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January 3, 2020

VIA ELECTRONIC FILING AND PRIORITY MAIL

PUC Filing Center
Public Utility Commission of Oregon
PO Box 1088
Salem, OR 97308-1088

**Re: Docket UM 2009: In the Matter of the Complaint of Madras PV1, LLC, against
Portland General Electric Company.**

Attention Filing Center:

Attached for filing in the above-captioned docket is Portland General Electric Company's Motion to Amend Answer and Counterclaim and First Amended Answer and Counterclaims. Confidential copies will be sent via Priority Mail to parties who have signed Protective Order No. 19-162.

Please contact this office with any questions.

Sincerely,

A handwritten signature in black ink that reads 'Alisha Till'.

Alisha Till
Paralegal

Attachments

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2009

Madras PV1, LLC,
Complainant,

v.

Portland General Electric Company,
Defendant.

**PORTLAND GENERAL ELECTRIC
COMPANY’S MOTION TO AMEND
ANSWER AND COUNTERCLAIM**

I. INTRODUCTION

1 Pursuant to Oregon Rule of Civil Procedure (ORCP) 23,¹ Portland General Electric
2 Company (PGE or Company) respectfully asks the Public Utility Commission of Oregon
3 (Commission) to accept PGE’s First Amended Answer and Counterclaims (Amended
4 Counterclaim), which conforms the pleadings in this proceeding to the Administrative Law
5 Judge’s (ALJ) recent Ruling.² In that Ruling, the ALJ declined PGE’s request to strike substantial
6 interconnection-related testimony and exhibits from the record—specifically, testimony from
7 Madras PV1, LLC (Madras Solar) critiquing PGE’s System Impact Re-Study (SIS), which was
8 the latest interconnection study applicable at the time. The Ruling clarified that the scope of this
9 proceeding properly includes “the issue of interconnection in general, and the dispute over
10 interconnection costs specifically[.]”³

¹ OAR 860-001-0000(1) (“The [ORCP] . . . apply in contested case and declaratory ruling proceedings unless inconsistent with these rules, a Commission order, or an Administrative Law Judge (ALJ) ruling.”).

² Docket UM 2009, Ruling (Dec. 9, 2019) (“Ruling”).

³ Ruling at 5.

1 To effectuate the ALJ’s Ruling, PGE’s Amended Counterclaim incorporates a specific
2 request for the Commission to resolve the validity of the Company’s interconnection studies,
3 including the necessary interconnection costs.⁴ Specifically, PGE’s Amended Counterclaim asks
4 that the Commission confirm the validity of PGE’s SIS and Facilities Study—the latter of which
5 was issued immediately prior to the ALJ’s Ruling and serves as the final and more detailed study
6 in the interconnection process. Madras Solar objects to both studies on largely identical grounds.
7 Thus, the Amended Counterclaim will conform the pleadings in this case to the scope of the
8 proceeding as defined by the ALJ’s Ruling, will update the record with the most recent
9 interconnection study, and will further judicial efficiency by ensuring that issues already being
10 litigated in this proceeding are also fully and fairly resolved.⁵ A redline version of the Amended
11 Counterclaim is attached as Attachment 1. A clean version of the Amended Counterclaim, with
12 accompanying attachments, is attached as Attachment 2.

II. DISCUSSION

13 A. PGE’s Amended Counterclaim conforms the pleadings in this case to the recent ALJ 14 Ruling.

15 ORCP 23B provides that pleadings may be amended “to cause them to conform to the
16 evidence” presented, where issues not raised in the pleadings are nonetheless “tried by express or
17 implied consent of the parties[.]” Such amendment may be made by “motion of any party at any

⁴ Amended Counterclaim at 36.

⁵ The Amended Counterclaim also reflects the fact that, at the Facilities Study stage, Madras Solar was studied for Network Resource Interconnection Service only. See Amended Counterclaim at 4-5, 29.

1 time, even after judgment.”⁶ Amendment to conform to the evidence is appropriate when doing
2 so would facilitate “presentation of the merits of the action,” and where “the objecting party fails
3 to satisfy the court that the admission of such evidence would prejudice [the objecting] party in
4 maintaining an action or defense upon the merits.”⁷

5 Here, the ALJ’s Ruling concluded that “both parties have effectively, through their claims,
6 counterclaims, answers, and through their proposed and disputed PPA terms[,] made
7 interconnection issues part of this proceeding.”⁸ The Ruling went on to state that “the issue of
8 interconnection in general, and the dispute over interconnection costs specifically, [are] a part of
9 this proceeding.”⁹ Thus, the Ruling made clear that the parties’ disputes concerning the validity
10 of PGE’s interconnection studies and the cost of network upgrades are part of this proceeding,
11 whether or not they are squarely reflected in the pleadings.

12 In order to effectuate the ALJ’s Ruling and formally conform the parties’ pleadings to the
13 scope of this dispute, PGE requests leave to amend its Counterclaim. Specifically, PGE’s
14 Amended Counterclaim asks the Commission to conclude that PGE properly performed Madras
15 Solar’s SIS and Facilities Study, and that Madras Solar is obligated to pay for costs identified in
16 the Facilities Study.¹⁰

⁶ ORCP 23B.

⁷ ORCP 23B.

⁸ Ruling at 3.

⁹ Ruling at 5.

¹⁰ PGE’s Amended Counterclaim at 36.

1 Madras Solar has already filed extensive testimony addressing the validity of PGE's SIS—
2 including the relevance of a deliverability analysis,¹¹ the resulting cost figures,¹² and who is
3 responsible for paying any such costs.¹³ Madras Solar's testimony addressed and attached the SIS,
4 which was the most recent interconnection study at the time.¹⁴ However, PGE recently completed
5 Madras Solar's Facilities Study, attached as Attachment C to the Amended Counterclaim. The
6 Facilities Study is the final study in the interconnection process provides a more granular pricing
7 assessment and analysis of those upgrades identified in the SIS. PGE understands that Madras
8 Solar's concerns regarding the new Facilities Study are largely the same as those addressing the
9 previous stages in the interconnection study process.¹⁵ Therefore, Madras Solar's pleadings and
10 testimony critiquing the SIS are equally relevant to the Facilities Study.

