

November 3, 2021

Via Email Only (puc.filingcenter@puc.oregon.gov)

The Honorable Christopher Allwein
Public Utility Commission of Oregon
PO Box 1088
Salem, OR 97308-1088

Re: Waconda Solar, LLC v. Portland General Electric Company
PUC Case No. UM 1971

Dear Judge Allwein:

Portland General Electric Company (PGE) writes to respond to Waconda Solar LLC's (Waconda) November 2, 2021 letter. Waconda's letter seeks clarification regarding the due date for its response to PGE's Modified Second Motion for Summary Judgment, which remains October 19, 2021.¹ By doing so, Waconda essentially seeks a partial ruling on its motion to stay, which asked the Commission to extend Waconda's response deadline until: (1) three weeks after the Commission decides the Petition for Declaratory Ruling in Docket No. DR 57; or (2) three weeks after the Commission rules on Waconda's motion to stay.² PGE opposed Waconda's motion to stay but agreed to an extension until November 9, 2021, for Waconda to respond to PGE's motion for summary judgment.

Waconda has had an unusually long period of time to evaluate the arguments in PGE's motion for summary judgment. The pending motion for summary judgment raises arguments that are nearly identical to those raised in PGE's second motion for summary judgment, which PGE filed more than two years ago on August 20, 2019.³ Briefing on

¹ Ruling (Aug. 4, 2021).

² Waconda Solar's Motion to Stay or, in the Alternative, to Extend the Filing Deadline of Waconda Solar's Response to PGE's Modified Second Motion for Summary Judgment at 1-2 (Oct. 5, 2021).

³ PGE's Second Motion for Summary Judgment (Aug. 20, 2019).

that motion was stayed while the parties discussed settlement. In August 2021, you adopted a procedural schedule in this case that established the following briefing deadlines: (a) PGE's motion for summary judgment was due September 15, 2021; (b) Waconda Solar's response was due nearly five weeks later, on October 19, 2021; and (c) PGE's reply was due November 8, 2021.⁴

PGE filed its motion for summary judgment on September 15, 2021, as required by the procedural schedule. Waconda Solar then filed a motion to stay on October 5, 2021. After Waconda filed its motion to stay, PGE proposed an extension of time until November 9, 2021, for Waconda to respond to PGE's motion for summary judgment.⁵ An extension until November 9 would have given Waconda almost eight weeks to respond to the motion for summary judgment.

The Commission has not ruled on Waconda's request to extend the deadline to respond to PGE's motion for summary judgment. Instead of preparing to file a response to PGE's motion for summary judgment on November 9, 2021, as proposed by PGE, Waconda now seeks an indefinite extension to respond to the motion for summary judgment.⁶

As explained in PGE's response to the motion to stay, a ruling on PGE's motion for summary judgment will be necessary regardless of the outcome of the petition for declaratory ruling in Docket No. DR 57.⁷ PGE maintains its position that an extension of time until (1) three weeks after the Commission rules on the Petition for Declaratory Ruling in Docket No. DR 57 or (2) three weeks after the Commission decides Waconda's motion to stay would unduly prejudice PGE and unnecessarily delay a ruling on PGE's motion for summary judgment.⁸

Waconda asserted that it needs, at a minimum, some additional time to respond to PGE's motion for summary judgment due to the press of other business.⁹ To accommodate that, PGE agrees to an extension of time until November 16, 2021, for Waconda to respond to PGE's motion for summary judgment. A deadline of

⁴ Ruling (Aug. 4, 2021).

⁵ PGE's Response to Waconda Solar's Motion to Stay at 1 (Oct. 12, 2021) ("at a minimum Waconda Solar requests additional time to file its response beyond November 9, 2021 due to other pressing business.").

⁶ Waconda Solar's November 2, 2021 Letter to Judge Allwein at 1 (Nov. 2, 2021).

⁷ PGE's Resp. to Waconda Solar's Mot. Stay at 18-19.

⁸ *Id.* at 17-18.

⁹ Waconda Solar's November 2, 2021 Letter to Judge Allwein at 1.

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November 16, 2021, would give Waconda close to nine weeks to respond to the arguments in PGE's motion for summary judgment.

PGE respectfully requests that the Commission extend the deadline for Waconda to respond to PGE's motion for summary judgment to no later than November 16, 2021. PGE opposes any additional delay in Waconda Solar's deadline to respond to PGE's Modified Second Motion for Summary Judgment. The procedural schedule in this case required Zena Solar to respond to PGE's motion by October 19, 2021. PGE has now twice agreed to extensions of that deadline (first, a three-week extension to November 9, 2021, and now an additional one-week extension to November 16, 2021). These extended deadlines will provide Waconda Solar with close to nine weeks to respond to a motion which is largely the same motion that Waconda Solar received more than two years ago. The Commission should not permit further delay.

Very truly yours,



Jeffrey S. Lovinger