

Via eDockets

February 11, 2022

The Honorable Christopher Allwein
Public Utility Commission of Oregon
PO Box 1088
Salem, OR 97308-1088
puc.filingcenter@puc.oregon.gov

Re: Waconda Solar v. Portland General Electric Co.
Docket No. UM 1971

Dear Judge Allwein,

Waconda Solar, LLC (“Waconda Solar”) submits this letter responding to Portland General Electric Company’s (“PGE’s”) request that Waconda Solar’s response to PGE’s Motion to Clarify and Modify the Procedural Schedule (the “Motion”) be due on February 11, 2022. Waconda Solar filed its Motion for Partial Summary Judgment on February 4, 2022, and PGE’s Response to the Motion for Partial Summary Judgment is currently due February 22, 2022. PGE submitted the Motion on February 10, 2022.¹ In the Motion, PGE makes two sub-motions. First, PGE requests the Administrative Law Judge (“ALJ”) “clarify”, or in the alternative modify the procedural schedule, that PGE is not required to respond to Waconda Solar’s Motion for Partial Summary Judgment until after the Oregon Public Utility Commission (the “Commission”) has issued a decision on PGE’s Modified Second Motion for Summary Judgment and a prehearing conference has been held to determine a schedule for the remaining issues.² Second, on an expedited basis, PGE requests that the ALJ issue a substantive ruling stating PGE is not required to respond to Waconda Solar’s Motion for Partial Summary Judgment before the earlier of: 1) 15 days after the ALJ issues a ruling denying PGE’s first motion; or 2) if the first motion is granted, then not until after the Commission rules on PGE’s Modified Second Motion for Summary Judgment and a prehearing conference is held.³ PGE requests that Waconda Solar’s response to the second motion be due today, February 11, 2022.⁴ Waconda Solar opposes PGE’s two requests, but is not opposed to PGE responding to Waconda Solar’s Motion for Partial Summary Judgment by March 9, 2022.⁵

¹ Motion at 3.

² Motion at 1-2.

³ Motion at 2.

⁴ Motion at 3.

⁵ March 9, 2022 is fifteen days after PGE’s response should be due on February 22, 2022. Waconda Solar notes that Waconda Solar is willing to give PGE the same treatment and extension PGE offered to Waconda Solar when Waconda Solar filed its Motion to Stay.


PGE's Motion is essentially a motion to stay as PGE is requesting its response to Waconda Solar's Motion for Partial Summary Judgment not be due until the Commission issues a decision on PGE's Modified Second Motion for Summary Judgment.⁶ Thus, PGE's Motion should be considered a substantive motion, which would give Waconda Solar fifteen days to respond, and the due date is February 25, 2022.⁷ Waconda Solar is willing to file a response to PGE's Motion on an expedited basis and by Thursday, February 17, 2022, which is only seven days after the substantive motion was filed.

PGE is not harmed by Waconda Solar responding to the Motion by February 17, 2022 instead of February 11, 2022. This is because Waconda Solar has agreed to a two week extension for PGE to file its Response to the Motion for Partial Summary Judgment, Waconda Solar intends to respond to PGE's Motion to Stay before the agreed to extended deadline, and Waconda Solar will file its Response to PGE's Motion to Stay even before the original deadline for PGE to respond to Waconda Solar's Motion for Partial Summary Judgment.

It is unrealistic to expect Waconda Solar to file a response to a substantive motion the day after the motion is filed. In addition, PGE did not confer with Waconda Solar or inform Waconda Solar that it would propose to shorten Waconda Solar's response time to one day, and Waconda Solar was not aware that PGE was requesting a response until around noon today.

Waconda Solar requests that the ALJ wait to issue a ruling on PGE's Motion until after Waconda Solar files its response. Waconda Solar is providing this notice that it intends to file its response by Thursday, February 17, 2022.

Sincerely



Irion A. Sanger

cc: Service List via eDockets

⁶ Waconda Solar notes this is similar to its request in Waconda Solar's Motion to Stay, which Waconda Solar believes was a substantive motion.

⁷ See generally *in re PGE Request to Update Schedule 201 and Standard Power Purchase Agreements*, Docket No. UM 1987 (a Motion to Stay was filed and parties submitted responses and replies consistent with a substantive motion); OAR 860-001-0420(4).