11 Given that Madras Solar has already incorporated the bulk of the parties' interconnection
12 studies into the record in this case, the evidence necessary to resolve the dispute plainly does not
13 prejudice Madras Solar's ability to maintain a defense on the merits under ORCP 23B.

14 **B. PGE's Amended Counterclaim promotes judicial efficiency by ensuring that the**
15 **parties' interconnection dispute is fully and fairly resolved.**

16 In the alternative, if the Commission believes that the Amended Counterclaim's request to
17 resolve the validity of Madras Solar's interconnection studies is not required pursuant to

¹¹ Madras Solar/300, Rogers/44, 50-53, 59-60; Madras Solar/400, Yang/4-10, 17-20, 35-47, 52-57, 59-60.

¹² Madras Solar/300, Rogers/66; Madras Solar/400, Yang/9-10, 58.

¹³ Madras Solar/300, Rogers/25.

¹⁴ Madras Solar/304 (Feasibility Study); Madras Solar/305 (Amended Feasibility Study); Madras Solar/306 (System Impact Study); Madras Solar/307 (Revised System Impact Study).

¹⁵ See Attachment 3. In addition to claims precisely overlapping with issues raised in Madras Solar's testimony, Madras Solar has included a handful of additional issues that would have been equally applicable to the SIS.

1 ORCP 23B, then it should nonetheless accept the Amended Counterclaim under ORCP 23A.
2 ORCP 23A provides that leave to amend a complaint to introduce new claims “shall be freely
3 given when justice so requires.”¹⁶ Oregon’s courts have interpreted this standard to mean that
4 amendment “should normally be allowed unless the other party would be prejudiced in some
5 respect.”¹⁷ This standard is consistent with ORS 756.500(5), which states that a complaint may
6 be amended by order of the Commission “at any time before the completion of taking evidence,”
7 provided that the defendant of any new charges must be given “reasonable time to investigate the
8 new charge and answer the amended complaint.”

9 Here, PGE’s Amended Counterclaim will plainly not prejudice Madras Solar because
10 Madras Solar has already thoroughly addressed the issues in dispute. As noted above, Madras
11 Solar’s testimony addressed in detail the validity of PGE’s interconnection studies and the
12 resulting costs, as well as whether any identified costs should be Madras Solar’s responsibility. In
13 addition, Madras Solar has acknowledged that its interconnection is subject to this Commission’s
14 jurisdiction.¹⁸ Indeed, Madras Solar has recognized that “the current interconnection related
15 disputes . . . will need to be adjudicated and resolved prior to Madras Solar executing an
16 interconnection agreement.”¹⁹ This Commission has made clear that providing parties with the
17 ability to seek Commission resolution of state-jurisdictional interconnection disputes “is
18 important . . . for reasons of both efficiency and consistency.”²⁰ In light of Madras Solar’s desire

¹⁶ ORCP 23A.

¹⁷ *Reeves v. Reeves*, 203 Or. App. 80, 84 (2005) (citing *Quirk v. Ross*, 257 Or 80, 83 (1970) and *Franke v. ODFW*, 166 Or App 660, 669 (2000)).

¹⁸ Madras Solar’s Answer to Counterclaim at 6 (Aug. 12, 2009) (“Madras Solar is willing . . . to submit that its interconnection be considered state-jurisdictional).

¹⁹ Madras Solar/400, Yang/3.

²⁰ See Order No. 10-132 at 7.


1 to litigate its interconnection issues in front of the Commission, it would not prejudice Madras
2 Solar for the Commission to render a full and final decision on the merits.

III. CONCLUSION

3 PGE respectfully requests that the Commission accept the accompanying Amended
4 Counterclaim as conforming to the recent ALJ Ruling defining the scope of this proceeding, and
5 to ensure that issues already being litigated in this proceeding are also fully resolved.

Dated January 3, 2020

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2009

Portland General Electric Company

**Attachment 1 to
Motion to Amend Answer and Counterclaim**

AMENDED COUNTERCLAIM

Redline Version

January 3, 2020

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 2009**

Madras PV1, LLC,
Complainant,

v.

Portland General Electric Company,
Respondent.

**PORTLAND GENERAL ELECTRIC COMPANY'S
FIRST AMENDED ANSWER AND COUNTERCLAIMS**

~~June 11, 2019~~January 3, 2020

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**PORTLAND GENERAL ELECTRIC
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ANSWER AND COUNTERCLAIMS**

I. INTRODUCTION

Madras PV1, LLC, (Madras) asks for a Schedule 202 power purchase agreement (PPA) with avoided cost prices that are based on the assumption that it will pay for Network Resource Interconnection Service (NRIS), which ensures adequate transmission capacity for the project's output to reach load. At the same time, Madras refuses to commit to obtaining that interconnection service or paying for the associated network upgrades. Madras seeks to avoid paying for interconnection upgrades under the creative fiction that its interconnection falls within the Federal Energy Regulatory Commission's (FERC) jurisdiction. Madras attempts to invoke FERC's jurisdiction and avoid paying for the necessary interconnection service by asking the Public Utility Commission of Oregon (Commission) to insert into the PPA a right for Madras to sell its relatively miniscule amount of pre-commercial operation date (COD) test energy to a purchaser other than Portland General Electric Company (PGE)—even though Madras will then sell the entirety of its net output to PGE for at least the next fifteen years. To protect PGE's customers from bearing the costs for which Madras is properly responsible, the Commission should deny Madras's claims and grant PGE's counterclaims, which properly (and fairly) allocates costs caused by a qualifying facility's (QF) siting decision.

