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September 25, 2017

Via Electronic Mail

Filing Center
Public Utility Commission of Oregon
P.O. Box 1088
Salem, OR 97308-1088
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Re: In the Matter of Portland General Electric's Application to Lower the Standard Price and Standard Contract Eligibility Cap for Solar Qualifying Facilities
OPUC Docket No. UM 1854

Attention Filing Center:

Attached for filing in the above-captioned docket is an electronic version of *Joint Parties' Response in Opposition to PGE's Motion for Extension of Time; Joint Parties' Motion to Modify 3 MW Solar Eligibility Cap.*

Thank you in advance for your assistance.

Sincerely,

Ken Kaufmann
Attorney for Strata Solar Development, LLC

Attach.

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

In the Matter of PORTLAND GENERAL ELECTRIC COMPANY (PGE) PGE Application to Lower Standard Price and Contract Eligibility Cap for Solar QFs	**DOCKET NO. UM 1854** **Joint Parties' Response in Opposition to PGE's Motion for Extension of Time; Joint Parties' Motion to Modify 3 MW Solar Eligibility Cap**

On September 21, Portland General Electric Company (PGE) filed a motion requesting that the requirement (in Order No. 17-310) that PGE file a qualifying facility (QF) contracting compliance report[1] by September 1 be postponed to September 29 (PGE's Motion). ALJ Michael Grant ordered Parties to file any responses by September 25. For the reasons below, the Joint Parties oppose PGE's Motion.[2] The Joint Parties also move the Commission for an Order modifying the temporary 3 megawatt (MW) solar eligibility cap the Commission instituted in Order No. 17-310 because PGE failed to satisfy the Commission's condition for implementing the 3 MW cap.

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[1] In Order No. 17-310, the Commission adopted the following Staff recommendation:

> To help ensure that PGE adheres to the required contracting and timing requirements, Staff recommends that we require PGE to file monthly reports on QF contracting activity. Each report should include a list of every QF that seeks to enter into a PURPA contract with PGE, but lacks an executed contract. Staff recommends that information for each QF should include the following: (1) date of initial contract request and other milestones; (2) date of written request for draft Negotiated Agreement with indicative pricing; (3) status of the contracting process; and (4) additional information listed in the standard PPA or in Schedule 202 that PGE has required the QF to provide.

Id. at 5.

[2] The Joint Parties include Strata Solar Development, LLC, Community Renewable Energy Association, Northwest & Intermountain Power Producers Coalition, and the Renewable Energy Coalition, all parties to this proceeding.

I. RELEVANT FACTS

On June 30, 2017, PGE filed an application to modify the terms and conditions under which PGE enters into power purchase agreements (PPAs) with solar QFs. *See* Order No. 17-310 at 1. In an August 3 supplement to its June 30 application, PGE claimed that, without interim relief, it *may* be obligated to purchase a combined output of 607.8 MW of new solar QF capacity at a cost of $918 million above market. *Id.* at note 5. PGE provided a list of pending QF applications with its application, but did not provide data regarding their positions in the contracting queue to support its assertions. QF, renewable energy, and independent power producer parties to Docket UM 1854 vigorously disputed PGE's calculation of above-market costs as both exaggerated and misleading.[3] However, Staff supported modification of PGE's standard contracts because it believed PGE's filing demonstrated solar QF contracting circumstances similar to those Idaho Power and PacifiCorp presented when they obtained interim relief (in Docket No. UM 1725 and Docket No. UM 1734 respectively). *Id.* at 5.

