

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 1829, UM 1830, UM 1831, UM 1832, UM 1833**

BLUE MARMOT V, LLC (UM 1829),  
BLUE MARMOT VI, LLC (UM 1830),  
BLUE MARMOT VII, LLC (UM 1831),  
BLUE MARMOT VIII, LLC (UM 1832),  
and  
BLUE MARMOT IX, LLC (UM 1833),

Complainants,

v.

PORTLAND GENERAL ELECTRIC  
COMPANY,

Defendant.

MOTION FOR PREHEARING  
CONFERENCE

**I. INTRODUCTION**

Blue Marmot V, LLC, Blue Marmot VI, LLC, Blue Marmot VII, LLC, Blue Marmot VIII, LLC, and Blue Marmot IX, LLC (collectively the “Blue Marmots”) hereby move the Oregon Public Utility Commission (the “Commission” or “OPUC”) Administrative Law Judge to set a prehearing conference to set a schedule for a Phase II of this proceeding to allow the Blue Marmots to demonstrate that achievement of the Blue Marmots’ stated commercial operation dates (“CODs”) is not possible due to the past and future litigation in these proceedings. The Blue Marmots have conferred with Portland General Electric Company who does not oppose scheduling a pre-hearing conference.

## II. MOTION

On September 30, 2019, the Commission issued an order granting in part and denying in part the Blue Marmots' requested relief. In briefing, the Blue Marmots requested that the Commission should direct PGE to execute the revised power purchase agreements with new CODs to reflect the delay caused by the litigation in these proceedings. Blue Marmot V and VI power purchase agreements have a November 30, 2019 COD, and Blue Marmot VII, VIII and IX power purchase agreements have March 31, 2020 COD. The Commission denied the Blue Marmots' request; however, the Commission afforded the Blue Marmots an opportunity to submit evidence in support of new CODs. Specifically, the Commission stated that:

We conclude that there is insufficient evidence on the record to demonstrate that achievement of the Blue Marmots' stated CODs is not possible due to litigation, and accordingly we decline to order an extension. The Blue Marmots may assert such a claim following this order, and PGE will be entitled, as it requests in its reply brief, to a full evidentiary proceeding with discovery as we consider this question.<sup>1</sup>

In accordance with Order No. 19-322, the Blue Marmots hereby assert a claim that the stated CODs are not possible due to litigation, and request an full evidentiary proceeding with discovery for the Commission to grant each of the Blue Marmots a revised COD. The Blue Marmots will ask that the revised CODs incorporate both the litigation to date as well as the anticipated litigation associated with determining the new

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<sup>1</sup> *Blue Marmots V, LLC, et al. v. PGE*, Docket No. UM 1829 et al., Order No. 19-322 at 20 (Sept. 30, 2019).

CODs. The Blue Marmots request that the ALJ schedule a prehearing conference in these dockets to establish a schedule to set new CODs.

### III. CONCLUSION

The Blue Marmots request that the ALJ set a prehearing conference to set a schedule for a Phase II of this proceeding regarding the appropriate COD for each of the power purchase agreements.

Dated this 26th day of November 2019.

Respectfully submitted,

Sanger Thompson, PC



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