II. SUMMARY

On April 22, 2019, Madras filed a complaint with the Commission against PGE, pursuant to both the Commission's dispute resolution rules for negotiated PPAs under the Public Utilities Regulatory Policies Act of 1978 (PURPA)¹ and the Commission's standard complaint rules.²

Madras is a solar project with a nameplate capacity of approximately 66 megawatt (MW) planned for development by Ecoplexus, Inc. (Ecoplexus) in Jefferson County, Oregon, on a site approximately 100 miles east of PGE's service territory. Once Madras begins commercial operations, it seeks to sell the entirety of its net available capacity to PGE as a QF under PURPA. Madras seeks to interconnect to PGE's system on the generation lead line for the Pelton-Round Butte Hydroelectric Project (PRB or Project). The sole path to PGE's load from this location over PGE's system is via PGE's Bethel-to-Round Butte 230 kV transmission line—a line that is already fully committed to carrying PRB's output. While Madras claims that the dispute between the parties presents a narrow question of what terms and prices to include in its negotiated PPA, this proceeding actually presents critical issues regarding the allocation of costs associated with required network upgrades caused by a QF's siting decision, where that QF attempts to exclude those costs from both its avoided cost prices *and* from its interconnection process.

In Oregon, the interconnection and network upgrade costs associated with a large QF siting in a transmission-constrained area are not directly incorporated into a utility's avoided cost prices, but are instead allocated pursuant to the Commission's QF Large Generator Interconnection Procedures (QF LGIP). Specifically, the QF LGIP requires a QF to obtain NRIS, as defined by FERC.³ NRIS ensures that a generator can deliver its output to the interconnecting utility's load on a firm basis, by establishing that the aggregate of generation in the area where the interconnection customer is siting can successfully reach the aggregate of load over the utility's system during peak conditions.⁴ By comparison, Energy Resource Interconnection Service (ERIS)

¹ OAR 860-029-0100.

² OAR 860-001-0400. Both OAR 860-029-0100 and 860-001-0400 are promulgated pursuant to ORS 756.500, which authorizes the Commission to dispose of complaints within the Commission's jurisdiction.

³ Order No. 10-132, Appendix A at 15 (requiring the QF interconnection customer to obtain NRIS).

⁴ FERC Order 2003-A at ¶ 500.

1 is a basic interconnection service that makes a generator eligible to deliver its output on an “as-
2 available” basis, but does not ensure that a project’s output can reach load. The QF LGIP further
3 establishes the presumption that the QF will bear responsibility for the costs of obtaining NRIS,
4 including any necessary network upgrades. The QF LGIP is applicable to QFs with state-
5 jurisdictional interconnections—that is, where the QF intends to sell the entirety of its net output
6 to the interconnecting utility.

7 A QF’s interconnection process is explicitly incorporated into PGE’s PURPA PPA
8 negotiation process for QFs larger than 10 MW, as codified in PGE’s Commission-approved
9 Schedule 202. Under Schedule 202, a QF is entitled to a draft PPA only after the QF provides
10 “[e]vidence that any necessary interconnection studies have been completed and assurance that the
11 necessary interconnection arrangements have been executed or are under negotiation.”⁵ Ensuring
12 that a QF is obtaining adequate interconnection service is critical because a project’s avoided cost
13 pricing may differ significantly depending on whether the upgrades necessary to ensure
14 deliverability of the facility’s output are captured in the interconnection process or need to be
15 folded into the facility’s avoided cost prices. The facility’s interconnection arrangements are also
16 relevant to determine whether the project’s proposed COD is feasible.

17 Here, Ecoplexus was cautioned from the outset of negotiations by both PGE’s Merchant
18 Function (PGEM) and PGE’s Transmission Function (PGET) that an interconnection near PRB
19 would likely require substantial and costly network upgrades. Indeed, due to the lack of
20 transmission capacity on PGE’s system in that area, PGE’s Open Access Same-Time Information
21 System (OASIS) website has specifically designated the Round Butte substation as physically
22 constrained from the rest of PGE’s system, with no available capacity to reach PGE’s load.

23 Nonetheless, Ecoplexus not only proceeded with its efforts to interconnect Madras on the
24 PRB generation lead line, but has since sought to avoid responsibility for Madras’s
25 interconnection-related costs. Specifically, despite intending to sell the entirety of Madras’s

⁵ PGE’s Schedule 202, Section 4.

1 commercial net output to PGE, Ecoplexus claims that its interconnection is nonetheless FERC-
2 jurisdictional because it intends to preserve the right to sell its pre-COD energy to a third party as
3 a wholesale sale. Ecoplexus has claimed that, because Madras's interconnection is FERC-
4 jurisdictional, Madras is therefore entitled to seek ERIIS only or to receive refunds for any network
5 upgrades necessary to obtain NRIS.⁶

6 Despite refusing to commit to obtaining NRIS, Ecoplexus claims that it is entitled to
7 execute a PPA—and thereby fix its project's avoided cost prices—on the *assumption* that Madras
8 will obtain and pay for NRIS. Specifically, Ecoplexus directed PGE's QF-contracting personnel
9 *to assume, for purposes of developing the PPA*, that Madras will request NRIS as a state-
10 jurisdictional interconnection. However, once PGEM drafted a PPA to this effect, specifically
11 assuming that the project would obtain NRIS, Ecoplexus proceeded to modify the PPA provisions
12 to undermine that very assumption. Indeed, even after directing PGEM to draft a PPA assuming
13 that Madras would obtain NRIS under the QF LGIP, Ecoplexus ~~has~~ continued to pursue
14 interconnection studies for both NRIS *and ERIIS* with PGET. Ecoplexus~~has~~ further insisted that
15 PGET undertake FERC-jurisdictional (rather than state-jurisdictional) interconnection studies by
16 refusing to confirm that its project is a QF, even while simultaneously pursuing QF negotiations
17 with PGEM. In the face of such glaring inconsistencies regarding Madras's interconnection
18 process, Ecoplexus has undermined its own right to receive even a *draft* PPA—let alone a final
19 and executable contract.

