

Via eDockets

October 13, 2021

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 statement of intent to file a reply to Portland General Electric Company’s (“PGE’s”) response to Waconda Solar’s Motion to Stay. Waconda Solar may file a reply to PGE’s response, and, if it does so, it intends to file no later than Monday, October 18, 2021.

PGE states Waconda Solar’s Motion to Stay is a procedural motion so that Waconda Solar is not permitted to file a reply to PGE’s response.¹ OAR 860-001-0420(4)-(5) states (4) A party may file a response to a motion. A response to a substantive motion must be filed within 15 days of filing of the motion. A response to a procedural motion must be filed within 7 days of filing of the motion. (5) The moving party may file a reply to a response to a substantive motion within 7 days of filing of the response. The moving party is not permitted to file a reply to a response to a procedural motion unless permitted by the ALJ.²

Here, PGE is claiming the Motion to Stay is procedural and not substantive.

However, PGE and the Oregon Public Utility Commission (“Commission”) have previously viewed motions to stay or lift stays as substantive affecting the rights and duties of a party. In UM 1987, the Northwest & Intermountain Power Producers Coalition, the Renewable Energy Coalition, and the Community Renewable Energy Association (collectively the “QF Parties”) filed a motion to stay.³ Several parties responded to the QF

¹ PGE’s Response to Waconda Solar’s Motion to Stay at 3 (Oct. 12, 2021).

² OAR 860-001-0420(4)-(5).

³ *See generally in re PGE Request to Update Schedule 201 and Standard Power Purchase Agreements*, Docket No. UM 1987, NIPPC, Coalition, and CREA Motion to Stay (Nov. 12, 2019).

Parties' motion including PGE.⁴ The QF Parties filed a reply in support of its motion to stay, which the Commission or PGE did not object to.⁵

Later in that docket, PGE filed a motion to lift the suspension or stay in that docket⁶ and several parties submitted responses.⁷ PGE submitted a reply to the parties' responses citing OAR 860-001-0420.⁸ In that docket, PGE viewed its reply to a motion to lift a stay as substantive and the QF Parties' motion to stay was treated as substantive so that the QF Parties had an opportunity to reply. Further, the Commission allowed PGE and the QF Parties to file replies, indicating the motions were substantive. Waconda Solar should be allowed to also file a reply just as PGE and the QF Parties did in UM 1987. Thus, Waconda Solar intends to file a reply to PGE's response just as PGE did in UM 1987.

Separately, Waconda Solar asks Judge Allwein to confirm Waconda Solar's Response to PGE's Modified Second Motion for Summary Judgment is not due Tuesday, October 19, 2021. In Waconda Solar's Motion to Stay, Waconda Solar requested the Stay and in the alternative requested an additional three weeks to file its Response after the Commission makes a decision on the Motion to Stay.⁹ PGE opposes Waconda Solar's request but has agreed to a three week extension until November 9, 2021 for Waconda Solar to file its Response.¹⁰ Thus, Waconda Solar's Response to PGE's Modified Second Motion for Summary Judgment should be due no earlier than November 9, 2021.

Waconda Solar is not opposed to Judge Allwein taking all the time necessary prior to issuing a decision on specifically when Waconda Solar's motion for summary judgment is due. However, at this time, Waconda Solar respectfully requests that Judge Allwein issue a ruling stating that Waconda Solar's Response to PGE's Modified Second Motion for Summary Judgment is not due October 19, 2021.

⁴ See, e.g., Docket No. UM 1987, PGE's Response to QF Parties' Motion to Stay (Nov. 26, 2019).

⁵ Docket No. UM 1987, NIPPC, Coalition, and CREA Reply in Support of Motion to Stay (Dec. 6, 2019).

⁶ Docket No. UM 1987, PGE's Motion to Lift Suspension (Dec. 31, 2020). The motion was filed by PGE's legal counsel with McDowell Rackner Gibson PC rather than Markowitz Herbold PC.

⁷ See, e.g., Docket No. UM 1987, Staff's Response to PGE's Motion to Lift Suspension (Jan. 15, 2021).

⁸ Docket No. UM 1987, PGE's Reply in Support of its Motion to Lift Suspension at 1 (Jan. 26, 2021).

⁹ Waconda's Motion to Stay at 2 (Oct. 5, 2021).

¹⁰ PGE's Response to Waconda Solar's Motion to Stay at 1 (Oct. 12, 2021).

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Sincerely

A handwritten signature in blue ink, appearing to read "Irion A. Sanger". The signature is fluid and cursive, with the first name "Irion" being more prominent than the last name "Sanger".

Irion A. Sanger

cc: Service List via eDockets