Staff expressed concern whether PGE was following Commission QF contracting rules and timelines, and recommended that the Commission require PGE to file monthly reports on its QF contracting activity in order to document PGE's compliance with required contracting and timing rules ("QF contracting compliance report", or "compliance report"). Order No. 17-310 at 5 (excerpted in note 1, *supra*). The Commission adopted Staff's

[3] The claim is misleading because market index prices cited by PGE do not reflect the avoided cost of capacity PGE would otherwise acquire during deficiency periods if it did not acquire QF capacity. The claim is exaggerated because it grossly overestimates the nameplate capacity potentially affected by lowering the cap to 3MW, for reasons set forth in Section II(B)2 below.

recommendations regarding both the interim 3 MW cap and the compliance report, and made the compliance report requirement an *express* condition of granting PGE relief from the 10 MW eligibility cap:

> We find sufficient cause to lower the eligibility cap for a solar QF to obtain standard avoided cost prices from PGE from 10 MW to 3 MW [effective July 14, 2017]. * * * *We condition this interim relief by adopting Staff's proposal to require PGE to provide monthly reports on the progress of the contracting process with solar QFs* [consistent with this Order]. We believe such information will provide us additional insight into the status of the QF activity that PGE is experiencing. We require a report to be filed *at the beginning of each month* until we resolve PGE's underlying request for permanent relief.

Order No. 17-310 at 7 (emphasis added). As of the date of this filing PGE has not filed a compliance report as required by Order No. 17-310, and has asked the Commission to vacate its compliance report requirement for the month of September.[4] The Joint Parties oppose PGE's request and move (in this pleading) for an Order modifying the interim relief ordered in Order No. 17-310 because PGE did not comply with the Commission's requisite condition to the relief set forth in its Order 17-310.

II. DISCUSSION

A. Under the Commission's Order No. 17-310 (which conditioned a 3 MW solar eligibility cap upon PGE making compliance filings at the beginning of the month) PGE is not entitled to a 3 MW cap where it (a) failed to file a compliance report on September 1, and (b) failed to timely seek relief from the September 1 compliance report.

[4] Although PGE styled its request as a procedural motion for extension of time it is, in substance, a request to eliminate the Commission's demand for a snapshot of conditions as of September 1, 2017.

1. PGE lacks good cause for its failure to timely file its September 1 compliance report.

In its Motion, PGE admits that it did not file a compliance report at the beginning of the month, as required by Order No. 17-310. PGE's Motion at 1. Thus, the essential fact supporting the Joint Parties' Motion is undisputed. However PGE asks the Commission to excuse its tardiness because it wants to provide "complete and comprehensive information" for each solar application in its queue. *Id*. PGE's actions disregarding Order No. 17-310 fit a pattern of PGE actions and inactions that limit or effectively prevent QFs from being able to execute power purchase agreements at reasonable terms and conditions.[5]

[5] Examples of PGE actions described in publicly available filings include: (1) PGE's request, in its May 1, 2017 annual avoided cost price update, for an unprecedentedly short 17-day rate change effective date ([Docket No.] UM 1728); (2) PGE's request, in its August 18, 2017 Motion, to lower its avoided cost rates retroactive to August 8 (UM 1728); (3) PGE's June 30, 2017 out-of-cycle application to reduce solar QF eligibility cap for standard contracts to 2 MW (UM 1854); (4) PGE's refusal to accept the net output from QFs delivering to its system using third party transmission (UM 1566 [PaTu wind farm]); (5) PGE's refusal to honor executable standard contracts tendered by PGE and signed by QFs (UM 1862 [Tickle Creek Solar], UM 1829 [Blue Marmot V], UM 1830 [Blue Marmot VI], UM 1831 [Blue Marmot VII], UM 1832 [Blue Marmot VIII], and UM 1833 [Blue Marmot IX]); (6) PGE's refusal to allow a QF to change its nameplate capacity (PNW Solar's Amity, Butler, Duus, Firwood, Starlight and Stringtown facilities [UM 1894] and UM 1887 [Covanta Marion]); (7) PGE's challenge to a QF's size eligibility immediately upon execution of a standard PPA (UM 1844 [Evergreen BioPower]); (8) PGE's imposition of unreasonable restrictions on the ability a QF to specify the maximum net output (UM 1860 [Red Prairie Solar] and UM 1861 [Volcano Solar]; and (9) PGE otherwise refusing to provide timely PPAs based on illegal or illegitimate justifications (UM 1859 [Falls Creek Hydro], UM 1884 [Cottontail Solar], UM 1855 [Osprey Solar], UM 1886 [Wapiti Solar], UM 1863 [SSD marion 4], UM 1864 [SSD Clackamas 4], UM 1865 [SSD Marion 1], UM 1866 [SSD Clackamas 7], UM 1867 [SSD Marion 2], UM 1868 [SSD Clackamas 6], UM 1869 [SSD Clackamas 1], UM 1870 [SSD Clackamas 2], UM 1871 [SSD Marion 3], UM 1872 [SSD Marion 5], UM 1873 [SSD Marion 6], UM 1874 [SSD Yamhill 1], UM 1875 [Klondike Solar], UM 1876 [Saddle Butte Solar], UM 1877 [Bottlenose Solar], UM 1878 [Valhalla Solar], UM 1879 [Whipsnake Solar], UM 1880 [Skyward Solar], UM 1881 [Leatherback Solar], UM 1882 [Pika Solar], UM 1883 [SSD Clackamas 3], UM 1888 [Bighorn Solar], UM 1889 [Minke Solar], and UM 1890 [Harrier Solar]).