20 Apart from Ecoplexus's ongoing equivocation regarding its willingness to pursue and pay
21 for NRIS, PGEM's negotiations have been systematically undermined by Ecoplexus's numerous
22 changes to its project's basic characteristics—including Madras's generation technologies, net
23 output, and nameplate capacity. Indeed, Ecoplexus recently indicated that it still had only a

⁶ Madras seems to assume that a QF with a FERC-jurisdictional interconnection may choose either ERIIS or NRIS—
a claim that PGE would dispute. On the contrary, it is PGE's position that all QF's are obligated to pursue and pay for
interconnection that ensures the deliverability of their output, which is only achieved by obtaining NRIS

“reasonable best guess” as to what its project will look like.⁷ As shown in Table 1, these significant changes continued through March of 2019, and required PGEM to continually reevaluate the project’s value to PGE including any impact on the project’s avoided cost prices.

Table 1: Chart of Madras Size Changes⁸

Date of Change	Net Dependable Capacity	Nameplate Capacity
Oct. 17, 2017	79.7 MW	80.0 MW
Oct. 8, 2018 (letter)	<i>unstated</i>	65 MW-AC
Oct. 8, 2018 (PPA)	65 MW-AC	80 MW-DC
Nov. 7, 2018	<i>unstated</i>	63 MW-AC
Jan.22, 2019	63 MW-AC	75 MW-DC
Mar. 29, 2019	63 MW-AC	65.784 MW-DC

Despite these ongoing problems, PGEM has remained committed to attempting to find a reasonable solution and to establishing a fairly negotiated PPA for Madras. For instance, despite Ecoplexus’s ~~ongoing~~ refusal to clarify which form of interconnection service it seeks to pursue, and despite the fact that such clarity is critical to solidifying Madras’s avoided cost prices, PGEM offered to prepare a draft PPA with extensive placeholders, until such time as Ecoplexus could commit to the necessary interconnection service, as required by Schedule 202.

Now, in its Complaint, Madras asks the Commission to conclude that Madras is both entitled to an executable PPA, and that this PPA (and the accompanying avoided cost prices) can remain in effect even if Madras successfully avoids responsibility for obtaining and paying for NRIS. Towards this end, Madras seeks Commission resolution of both the PPA’s terms and conditions, as well as various claimed violations of rule and law in the negotiation process. Specifically, Madras asks the Commission to resolve six discrete PPA terms, as presented in its attached PPA (Madras’s Proposed PPA): (a) the applicable avoided cost prices; (b) the project’s nameplate capacity; (c) metering requirements; (d) a price-adjustment provision in case Madras refuses to pay for obtaining NRIS; (e) the project’s COD, as it relates to executing an Interconnection Agreement; and (f) providing for the sale of Madras’s test energy. In addition,

⁷ See Testimony of John Morton (PGE/100, Morton/25).

⁸ Table 1 summarizes Madras’s size changes, described in detail in Section III.A, below.

1 Madras presents the following legal claims: (1) that Madras has established a legally enforceable
2 obligation (LEO) either to the avoided cost prices in effect on May 4, 2018 (by unilaterally
3 executing a modified version of PGE's Standard, Schedule 201 PPA), or to the avoided cost prices
4 in effect on or before April 22, 2019 (by committing to sell the project's output to PGE during
5 PPA negotiations); (2) that PGE inappropriately delayed the negotiation process; and (3) that PGE
6 failed to negotiate in good faith by rejecting Madras's proposed PPA terms and by insisting on
7 unreasonable terms in return.

8 Madras's legal claims are meritless for the following reasons:

- 9 • **First**, Madras has not established a LEO either by executing a modified Standard
10 PPA or during the negotiation process. A QF larger than 10 MW cannot establish
11 a LEO by unilaterally signing a Schedule 201 PPA to which that QF is not entitled.
12 Madras has also failed to establish a LEO during the project's PPA negotiations
13 because it has yet to provide adequate assurances regarding its interconnection
14 arrangements, and has repeatedly changed both its nameplate capacity and net
15 output.
- 16 • **Second**, the parties' protracted negotiation timeline was not caused by
17 unreasonable delays on the part of PGE, but instead was the result of Ecoplexus's
18 unwillingness to clarify its intent to accept responsibility for network upgrades
19 caused by its interconnection, or to finalize its project's basic size and output
20 parameters.
- 21 • **Third**, contrary to Madras's claims, PGE acted in good faith at all times during the
22 negotiations and was entitled to insist on commercially reasonable terms to protect
23 its customers—particularly given Ecoplexus's unwillingness to commit to a clear
24 interconnection process for Madras.

25 Despite the fact that Ecoplexus does not yet have the right to an executable PPA for its Madras
26 project, PGE nonetheless asks the Commission to assist the parties in resolving their
27 disagreements. Through its separate counterclaims, PGE asks that the Commission find that any

1 PPA for the Madras project affirmatively include the following terms, which are incorporated into
2 the draft proposed PPA attached to this Answer as Exhibit A (PGE's Proposed PPA):

3 (a) Two "whereas" clauses reflecting the specific factual circumstances in which this
4 PPA is being drafted—namely, Ecoplexus's direction to assume that its project will
5 obtain NRIS. (PGE's Proposed PPA, page 1)

6 (b) A revised definition of "Fixed Price" clarifying that the project's avoided cost
7 prices are explicitly contingent on Madras obtaining NRIS under this
8 Commission's QF LGIP. (PGE's Proposed PPA, Section 1.32)

9 (c) An explicit obligation for Madras to obtain NRIS. (PGE's Proposed PPA,
10 Section 3.9)

11 (d) Milestones associated with Madras's Interconnection Agreement, including
12 concrete timelines consistent with a date certain for the project's COD. (PGE's
13 Proposed PPA, Sections 2.1(f) and (g))

14 (e) A COD that conforms to the project's SIS, including the time to develop necessary
15 interconnection-related network upgrades. (PGE's Proposed PPA, Section 2.4)

16 (f) A test energy provision providing that such incidental output will be sold to PGE—
17 the sole purchaser of Madras's operational net output—at the Market Settlement
18 Index Price. (PGE's Proposed PPA, Section 2.3)

19 In addition, PGE requests that the Commission find that PGE properly performed its System
20 Impact Re-Study and Facilities Study for Madras, and that Madras is obligated to pay for the costs
21 of network upgrades as reflected in the Facilities Study.

