

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2274

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

2023 All-Source Request for Proposals

NEWSUN ENERGY LLC'S MOTION FOR
CLARIFICATION

I. MOTION

NewSun Energy LLC (“NewSun”) respectfully moves the Public Utility Commission of Oregon (“Commission”) to:

1. Clarify whether Errata Order No. 24-085 has the effect of establishing a new 60-day period for parties to seek rehearing or reconsideration of Order No. 24-011 (as previously modified by Errata Order No. 24-024); and
2. Clarify and correct its statement in Order No. 24-085 that finality language has not been “typically included” in Request for Proposal (“RFP”) and Integrated Resource Plan (“IRP”) orders.

II. BASIS FOR MOTION

On January 12, 2024, the Commission entered Order No. 24-011, approving the design of Portland General Electric (“PGE”)’s 2023 All-Source Request for Proposals (“RFP”), subject to various modifications. On January 26, the Commission entered Errata Order No. 24-024, addressing an RFP condition that had previously been overlooked by the Commission.

On February 5, Commission Staff filed a “Staff Errata to the October 30, 2023 Staff Memo” in UM 2166. This errata disclosed new facts demonstrating significant errors in PGE’s

2021 RFP that had not previously been disclosed. In light of the concerns raised by the February 5 errata, NewSun filed an application for rehearing or reconsideration of Order No. 24-011 (as modified by Errata Order No. 24-024) on March 12. In addition to requesting specific changes to the RFP design, NewSun requested that the Commission “issue a short extension to the 2023 RFP to adopt RFP design modifications that mitigate the problems demonstrated by PGE’s 2021 RFP.”¹

On March 26, NewSun filed an errata request with respect to an apparent error in Order No. 24-011. Chief ALJ Moser issued a ruling that same day, suspending the timeline for responses to NewSun’s application for reconsideration while the Commission issued an errata to its prior orders. On April 1, the Commission issued Errata Order No. 24-085, which corrected the error in Order No. 24-011, but went further to note the following:

Additionally, the memorialization of that decision inadvertently included appeal language, which is typically included with final public meeting orders, but not Request for Proposal or Integrated Resource Plan orders. The Commission decision was not a final order and should not have been designated as such.

NewSun requests that the Commission make two clarifications regarding Errata Order No. 24-085. First, the Commission should clarify the timeline for seeking reconsideration of PGE’s RFP design as set out in Order No. 24-011. NewSun believes that, given the multiple erratas issued correcting Order No. 24-011, and the significant concerns raised in NewSun’s application for reconsideration, the Commission should clarify that parties have 60 days from the date of Errata Order No. 24-085 to seek reconsideration or clarification of Order No. 24-011 and any of the subsequent orders affecting it. Clarification is needed to ensure the parties have

¹ NewSun’s March 12, 2024, Application for Rehearing or Reconsideration at 3.

adequate time to substantively address concerns relating to PGE's RFP design, particularly in light of the recent concerns regarding PGE's 2021 RFP.

Second, the Commission should clarify and correct its statement in Order No. 24-085 that finality and appeal language has not been "typically included" in RFP and IRP orders. For years, the Commission included final order and appeal language on many of its RFP and IRP final orders, including the following:

- 08-310 (2008 PacifiCorp ("PAC") RFP Approval);
- 09-491 (approval of request to resume 2008 PAC RFP);
- 12-376 (2012 PGE RFP);
- 16-280 (2016 PGE petition for partial waiver of bidding guidelines and approval of RFP schedule);
- 17-059 (2016 Northwest Natural Gas ("NWN") IRP approval);
- 19-073 (2018 NWN IRP approval);
- 20-071 (2020 Avista extension of IRP approval);
- 20-114 (2020 PAC selection of an independent evaluator for RFP);
- 20-228 (2020 PAC RFP approval);
- 21-235 (2021 PGE selection of an independent evaluator for RFP);
- 21-274 (Update to NWN's 2018 IRP);
- 21-320 (PGE 2021 approval of independent evaluator for RFP);
- 21-328 (approving PGE's waiver of RFP rules);
- 21-351 (PAC 2022 approval of independent evaluator for RFP).

While the Commission has had a longstanding practice of including finality and appeal language on its RFP and IRP orders, it took a contrary position in litigation after NewSun

actually appealed PGE's 2021 RFP design order, for the purpose of evading judicial review.

NewSun requests that the Commission correct its characterization of its prior practice.

Dated this 3rd day of April, 2024.

Respectfully submitted,

s/ Richard Lorenz

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