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March 30, 2023

Ms. Cheryl Walker
Oregon PUC
201 High St. SE, Suite 100
Salem, OR 97301-3398

RE: Docket UM 2177--SUNTHURST NOTICE OF INTENT TO FILE COMPLAINT FOR ENFORCEMENT-PACIFIORP—**Status Report**


Dear Ms. Walker,

On June 3, 2021, Sunthurst Energy, LLC (Sunthurst) filed the above Notice informing PacifiCorp of its intention to file a complaint before the Public Utility Commission of Oregon (Commission) if negotiations to revise interconnection cost estimates and schedules for its three Community Solar Projects were unsatisfactory.

Today, nearly two years later, Sunthurst is still negotiating with PacifiCorp regarding costs and schedules for interconnections of those projects, as well as two other Community Solar Projects. The attached letter dated March 29, 2023 summarizes recent events catalyzing the negotiations.

Sunthurst is hopeful current negotiations will conclude satisfactorily, without resort to Commission intervention. However, dismissal of UM 2177 at this time may be premature.

Sincerely,


Kenneth Kaufmann
Attorney for Sunthurst Energy, LLC

Attachment



3/29/2023

PacifiCorp
Jarrod Martin, Project Manager
Generation Interconnection

Re: Pilot Rock Solar 1 (Q0666)
Pilot Rock Solar 2 (Q1045)
Tutuilla Solar (OCS 024)
Buckaroo Solar 1 (OCS 062)
Buckaroo Solar 2 (OCS 063)

Dear Jarrod,

This letter responds to your several e-mails sent February 6-8 serving notice of past due Interconnection Agreement milestone payments for the above projects and reserving PacifiCorp's right to declare a default if not cured within 60 days of notice. For the reasons below, Sunthurst requests that the milestone dates in the Interconnection Agreements be extended.

Inflation Reduction Act (IRA). Pilot Rock Solar 1 -2 and Tutuilla Solar are located in low-income qualifying communities, making the projects eligible for a 10% federal tax credit adder under IRA. All projects are also likely capable of achieving the 10% domestic content adder. But federal guidance on how to qualify for the credit has not yet been published by the IRS and is a real pain point for the industry nationally. Projects are coupled to federal guidance to validate tax credit and equity projection in the funding stack.

Solar Panel Cost/Availability. After the Department of Commerce announced it would investigate alleged dumping by Chinese solar manufacturers, in March 2022, the availability of solar panels crashed, and wholesale prices spiked. Solar deployments "ground to a near-halt" as industry-wide uncertainty over the investigation unfolded.¹ Final resolution of the investigation is not expected before May 2023.

PacifiCorp Merchant Function's delay signing Power Purchase Agreements (PPAs). Last year, PacifiCorp Merchant withheld signing PPAs with Sunthurst Community Solar Projects until PacifiCorp Interconnection executed corresponding Interconnection Agreements, in spite of the Commission's prior order that PacifiCorp not do so. PacifiCorp stopped withholding signing after Sunthurst complained to the PUC, but PacifiCorp's delay prevented Sunthurst from finalizing project finance for all five of its projects for approximately three months, during which time loan rates increased substantially.

Since the signed interconnection agreements or amendments, we secured tax equity financing commitments for all projects. However, valuation is tied to IRA guidance unilaterally delayed by the IRS and the chief reasons contributing to Sunthurst's failure to make milestone payments. These were all beyond Sunthurst's reasonable control. Sunthurst has preserved its project rights and has pending construction financing for all five projects

¹ *Commerce pushes preliminary solar antidumping tariff decision to December 1, 2022*, PV Magazine, Nov 15, 2022 (<https://pv-magazine-usa.com/2022/11/15/commerce-pushes-solar-antidumping-tariff-decision-to-2023/>)



Sunthurst Energy, LLC

but not until some or all of the above delays resolve. Accordingly, Sunthurst respectfully requests that the milestone payments dates be delayed as follows:

Revised Milestones	PRS1	PRS2	Tutuilla	Buckaroo 1	Buckaroo 2
Payment 1	Done	Done	Done	5/1/23	5/1/23
Payment 2	Done	X	Done	X	X
Payment 3	9/1/23	9/1/23	9/1/23	X	X
Payment 4	1/1/24	1/1/24	1/1/24	3/1/24	3/1/24
Payment 5	4/1/24	4/1/24	4/1/24	10/1/24	10/1/24

X- indicates further refinement based on PacifiCorp’s reasonable interim date/charges.

Y-The revised milestone dates assume the IRS Guidance for Inflation Reduction Act’s domestic content and low-income communities with application and project acceptance is received by August 30, 2023, and December 1, 2023, respectively.

I am enclosing a copy of this letter with my status report to the Commission in UM 2177. Reasonable extension of the milestones is necessary for the success of all five Projects, and I look forward to reaching an agreement before the 60-day notice period expires.

Thank you for your continuing patience and help.

Sincerely,

Dan Hale
Sunthurst Energy, LLC
Managing-Member