PGE's origination team may face many heavy burdens, however the QF contracting compliance report is not one of them. The Commission did not order PGE to provide "complete and comprehensive" information in its response, and PGE is not entitled to enlarge its time to respond so that it can add argument to the data the Commission requested. The Commission requested the compliance report contain only four items:

(1) date of initial contract request and other milestones;
(2) date of written request for draft Negotiated Agreement with indicative pricing;
(3) status of the contracting process; and
(4) additional information listed in the standard PPA or in Schedule 202 that PGE has required the QF to provide.

Order No. 17-310 *supra* note 1. Items 1 and 2 are already required recordkeeping under Schedule 201 (which requires PGE to track QF requests so that it can respond to them within 15 business days).[6] Even if PGE did not have already have a master table of all pending QF request dates, compiling one is a straightforward task. Item 3 requires only a summation of the current status of each QF request (PGE could have provided the required information by the filing deadline and, if it felt it necessary, provided additional information as soon as it was able). And Item 4 merely asks PGE to disclose to the Commission its existing practices for requesting information from standard and non-standard PPA applicants. In sum, compliance with the Commission's data request does not require significant new work and requires no legal argument.

PGE had ample notice to timely submit the September 1 compliance report. When the Commission issued Order No. 17-310 on August 18, 2017, PGE had two full weeks

[6] PGE also provided much of this information with respect to QFs in the queue pursuant to discovery requests earlier in this proceeding.

before the first compliance report was due. Compared to drafting a complaint against a QF or a legal brief with supporting affidavits proposing to retroactively lower the size threshold for standard contract eligibility or avoided cost rates, preparing the compliance report requires less time and effort. Any assertion that PGE couldn't meet the two-week deadline is incongruent with its capabilities demonstrated repeatedly in multiple recent dockets.[7]

PGE's legal duty to comply with Order No. 17-310 in a timely fashion is beyond dispute. The commission is vested with power and jurisdiction to supervise and regulate every public utility in this state, and to do all things necessary and convenient in the exercise of such power and jurisdiction. ORS 756.040 (2). Failure to obey a Commission order is subject to sanction[8] and monetary penalty.[9]

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[7] The day before the September 1 compliance report was due PGE filed a Complaint against six QFs. *See* Docket No. UM 1894. That filing, which concerns executed standard contracts with no imminent deadline, suggests that PGE consciously prioritized initiating a new, non-urgent, complaint against QFs ahead of compliance with Order No. 17-310.

[8] *See* ORCP 46(B)2. Failure to make discovery; sanctions. Sanctions by court in which action is pending. If a party * * * fails to obey an order to provide or permit discovery, including an order made under section A of this rule or Rule 44, the court in which the action is pending may make any order in regard to the failure as is just including, but not limited to, the following:

B(2)(a) Establishment of facts. An order that the matters that caused the motion for the sanction or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.

B(2)(b) Designated matters. An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the disobedient party from introducing designated matters in evidence.