22 In the interest of clarity, PGE has organized this Answer by first responding to each of
23 Madras's numbered allegations and claims, including disputed PPA terms, before turning to PGE's
24 own counterclaim~~s~~, including substantial additional alleged facts, proposed PPA terms, and
25 prayers for relief. Also attached are three pieces of testimony that provide (1) a detailed discussion

1 of PGEM's experience attempting to negotiate a PPA for Madras with Ecoplexus,⁹ (2) an overview
2 of the transmission constraints and interconnection issues provided by PGET,¹⁰ and finally (3) a
3 high-level background on PRB, as relevant to the parties' negotiations and legal disputes.¹¹

III. ANSWER

4 PGE hereby answers Madras's Complaint. PGE denies any allegation not specifically
5 admitted herein and reserves the right to supplement this Answer if Madras amends its Complaint.
6 As for the introductory portion of Madras's Complaint, entitled "Introduction," this section simply
7 restates facts and arguments alleged later in the Complaint, nor are the paragraphs in this section
8 enumerated. For these reasons, PGE is not required to respond to the assertions contained in this
9 section. To the extent a response is necessary, PGE denies the allegations in the "Introduction"
10 section. With respect to the particular numbered paragraphs of the Complaint, PGE answers as
11 follows:

A. Identity of Parties

- 12
- 13 1. PGE admits the allegations in paragraph 1.
 - 14 2. PGE has insufficient information or knowledge to admit or deny the truth of the
15 allegations in paragraph 2 of the Complaint, which relate to the identity and corporate structure of
16 Madras, as well as Madras's status as a QF.

B. Applicable Statutes and Regulations

- 17
- 18 3. Paragraph 3 contains statements and conclusions of law, which require no response.
 - 19 4. Paragraph 4 contains statements and conclusions of law, which require no response.

C. Jurisdiction

- 20
- 21 5. Paragraph 5 contains statements and conclusions of law, which require no response.
 - 22 6. Paragraph 6 contains statements and conclusions of law, which require no response.

⁹ Testimony of John Morton (PGE/100).

¹⁰ Testimony of Shaun Foster and Sean Larson (PGE/200).

¹¹ Testimony of Megan Hill, Chad Croft, and Ryin Khandoker (PGE/300).

D. Madras's Factual Allegations

7. PGE has insufficient information or knowledge to admit or deny the truth of the allegations in paragraph 7 as to the size of the Madras project. PGE admits that Ecoplexus most recently represented to PGEM that its project has a 63 MW alternating current (AC) net available capacity and a 65.784 MW direct current (DC) nameplate capacity rating. PGE admits that Ecoplexus has represented that the Madras project will be located in Jefferson County, Oregon.

8. PGE admits the allegations in paragraph 8. However, PGE adds that Ecoplexus also seeks to establish sales to PGE for the Madras project under a modified version of PGE's Schedule 201, which Ecoplexus submitted to PGEM on May 4, 2018, and which applies to QFs with an aggregate nameplate capacity equal to or less than 10 MW.

9. PGE admits the allegations in paragraph 9.

10. PGE admits the allegations in paragraph 10.

11. PGE admits the allegation in paragraph 11 that, on November 10, 2017, PGEM requested additional or clarifying information regarding the facility's intended point of delivery (POD), as well as other project attributes. PGE further admits that, on November 14, 2017, Ecoplexus responded to clarify that the Madras project would be an on-system QF—requiring a point of interconnection (POI), not a POD—by seeking to interconnect directly to PGE's generation lead line connecting PRB to the Round Butte substation.

12. PGE denies the allegation in paragraph 12 that, on December 19, 2017, PGEM stated without qualification that it could not accept deliveries at the Round Butte POD. Rather, PGEM explained that Madras could either request a study that would evaluate the costs associated with interconnecting at the chosen location, or could choose to deliver at a different location. However, given that Ecoplexus had requested only ERIS, and given that no capacity existed at the proposed delivery point, PGEM was unable to evaluate the project or provide indicative prices.

13. PGE admits the allegations in paragraph 13.

14. PGE admits the allegations in paragraph 14.

15. PGE admits the allegations in paragraph 15.

1 16. PGE admits the allegations in paragraph 16, but clarifies that PGEM provided
2 indicative pricing under the explicit assumption that Ecoplexus would obtain and pay for NRIS.

3 17. PGE admits the allegations in paragraph 17.

4 18. PGE admits the allegations in paragraph 18.

5 19. PGE admits the allegations in paragraph 19, insofar as these allegations reflect the
6 assertions made by Ecoplexus.

7 20. PGE admits the allegation in paragraph 20 that, also on May 4, 2018, Ecoplexus
8 informed PGE that it had established a LEO for the 80 MW Madras project pursuant to a modified
9 version of PGE's Schedule 201 PPA. PGE admits that, notwithstanding Ecoplexus's claim to have
10 established a LEO pursuant to this modified Standard PPA, Ecoplexus asked PGEM to provide a
11 draft negotiated PPA. PGE denies that Ecoplexus committed itself to selling the energy and
12 capacity of the Madras facility in accordance with the Schedule 201 PPA.

13 21. PGE admits the allegations in paragraph 19, insofar as these allegations reflect the
14 assertions made by Ecoplexus.

15 22. PGE admits the allegations in paragraph 22.

16 23. PGE admits the allegations in paragraph 23.

17 24. PGE admits the allegations in paragraph 24.

18 25. PGE admits the allegations in paragraph 25.

19 26. PGE admits the allegations in paragraph 26.

20 27. PGE admits the allegations in paragraph 27.

21 28. PGE admits the allegations in paragraph 28.

