregoing GENERAL JUDGMENT OF DISMISSAL upon the parties hereto by the method indicated below, and addressed to the following:

Keil M. Mueller	<input type="checkbox"/> HAND DELIVERY
Lydia Anderson-Dana	<input checked="" type="checkbox"/> MAIL DELIVERY
Stoll Stoll Berne Lokting & Schlachter P.C.	<input type="checkbox"/> OVERNIGHT MAIL
209 SW Oak Street, Suite 500	<input checked="" type="checkbox"/> SERVED BY E-FILING
Portland, OR 97204	<input checked="" type="checkbox"/> E-MAIL DELIVERY
Attorneys for Petitioner	
Dallas DeLuca	<input type="checkbox"/> HAND DELIVERY
Kathryn P. Roberts	<input checked="" type="checkbox"/> MAIL DELIVERY
Markowitz Herbold PC	<input type="checkbox"/> OVERNIGHT MAIL
1455 SW Broadway, Suite 1900	<input checked="" type="checkbox"/> SERVED BY E-FILING
Portland, OR 97201	<input checked="" type="checkbox"/> E-MAIL DELIVERY
Attorneys for Intervenor	

s/ Nicholas Mancuso  
 NICHOLAS MANCUSO #151262  
 SETH T. KARPINSKI #991907  
 Senior Assistant Attorneys General  
 Trial Attorneys  
 Tel (971) 673-1880  
 Fax (971) 673-5000  
 nicholas.mancuso@doj.state.or.us  
 seth.t.karpinski@doj.state.or.us  
 Of Attorneys for Respondent



CIRCUIT COURT OF OREGON  
THIRD JUDICIAL DISTRICT  
MARION COUNTY COURTHOUSE  
P.O. BOX 12869  
SALEM, OR 97309-0869

2022  
03/17/2022  
DIE A. BURETA  
Circuit Court Judge  
PHONE: (503) 588-8485  
FAX: (503) 566-6933

Verified Correct Copy of Original

March 17, 2022

Keil M. Mueller  
Attorney for Petitioner NewSun Energy LLC  
STOLL STOLL BERNE LOKTING & SHLACHTER P.C  
209 SW Oak Street, Suite 500  
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Nicholas Mancuso  
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100 SW Market Street  
Portland, OR 97201

Dallas DeLuca  
Attorney for Intervenor Portland General Electric Company  
MARKOWITZ HERBOLD PC  
1455 SW Broadway, Suite 1900  
Portland, OR 97201

RE: *NewSun Energy LLC v. Oregon Public Utility Commission and Portland General Electric Company, Marion County Case Number 22CV05442*

Counsel,

The Petitioner has requested judicial review of PUC order 21-460, specifically they argue that the order does not comply with the mandate of HB 2021 because it does not include as a requirement for acknowledgment of PGE's RFP any language preferring in-state projects. This matter came before the Court for oral argument on May 5, 2022, on Respondent and Interveners Motions to Dismiss for Lack of Subject Matter Jurisdiction. All parties appeared through their respective counsel. The Court has considered the arguments of all parties, the written materials submitted and has carefully reviewed the cases cited by each party including *Teel Irrigation Dist. V. Water Resources Dep't*, 323 Ore. 663 (1996), *Grobovsky v. Bd. Of Med. Examiners*, 213 Ore. App. 136 (2007), and *Hawes v. State*, 203 Ore. App. 255 (2005).

The parties agree that jurisdiction in this case is governed by the Administrative Procedures Act which distinguishes between an “order” and a “final order” and allows judicial review of only a final order, or “except upon a showing that the agency is proceeding without probable case, or that the party will suffer substantial and irreparable harm if interlocutory relief is not granted”. ORS 183.480(3).

Further, final orders are a “final agency action expressed in writing”. ORS 183.310(6)(b). That definition specifically excludes “any tentative or preliminary agency declaration or statement that:

- (A) precedes final agency action; or
- (B) Does not preclude further agency consideration of the subject matter of the statement or declaration.”

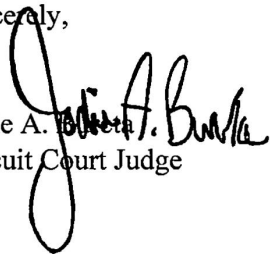
**On the record before it, the Court makes the following findings:**

- PUC Order 21-460 (*f. Resolution*) reads “we noted that we will continue to consider this provision as we work through HB 2021 implementation, and there will be discussion beginning in multiple other forums of capturing community benefits from HB 2021 implementation.”
- PUC Order 21-460 acknowledges or approves, with modifications, PGE’s RFP for resource acquisition consistent with the Commission’s rules.
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- Following Order 21-460 there are multiple avenues for subsequent agency action regarding this subject, and therefore the Order is not the ultimate decision on the matter. In fact, the OAR’s outline at least 5 additional steps that are taken prior to the rate case determination.
- PUC Order 21-460 is not a final order for purposes of judicial review.
- Pursuant to caselaw, the provisions in ORS 183.480(3) allowing relief upon a showing that the agency is proceeding without probable case, or that a party will suffer substantial and irreparable harm if relief is not granted, must be addressed in an “action or suit” and not through a petition for judicial review. Proceeding without probable cause or substantial and irreparable harm do not provide an independent basis for jurisdiction to judicially review an agency action.
- Nothing in this opinion restricts any right of the Petitioner to proceed pursuant to any other statute that might confer jurisdiction.