B(2)(c) Strike, stay, or dismissal. An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or any part thereof, or rendering a judgment by default against the disobedient party.

B(2)(d) Contempt of court. In lieu of or in addition to any of the orders listed in paragraph B(2)(a), B(2)(b), or B(2)(c) of this rule, an order treating as a contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

B(2)(e) * * *.

PGE ignored a basic duty to seek reprieve from the Commission on a prospective basis. In *Crooked River Ranch Water Company*, OPUC Docket No. UW 120, the Commission initiated enforcement action against Board Members of the Crooked River Ranch Water Company for failing to comply with reporting requirements in the Commission's order or timely request an extension of time to comply with the order. Order No. 08-177 (March 24, 2008). The Commission found that the water company's failure to file either the accounting or a motion establishes its lack of good faith. *Id.* at Section IV(B). The Commission also found that the water company had no excuse for submitting other required information 28 days after the due date. *Id.* at Section IV(C). Pending determination of penalties in separate phase, the Commission put the utility on notice that penalties would continue to accrue until the company filed adequate responses to the Commission's directives. *Id*. at Section VI. PGE's proposed delay of 29 days after a deadline is a serious issue on par with *Crooked River*. In substance, PGE's Motion does not seek a routine extension of time; it seeks mercy for willfully disobeying a Commission order to timely provide records necessary to its investigation.

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[9] *See, e.g.* ORS 756.990(2):

> Except where a penalty is otherwise provided by law, any public utility, telecommunications utility or other person subject to the jurisdiction of the Public Utility Commission shall forfeit a sum of not less than $100 nor more than $10,000 for each time that the person:
> (a) * * * ;
> (c) Fails to obey any lawful requirement or order made by the commission; or
> (d) * * *.

2. PGE's failure to comply injured the Commission's investigative process.

The Pennsylvania Public Utility Commission (PPUC) recently grappled with the harm resulting from a utility's failure to comply with Staff data requests, in *Pennsylvania Pub. Util. Comm. v. Uber Technologies, Inc. et al*. PPUC Case No. C-2014-2422723[10]. In *Uber*, the PUC's Investigation and Enforcement division (PPUC Staff) initiated enforcement action against Uber after determining that the company was unlawfully brokering transportation services in Pennsylvania. PPUC Case No. C-2014-2422723, *Opinion and Order* (May 10, 2016). PPUC Staff filed a Petition for Interim Emergency Order seeking a cease and desist order from the PPUC against Uber. The PPUC granted the emergency relief and, at the same time (August 2014), directed Uber to provide data in its sole possession regarding the number of trips provided by Uber during certain periods of time. PPUC Staff reiterated the Commission's directive in discovery requests, but Uber ignored both requests, as well as orders from the ALJ directing it to respond. Uber did not provide the requested information until May 2015. *Id.* at 8. PPUC Staff contended that, because Uber did not timely respond to discovery requests, it was deprived of the opportunity to verify the accuracy of the number of trips provided during relevant periods for the purpose of creating an accurate record. As a result, the Commission was forced to blindly accept Uber's numbers at face value. *Id*. at 67.[11]

[10] http://www.puc.state.pa.us/about_puc/consolidated_case_view.aspx?Docket=C-2014-2422723.

[11] "[Staff] contends that Uber's actions impeded the preparation of its case and that the ramifications of the Respondent's refusal to provide supporting documentation related to the unauthorized trips are serious. Specifically, [Staff] claims that it has been unable to verify the accuracy of the trip data and was coerced into accepting it at the hearing. Additionally, [Staff] states

The Pennsylvania PUC determined that Uber's failure to provide trip data on a timely basis severely impeded its Staff's ability to prepare its case and inhibited the orderly course of the litigated proceedings.

> We find that the failure to produce this information despite repeated orders from the ALJs that the information was discoverable and subject to production *impeded* the ability of [Staff] to fully prosecute this matter. Specifically, [Staff] had no means to verify or confirm the numbers provided during the general testimony of Mr. Feldman. Uber's unilateral determination that the supporting data had no probative value prevented [Staff] from fully evaluating the evidence and *inhibited* the preparation of a complete record upon which the Commission could develop a disposition based on substantial evidence in the record.