22 29. PGE admits the allegations in paragraph 19 except, insofar as these allegations
23 describe assertions made by Ecoplexus, PGE admits only that these allegations reflect Ecoplexus's
24 assertions.

25 30. PGE admits the allegations in paragraph 30.

26 31. PGE denies the allegation in paragraph 31 that, on November 14, 2018, PGEM
27 responded without qualification that it would not be able to provide an executable PPA. PGE

1 clarifies that, on November 14, 2018, PGEM responded that it would not be able to provide an
2 executable PPA by November 16, 2018, because significant terms were still being negotiated and
3 because key project attributes were continuing to change.

4 32. PGE admits the allegation in paragraph 32 that, on November 26, 2018, Ecoplexus
5 responded to PGEM and requested that PGE provide an executable draft PPA. PGE denies that
6 Ecoplexus asked PGE to propose a date and time for in-person negotiations. PGE admits the
7 remainder of the allegations in paragraph 32, insofar as these allegations reflect Ecoplexus's
8 assertions.

9 33. PGE admits the allegations in paragraph 33.

10 34. PGE admits the allegations in paragraph 34.

11 35. PGE admits the allegations in paragraph 35.

12 36. PGE admits the allegations in paragraph 36.

13 37. PGE admits the allegations in paragraph 37.

14 38. PGE admits the allegations in paragraph 38.

15 39. PGE admits the allegations in paragraph 39.

16 40. PGE admits the allegations in paragraph 40.

17 41. PGE admits the allegations in paragraph 41.

18 42. PGE admits the allegations in paragraph 42.

19 43. PGE admits the allegations in paragraph 43.

20 44. PGE admits the allegations in paragraph 44, to the extent that the allegations
21 describe the representations made by Ecoplexus.

22 45. PGE admits the allegations in paragraph 45, subject to the clarification that PGEM
23 informed Ecoplexus that the parties—not merely PGEM—had not reached agreement as to the
24 draft PPA's terms and conditions, and therefore providing an executable PPA would be
25 inappropriate.

26 46. PGE admits the allegations in paragraph 46.

1 47. PGE has insufficient information or knowledge to admit or deny the truth of the
2 allegations in paragraph 47, which relate to Ecoplexus’s assessment and opinions of the PPA
3 provided by PGEM, and therefore PGE denies the same.

4 48. PGE admits the allegations in paragraph 48, to the extent that the allegations
5 describe the representations made by Ecoplexus.

6 49. PGE has insufficient information or knowledge to admit or deny the truth of the
7 allegations in paragraph 49, which describe Ecoplexus’s understanding and belief, and therefore
8 denies the same.

9 50. PGE denies the allegation in paragraph 50 that it failed to timely respond to requests
10 for information and documents. PGE denies Ecoplexus’s characterization of the time periods
11 associated with providing both indicative prices and a draft PPA, as the characterization
12 presupposes that Ecoplexus had provided sufficient information to be entitled to receive such
13 information and documents.

14 51. PGE denies Ecoplexus’s characterization in paragraph 51 that it “finally” provided
15 indicative pricing and a draft PPA to the extent that this characterization suggests that PGE’s
16 provision of indicative pricing and a draft PPA was less than timely. PGE denies that it “delayed”
17 responding to Ecoplexus’s questions or that it failed to timely return documents, including PPA
18 redlines.

19 52. PGE denies the allegations in paragraph 52 that it imposed unreasonable restrictions
20 on the contracting process. PGE denies that the constraints at the Round Butte POD are “alleged.”
21 PGE denies that it inappropriately delayed providing Ecoplexus with a draft PPA when Ecoplexus
22 refused, and still refuses, to commit to seeking and paying for the necessary interconnection
23 service.

24 53. With respect to the allegations in paragraph 53, PGE admits that, with the stated
25 assumption that Ecoplexus would agree to seek NRIS, PGEM agreed that Ecoplexus could attempt
26 to provide for deliveries at the Round Butte POD. PGE denies that it agreed that interconnection
27 studies need not be completed prior to PPA execution to the extent this allegation suggests either

1 that PGEM had previously required *all* interconnection studies to be completed prior to PPA
2 execution or that *no* interconnection arrangements needed to be completed prior to PPA execution.
3 Rather, PGE informed Ecoplexus that it would need to request a study for NRIS.

4 54. PGE denies the allegation in paragraph 54 that it has delayed the negotiation
5 process. PGE has insufficient information or knowledge to admit or deny the truth of the allegation
6 that Ecoplexus has been unable to develop its project due to any delays in the negotiations, and
7 therefore denies the same.

8 55. PGE denies the allegation in paragraph 55 that Ecoplexus is ready, willing, and able
9 to abide by the PPA that it executed on May 4, 2018, given that it has already materially and
10 repeatedly revised its project's size and planned output in a manner that fails to conform to that
11 PPA.

12 56. PGE has insufficient information or knowledge to admit or deny the truth of the
13 allegation in paragraph 56 that Ecoplexus is ready, willing, and able to abide by the PPA that
14 Ecoplexus attached to its Complaint, and therefore denies the same.

15 57. PGE admits the allegations in paragraph 57.

16 **E. Madras's Proposed PPA Terms**

17 58. PGE admits that Madras's developer, Ecoplexus, provided written comments on
18 PGEM's draft PPA on October 8, 2018, and that this is more than 60 days before Madras filed this
19 Complaint. The remaining allegations in paragraph 58 are legal conclusions which require no
20 response.

21 59. PGE admits the allegation in paragraph 59 that Ecoplexus conducted negotiations
22 with PGEM. PGE denies that Ecoplexus conducted other methods of informal dispute resolution
23 over the matters addressed in this complaint. PGE admits that Ecoplexus and PGEM exchanged
24 information and held discussions. To the extent that paragraph 59 realleges factual assertions in
25 the preceding paragraphs, PGE refers to and incorporates its admissions and denials in the
26 preceding paragraphs.