\_Verified Correct Copy of Original 5/10/2022.\_

Therefore, the Court is granting the Respondent and Intervenors Motions to Dismiss for Lack of Subject Matter Jurisdiction. Mr. Mancuso would you kindly prepare an order consistent with the Court's ruling.

Sincerely,

Jodie A.   
Circuit Court Judge

## REGISTER OF ACTIONS [CASE No. 22CV05442](#)

**NewSun Energy LLC vs Oregon Public Utility Commission**

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Case Type: **Review - Government Actions**  
Date Filed: **02/08/2022**  
Location: **Marion**

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### PARTY INFORMATION

---

<b>Defendant</b>	<p><b>Oregon Public Utility Commission</b></p> <p>201 High Street SE Suite 100 Salem, OR 97301-3398</p>	<p><b>Attorneys</b> <b>Nicholas S Mancuso</b> <i>Retained</i> 971 673-1880(W)</p> <p>SETH THROOP KARPINSKI <i>Retained</i> 503 947-4700(W)</p>
<b>Intervenor</b>	<p><b>Portland General Electric Company</b></p>	<p><b>DALLAS STEVEN DELUCA</b> <i>Retained</i> 503 295-3085(W)</p> <p>KATHRYN P ROBERTS <i>Retained</i> 503 984-3071(W)</p>
<b>Plaintiff</b>	<p><b>NewSun Energy LLC</b></p> <p>550 NW Franklin Ave Suite 408 Bend, OR 97703</p>	<p><b>KEIL M MUELLER</b> <i>Retained</i> 503 227-1600(W)</p> <p>Lydia Anderson-Dana <i>Retained</i> 503 227-1600(W)</p>

---

### EVENTS & ORDERS OF THE COURT

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	<p><b>DISPOSITIONS</b></p> <p>06/03/2022 <b>Judgment - General Dismissal</b> (Judicial Officer: Bureta, Jodie) Party(NewSun Energy LLC; Oregon Public Utility Commission; Portland General Electric Company) Created: 06/03/2022 8:28 AM</p>
	<p><b>OTHER EVENTS AND HEARINGS</b></p> <p>02/08/2022 <a href="#">Petition - Judicial Review</a> Created: 02/11/2022 9:22 AM</p> <p>02/11/2022 <a href="#">Assignment - Trial Judge</a> (Judicial Officer: Pellegrini, Cheryl A ) Created: 02/11/2022 9:36 AM</p> <p>02/11/2022 <a href="#">Order</a> (Judicial Officer: Prall, Tracy A ) <i>reassigning to JAB; Emailed to Counsel 2.15.22</i> Signed: 02/11/2022 Created: 02/11/2022 11:40 AM</p> <p>02/17/2022 <a href="#">Proof - Service</a> <i>Acceptance of service</i> Created: 02/17/2022 9:30 AM</p> <p>02/18/2022 <a href="#">Motion</a> <i>to stay enforcement of final order</i> Created: 02/22/2022 11:15 AM</p> <p>02/18/2022 <a href="#">Declaration</a> <i>of Angela Crowley-Koch</i> Created: 02/22/2022 11:15 AM</p> <p>02/18/2022 <a href="#">Declaration</a> <i>of Mike McArthur</i> Created: 02/22/2022 11:15 AM</p> <p>02/18/2022 <a href="#">Declaration</a> <i>of Jacob Stephens</i> Created: 02/22/2022 11:15 AM</p> <p>03/08/2022 <a href="#">Motion - Authorization to Intervene</a> Created: 03/09/2022 10:49 AM</p> <p>03/08/2022 <a href="#">Response</a> <i>to motion to stay enforcement of final order</i></p>