Id. at 69 (emphasis added).[12]

PGE's actions (and the resulting consequences) bear important resemblance to Uber's. In both cases, the Commission's order was time sensitive. PGE's compliance report could have provided a valuable means for the Commission to evaluate the impact of various rate change effective dates proposed by PGE and stakeholders in Docket No. UM 1728. In both cases, the information the Commission requested was necessary to its open investigation. The QF contract compliance report will show the Commission the extent to which PGE is or is not meeting the Commission's QF contracting rules and timelines. And in both cases, the utility's tardy response degraded the quality of information available to the Commission in an irreparable manner. PGE's intent may have been innocent, but PGE's non-compliance likely redounded to its benefit and deprived the Commission of the best available information upon which to base its decision.

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that Uber has deprived the Commission of any ability to verify the trip data for the purpose of creating a complete and accurate record." *Id.*

[12] The PPUC fined Uber $72,500 for failing to timely provide the data and also excluded certain evidence proffered by Uber. PPUC Case No. C-2014-2422723, *Opinion and Order* (May 10, 2016) at 6-7, 70, reh'g denied in *Opinion and Order* (September 1, 2016).

3. PGE's failure to satisfy the Commission's conditional order makes the cap relief inoperative.

Commission Order No. 17-310 was very clear that the relief it granted was conditional upon PGE filing the compliance report at the beginning of each month.[13] Because the Order is patently clear, the Commission need take no new action except to let Order No. 17-310 run its course by recognizing the failure of its condition and determining how to restore the status quo after the failure of the condition.

PGE likely will argue that the Commission did not literally mean "conditioned" when it used the word in Order 17-310. Of course the Commission meant what it said. That PGE would defy such a simple order does not retroactively change the Commission's intent. Rewriting the Order today would reward PGE for its failure and would undermine confidence in the Commission.

In asking for a delay on its compliance report, PGE seeks to have it both ways: avoided cost rate reductions must occur as soon as possible but compliance report deadlines are flexible. PGE's request for more time is not a typical request for minor schedule accommodation; it is a material change that usurped the Commission's authority to conduct its investigation, undermines the trust of QFs negotiating in good faith with PGE and, most importantly, violated an express condition for relief in Order 17-310. Because the condition for relief has not been satisfied, PGE is not entitled to relief from the 10 MW solar cap.

[13] *See* Order No. 17-310 at 7 (quoted on page 4, *supra*).

4. PGE's request to initiate reporting September 29 does not comply with Order No. 17-310.

In its September 21 Motion, PGE asks the Commission to allow it to file its first report on September 29. If its request is granted, PGE will report its queue status as of September 29, rather than September 1 as required in Order No. 17-310.[14] PGE's proposal would seriously reduce the scope and usefulness of the data Staff requested. When the IRS decides to audit a taxpayer, it does not let the taxpayer determine the time period to be audited. Similarly, when the Commission is trying to assess whether PGE is "adhering to the required contracting and timing requirements"[15] it requires data from the period of concern, not merely data from the period after rate changes have rendered moot most disputes about PGE's timeliness. The status of QF contract requests as of September 1 remains important as the Commission considers in Docket No. 1854 and elsewhere whether its current rules and timelines are being followed and whether any interim eligibility cap reduction should be made permanent. Furthermore, the relevant date for PGE's first compliance report should remain September 1 so as not to reward PGE for its un-timeliness and incentivize similar behavior in the future.