1 60. PGE admits the allegation in paragraph 60 that Madras has provided a proposed
2 PPA, including those terms on which the parties have reached agreement. PGE denies that
3 Madras's proposed agreement encompasses all matters that are in dispute. PGE responds to the
4 matters that Madras claims are disputed, below, and then describes those matters that PGE believes
5 are disputed.

6 61. PGE has insufficient information or knowledge to admit or deny the truth of the
7 allegation that Madras's testimony supports Madras's complaint.

8 62. PGE admits that the parties dispute:
9 a. the applicable avoided cost prices;
10 b. provisions ensuring that PGE will not be required to back down PRB due to
11 Madras refusing to obtain NRIS (Madras's Proposed PPA, Section 6.10);
12 c. the project's COD milestone related to executing an Interconnection Agreement
13 (Madras's Proposed PPA, Section 2.1(g)); and
14 d. the sale of test energy to a third party (Madras's Proposed PPA, Section 2.3).

15 PGE denies that the parties dispute:

16 e. the project's nameplate capacity (Madras's Proposed PPA, Exhibit E and page
17 1);
18 f. metering (Madras's Proposed PPA, Section 3.6)

19 63. The allegations in paragraph 63 set forth Madras's position as to the appropriate
20 terms for each of the above PPA provisions. As required by OAR 860-029-0100(7), PGE responds
21 to each of Madras's positions on the provisions in the order presented by Madras.

22 a. Avoided Cost Price.
23 Madras is not entitled to sell power to PGE at the avoided cost prices applicable in
24 the modified Schedule 201 PPA that Ecoplexus unilaterally revised and executed
25 on May 4, 2018. A Schedule 201 PPA applies only to a project with a nameplate
26 capacity equal to or less than 10 MW—substantially less than any of the nameplate
27 capacities offered for the Madras project. Madras is also not entitled to sell power

1 to PGE at the avoided cost prices in effect prior to April 23, 2019, because the
2 facility's draft PPA was still under negotiation and key aspects of the facility—
3 including nameplate capacity, net output, and interconnection status—have
4 continued to change in the weeks prior to Madras filing its Complaint. Pursuant to
5 PGE's Schedule 202, PGEM is responsible for providing an executable PPA with
6 final fixed avoided cost prices only after both parties have come to full agreement
7 as to the appropriate terms and conditions.

8 b. Nameplate Capacity.

9 PGE has no objection to the most recent change in the Madras facility's nameplate
10 capacity, but merely notes that such changes require PGEM to conduct additional
11 analysis to determine whether the new generation profile requires an adjustment to
12 the project's avoided cost prices. For instance, Madras's most recent nameplate
13 capacity change from 75 MW-AC to 65.784 MW-AC, while leaving the net output
14 unchanged, means that the project will meet its net output less often, resulting in a
15 different—and potentially less favorable—generation profile.

16 c. Metering.

17 While PGE had initially flagged this provision for review as part of its due
18 diligence, PGE has no objection to the metering language in Section 3.6.

19 d. Price Adjustment for Backing Down Pelton-Round Butte.

20 Madras opposes Section 6.10, initially offered by PGE, that would have allowed
21 PGE to adjust avoided cost prices if it were required to back down or redispatch its
22 other generation facilities—and, specifically, PRB—in order to accommodate the
23 delivery of Madras's output. PGE initially proposed this provision in an abundance
24 of caution, given the fact that Ecoplexus refused to commit to obtaining NRIS, and
25 repeatedly indicated its belief that PGE was obligated to back down PRB if
26 necessary to accommodate Madras's output. However, PGE has since determined
27 that the proposed language need not be included because (a) the PPA should require

1 NRIS, which would make the provision unnecessary; (b) PGE has no legal
2 obligation to back down its own generation to accommodate a QF's
3 interconnection, which fact renders the proposed language superfluous; and
4 (c) PGE has since concluded that it would be entirely infeasible to attempt to adjust
5 avoided cost prices to reflect the costs associated with backing down the PRB dams,
6 as such a scenario involves likely violations of both legal and contractual
7 obligations and associated penalties and damages.¹² Thus, PGE no longer seeks to
8 include this language, and has instead proposed alternative provisions to clarify
9 Madras's responsibility for obtaining and paying for NRIS.

10 e. Commercial Operation Date & Interconnection Agreement.

11 Madras claims that it needs to be allowed an indefinite extension from the
12 requirement to sign an Interconnection Agreement in order to allow time for
13 Ecoplexus to dispute before FERC the cost and need for network upgrades and
14 interconnection facilities. There are four problems with this proposal. **First**, the
15 PPA's COD must be a date certain to allow PGEM to accurately calculate the
16 project's applicable avoided cost prices. The COD's fixed date would be
17 undermined by allowing for an indefinite extension for one of the COD's
18 milestones—signing the Interconnection Agreement. **Second**, PGE disagrees that
19 the need for network upgrades associated with Madras's interconnection is a
20 question to be resolved by FERC, as the project seeks to sell the entirety of its
21 operational net output to PGE, and is therefore subject to the Commission's state-
22 jurisdictional interconnection process. Thus, there is no need to allow an extension
23 while Madras pursues FERC review. **Third**, PGE disagrees that Madras is entitled
24 to execute a PPA without committing to seek and pay for a specific type of
25 interconnection service, where such interconnection service would significantly

¹² For an overview of the limitations on PRB's operations, see the accompanying testimony of Megan Hill, Chad Croft, and Ryn Khandoker (PGE/300).

1 impact the prices and terms of the PPA. *And fourth*, the PPA was specifically
2 drafted, at Ecoplexus's direction, with the assumption that Madras will seek and
3 pay for NRIS. As a result, it would be inconsistent to include an unlimited
4 extension while Ecoplexus attempts to avoid this central assumption of the PPA.

5 f. Test Energy.