Created: 03/09/2022 10:50 AM  
03/08/2022 [Declaration](#)  
of Nicholas Mancuso  
Created: 03/09/2022 10:50 AM  
03/08/2022 [Declaration](#)  
of Nolan Moser  
Created: 03/09/2022 10:50 AM  
03/08/2022 [Memorandum - Opposing Motion](#)  
to stay enforcement of final order  
Created: 03/09/2022 11:55 AM  
03/08/2022 [Declaration](#)  
of Heather Laske (part 1 of 2)  
Created: 03/09/2022 11:55 AM  
03/08/2022 [Declaration](#)  
of Heather Laske (part 2 of 2)  
Created: 03/09/2022 11:55 AM  
03/09/2022 [Order - Authorizing Intervenor](#) (Judicial Officer: Bureta, Jodie )  
Signed: 03/09/2022  
Created: 03/09/2022 11:51 AM  
03/09/2022 [Declaration](#)  
of James C. Lindsay  
Created: 03/09/2022 11:55 AM  
03/10/2022 [Motion - Dismissal](#)  
Created: 03/11/2022 8:57 AM  
03/10/2022 [Declaration](#)  
of Nicholas Mancuso  
Created: 03/11/2022 8:57 AM  
03/10/2022 [Reply](#)  
IN SUPPORT OF MOTION TO STAY ENFORCEMENT OF ORDER  
Created: 03/11/2022 8:57 AM  
03/14/2022 [Hearing - Motion](#) (3:00 PM) (Judicial Officer Bureta, Jodie)  
Motion to Stay; Via WebEx  
Result: Held  
Created: 02/25/2022 8:37 AM  
03/14/2022 [Pending - Under Advisement](#) (Judicial Officer: Bureta, Jodie )  
Created: 03/14/2022 4:05 PM  
03/15/2022 [Hearing - Status Check](#) (3:00 PM) (Judicial Officer Bureta, Jodie)  
On the record - with attorneys  
Result: Held  
Created: 03/15/2022 2:51 PM  
03/15/2022 [Notes - Correspondence](#)  
Status sheet  
Created: 03/15/2022 3:21 PM  
03/16/2022 [Notes - Correspondence](#)  
Created: 03/16/2022 9:09 AM  
03/18/2022 [Opinion - Letter](#) (Judicial Officer: Bureta, Jodie )  
Signed: 03/17/2022  
Created: 03/18/2022 9:21 AM  
03/23/2022 [Hearing - Status Check](#) (8:30 AM) (Judicial Officer Bureta, Jodie)  
Via Telephone; The court will initiate the call  
Created: 03/22/2022 4:50 PM  
03/23/2022 [Notes - Correspondence](#)  
Status Sheet  
Created: 03/23/2022 9:22 AM  
03/25/2022 [Order - Denial](#) (Judicial Officer: Bureta, Jodie )  
ORDER ON MOTION TO STAY ENFORCEMENT OF FINAL ORDER (DENIED)  
Signed: 03/24/2022  
Created: 03/25/2022 9:53 AM  
03/28/2022 [Motion](#)  
PGE Joinder in Respondent PUC Motions to Dismiss  
Created: 03/29/2022 10:54 AM  
04/18/2022 [Response](#)  
to RSP's motion to dismiss  
Created: 04/19/2022 8:09 AM  
04/18/2022 [Declaration](#)  
of Keil Mueller  
Created: 04/19/2022 8:09 AM  
04/18/2022 [Declaration](#)  
of Brittany Andrus  
Created: 04/19/2022 8:09 AM  
04/25/2022 [Reply](#)  
in support of RSP's motion to dismiss  
Created: 04/26/2022 8:07 AM  
04/25/2022 [Declaration](#)  
of Heather K. Laske  
Created: 04/26/2022 8:07 AM  
04/25/2022 [Reply](#)  
to motion to dismiss  
Created: 04/26/2022 9:11 AM  
05/05/2022 [Hearing - Motion](#) (9:00 AM) (Judicial Officer Bureta, Jodie)  
Motion to Dismiss; Via WebEx  
Result: Held  
Created: 03/23/2022 9:25 AM  
05/05/2022 [Pending - Under Advisement](#) (Judicial Officer: Bureta, Jodie )

Created: 05/05/2022 9:53 AM  
 05/10/2022 **Opinion - Letter** (Judicial Officer: Bureta, Jodie )  
 Signed: 05/10/2022  
 Created: 05/10/2022 2:05 PM  
 06/03/2022 **Digitized Judgment Document** (Judicial Officer: Bureta, Jodie )  
*General Judgment of Dismissal without Prejudice*  
 Signed Date: 06/03/2022  
 Created: 06/03/2022 8:28 AM  
 06/03/2022 **Notice - Judgment Entry**  
 Created: 06/03/2022 8:29 AM  
 06/03/2022 **Closed**  
 Created: 06/03/2022 8:29 AM

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**FINANCIAL INFORMATION**

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		<b>Intervenor</b> Portland General Electric Company	
		Total Financial Assessment	281.00
		Total Payments and Credits	281.00
		<b>Balance Due as of 06/09/2022</b>	<b>0.00</b>
03/09/2022	Transaction Assessment		281.00
03/09/2022	xWeb Accessed eFile      Receipt # 2022-169392	Portland General Electric Company	(281.00)
		<b>Plaintiff</b> NewSun Energy LLC	
		Total Financial Assessment	290.00
		Total Payments and Credits	290.00
		<b>Balance Due as of 06/09/2022</b>	<b>0.00</b>
02/11/2022	Transaction Assessment		281.00
02/11/2022	xWeb Accessed eFile      Receipt # 2022-96943	NewSun Energy LLC	(281.00)
04/04/2022	Transaction Assessment		9.00
04/04/2022	Phone Payment      Receipt # 2022-13423-TP	NewSun Energy LLC	(9.00)