B. Rescinding the July 14 temporary solar cap will not harm PGE's customers.

1. Violation of the law cannot be a benefit to the public.

PGE presumably will argue that modifying the Order No. 17-310 cap reduction will cause harm to its customers in the form of increased prices. In *Uber* the Pennsylvania PUC considered and rejected such an argument by Uber in favor of its Staff's contention that

[14] This was confirmed by counsel for Joint Parties in an email from PGE.
[15] Order No. 17-310 at 5.

unlawful conduct is *per se* injurious to the public. May 16 Order at 45. Uber argued that there was no evidence of harm from its operating illegally because the existing transportation options in the county were inadequate. *Uber* at 53. The Commission declined to measure Uber's conduct based on whether Uber's customers received good service, holding that "[PPUC Staff] was not required to present evidence of actual injury or harm because the unlawful conduct by its nature was injurious to the public." *Id*. at 53 (*citing* Pa. Pub. Util. Comm'n v. Israel, 356 Pa. 400, 52 A.2d 317 (Pa., 1947)). PGE's position is like Uber's in that it attempts to justify its actions in the name of saving its customers money. To the extent it asks the Commission to permit PGE to disregard Commission orders and rules to do so, its argument is without merit.

2. <u>Lifting the cap would affect less than 241 MW of solar QFs.</u>

Even though it is not legally determinative to their Motion, Joint Parties note that the financial impact of rescinding the 3 MW cap to PGE's customers would be small. We don't know exactly how small, because PGE, by failing to file its September 1 compliance report, deprived the Commission of that information. But we know it would not be 607.8 MW and $918 Million as PGE previously claimed in its filings. At the September 12 hearing in Docket No. UM 1728, PGE's Robert MacFarlane conceded, in response to a question from Commissioner Decker, that those numbers include QFs in the over-10 MW queue that were not affected by the cap reduction.[16]

[16] The transcription below occurred from 1:08:11 to 1:11:45 on the September 12, 2017 OPUC Public Meeting (http://oregonpuc.granicus.com/MediaPlayer.php?view_id=1&clip_id=2320)

This lack of candor to the Commission on a matter of substantial importance is another troubling aspect of PGE's application and taints the factual basis of the Commission's finding of imminent harm in Order 17-310.[17] Careful review of the evidence PGE provided in its August 3 Supplemental Testimony reveals that PGE's 607.8 MW total proposed solar projects includes 289 MW of QFs over 10 MW that were *never* eligible for

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Commissioner Decker (MD): "The sort of overall number that PGE is using to describe the harm they calculate to rate payers associated with the delta between avoided cost prices today and what you are proposing contains a number of assumptions that weren't necessarily laid out in your declaration and I wonder if I could ask you just about a couple of those, I don't know whether you'll have the. ."

PGE Robert Macfarlane (RM): "I did prepare the calculations, so . ."

MD: "Yeah. One question is whether--we heard from other folks about a number of MW that were captured that would no longer be eligible for Schedule 201 prices after the Commission's decision last month. We also heard about the potential inclusion of some projects that were over 10 MW to begin with. Can you address whether your numbers took those into account?"

[digression to another matter from 1:09:30 to 1:10:22]

RM: Yeah, and I just wanted to address that before I addressed your specific question. And then as far as that $700 Million we are looking at everything that is in the queue that hasn't yet been executed so some of those could have a LEO based on what happens in some of these complaints. I didn't make any assumptions as far as which ones do, because I mean obviously, you know there is not an agreement on that so that number *could* be a little bit lower.

MD: "And you didn't discount those at all. That's 100% of what is in the queue?

RM: Yes. That's correct. And also the other factor was I didn't know when the avoided cost would be approved and so its difficult to line that up with, you know, if there was some sort of retroactive date or something else, then. .

MD: How about just the question whether projects sort of larger than the thresholds that were discussed were captured in the calculation?

RM: "They were captured because we are kind of assuming that that prices is used, if there are adjustments. . "

MD: "Sorry you are assuming that the standard pricing is used for the negotiated . .

RM: "yeah and that's not always going to be the case but I didn't have a basis for something other than using the standard [prices]."

MD: OK thank you.

[17] PGE also assumed non-standard contracts would receive the full Schedule 201 price, which it admitted is incorrect. *See* note 1*6, supra*.

The Joint Parties encourage the Commission to enforce its rule requiring PGE to file either a true copy or a summary identifying "the quantity and quality of the power and the price being paid" for each QF contract within 30 days of execution. OAR 860-029-0020(1).

the standard contract and therefore could not have been affected by PGE's Motion.[18] In reality, reducing the solar QF eligibility cap from 10MW to 3MW potentially affected only 241 MW of nameplated capacity, not 607.8 MW.

PGE also gave no indication how many of the 241 MW nameplate applications were already entitled to standard contracts at the time PGE made its August 3 supplemental filing. By July 14, 2017, many QFs were entitled to legally enforceable obligations (LEO) at standard prices and should therefore *not* be counted in the 241 MW potentially affected by the cap reduction. Mr. McFarlane admitted at the September 12 hearing that the number could be lower, taking those projects into account. *See* note 16, *supra*.

After accounting for QFs that achieved a LEO prior to July 14, 2017, and typical attrition between the date of contract application and commercial operation, the final number would likely be far less than 241 MW nameplate capacity. In sum, PGE's anticipated argument that public harm would result from enforcing the condition in Order No. 17-310 is misplaced in fact as well as in law.

[18] Projects with >10 MW Nameplate included in PGE's 607.8 MW estimate include:

QF#	MW	Status	Fuel
92	35	proposed	solar
100	80	proposed	Solar
121	60	proposed	Solar
125	80	proposed	Solar
138	34	proposed	Solar
Total:	289		

Source: UM 1854/PGE Exhibit 201, pp. 3-4.

III. CONCLUSION

At the September 12 hearing on PGE's application to update its avoided cost rates and the sufficiency period (Docket No. UM 1728), we learned that PGE's case for claiming an emergency that gave rise to Order 17-310 relied on undisclosed assumptions that substantially exaggerated the likely cost of Commission action or inaction. *See* note 16, *supra*. We also learned that this Commission emphasizes the importance of known timelines for implementing avoided cost rate changes. In light of these factors, granting PGE's Motion and failing to modify the 3 MW cap would be fundamentally unfair to QFs. As Staff noted at the September 12 hearing, PGE waited an inexplicably long time to file interim updates to its avoided costs--a substantial cause of the recent staleness of PGE's rates. Numerous complaints pending with the Commission allege that PGE is not following Commission timelines for processing Standard QF contract applications. And now, PGE seeks relief from Order No. 17-310--five weeks after the Order was issued and ten days after the September 12 hearing where the data in the September 1 compliance report would have been very helpful. PGE's actions not only impede Commission regulation; they sow mistrust and make all proceedings before the Commission more difficult. PGE needs to understand that its un-timeliness is NOT ok.

IV. REQUESTED RELIEF

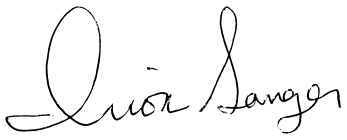
For the reasons above, the Joint Parties oppose PGE's September 21 Motion, and ask the Commission for an Order:

1. Denying PGE's Motion for a September 29 compliance report filing date and requiring it to file its September 1 compliance report in five business days;
2. Denying PGE's request to report QF contracting status as of September 29 (rather than September 1); and
3. Reaffirming Order 17-310's requirement that PGE file monthly compliance reports at the first of each month until Docket No. UM 1854 has concluded; and
4. Modifying the July 14, 2017 temporary 3 MW solar cap in one of more of the following manners:
    a. Declaring the 3 MW solar cap vacated retroactive to July 14, 2017; or
    b. Declaring that the Commission will re-evaluate the July 14 cap and determine an appropriate modification after PGE files its September 1 compliance report; and
5. Such other relief as the Commission may deem proper.

DATED this 25th day of September 2017.

Respectfully submitted by:

Kenneth Kaufmann
OSB# 982672
Attorney for Strata Solar Development, LLC



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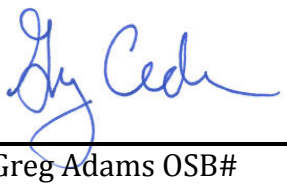

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