6 Madras's proposed test energy provision is commercially unreasonable and is
7 included solely as an attempt to evade the Commission's carefully crafted
8 interconnection policies, which are designed to protect customers from
9 unreasonable costs imposed by a QF's unilateral decision to site in transmission-
10 constrained areas. Attempts at jurisdictional gaming do not constitute a
11 commercially reasonable basis for including a term in a negotiated PURPA PPA,
12 particularly given that such efforts would harm PGE's customers. While Madras
13 is correct that it is entitled to insist upon *reasonable* PPA terms and conditions, a
14 term that seeks to exploit jurisdictional fissures at customers' expense is manifestly
15 unreasonable and should be denied.

16 64. The allegations in paragraph 64 attempt to characterize PGE's position with respect
17 to the disputed PPA provisions. PGE denies Madras's allegations to the extent that they differ
18 from the discussion of PGE's position stated above, in paragraph 63.

19 **F. Madras's Legal Claims**

20 1. Madras's First Claim for Relief

21 65. In response to paragraph 65, PGE refers to and incorporates herein all preceding
22 paragraphs.

23 66. The allegations in paragraph 66 are legal conclusions and require no response.

24 67. PGE denies the allegations in paragraph 67.

25 68. The allegations in paragraph 68 are legal conclusions and require no response.

26 69. The allegations in paragraph 69 are legal conclusions and require no response.

1 70. PGE denies the allegations in paragraph 70.

2 71. The allegations in paragraph 71 are legal conclusions and require no response.

3 72. PGE denies the allegations in paragraph 72.

4 73. PGE denies the allegations in paragraph 73.

5 74. The allegations in paragraph 74 are legal conclusions and require no response.

6 2. Madras's Second Claim for Relief

7 75. In response to paragraph 75, PGE refers to and incorporates herein all preceding
8 paragraphs.

9 76. The allegations in paragraph 76 are legal conclusions and require no response.

10 77. The allegations in paragraph 77 are legal conclusions and require no response.

11 78. The allegations in paragraph 78 are legal conclusions and require no response.

12 79. The allegations in paragraph 79 are legal conclusions and require no response.

13 80. The allegations in paragraph 80 are legal conclusions and require no response.

14 81. PGE denies the allegations in paragraph 81.

15 3. Madras's Third Claim for Relief

16 82. In response to paragraph 82, PGE refers to and incorporates herein all preceding
17 paragraphs.

18 83. The allegations in paragraph 83 are legal conclusions and require no response.

19 84. PGE denies the allegations in paragraph 84.

20 85. PGE denies the allegations in paragraph 85.

21 4. Madras's Fourth Claim for Relief

22 86. In response to paragraph 86, PGE refers to and incorporates herein all preceding
23 paragraphs.

24 87. The allegations in paragraph 87 are legal conclusions and require no response.

25 88. The allegations in paragraph 88 are legal conclusions and require no response.

26 89. The allegations in paragraph 89 are legal conclusions and require no response.

27 90. The allegations in paragraph 90 are legal conclusions and require no response.

1 91. The allegations in paragraph 91 are legal conclusions and require no response.

2 92. PGE denies the allegations in paragraph 92.

3 5. Madras's Fifth Claim for Relief

4 93. In response to paragraph 93, PGE refers to and incorporates herein all preceding
5 paragraphs.

6 94. PGE denies the allegations in paragraph 94.

7 6. Madras's Sixth Claim for Relief

8 95. In response to paragraph 95, PGE refers to and incorporates herein all preceding
9 paragraphs.

10 96. The allegations in paragraph 96 are legal conclusions and require no response.

11 97. The allegations in paragraph 97 are legal conclusions and require no response.

12 98. PGE denies the allegations in paragraph 98.

13 **G. Madras's Prayers for Relief**

14 PGE notes that Madras's prayers for relief are numbered 1 through 7, as opposed to
15 continuing the numeration of the preceding paragraphs. For consistency, PGE's paragraph
16 numbering conforms to that used by Madras.

17 1. PGE denies the allegations in paragraph 1.

18 2. PGE denies the allegations in paragraph 2.

19 3. PGE denies the allegations in paragraph 3.

20 4. PGE denies the allegations in paragraph 4.

21 5. PGE denies the allegations in paragraph 5.

22 6. PGE denies the allegations in paragraph 6.

23 7. PGE denies the allegations in paragraph 7.

24 **IV. PGE'S COUNTERCLAIMS**

In support of PGE's Counterclaim~~s~~, PGE alleges as follows:

1 **A. PGE's Factual Allegations**

2 99. PGE refers to and incorporates herein all preceding paragraphs.

3 100. The Pelton-Round Butte Hydroelectric Project is jointly owned by both PGE and
4 the Confederated Tribes of the Warm Springs Reservation of Oregon (the Tribes), a federally
5 recognized Indian Tribe, and occupies thousands of acres of tribal lands. The Tribes currently own
6 approximately 33 percent of PRB,¹³ with options to purchase additional ownership interests and
7 eventually become the majority owner of the combined Project.

8 101. The Tribes are entitled to a third of the output from PRB operations, which serves
9 as full compensation for the use of tribal land. PGE is obliged to attempt to maximize the Project's
10 operations and must compensate the Tribes for operating PRB at less than peak efficiency.

11 102. PRB's output is conveyed on a generation lead line to the Round Butte substation.
12 This generation lead line is part of the Project and is also co-owned by the Tribes.

13 103. From the Round Butte substation, a portion of PRB's output is transmitted to PGE's
14 service territory and load on PGE's system by means of the Bethel-to-Round Butte 230 kV
15 transmission line. This line is the sole connection between PRB and PGE's service territory over
16 PGE's system. East-to-west capacity on the Bethel-to-Round Butte transmission segment is fully
17 allocated to transmitting PRB's output to PGE's load. The remaining portion of PRB's output that
18 cannot be accommodated by the Bethel-to-Round Butte line flows over Bonneville Power
19 Administration's (BPA) system.

20 104. PRB's transmission arrangements for PRB predate the OATT and are therefore
21 "grandfathered" transmission arrangements.

22 105. PGE's OASIS website specifically states that there is no available capacity to reach
23 PGE's service territory from the Round Butte substation.

¹³ PGE currently co-owns the Round Butte and Pelton Dams and their generators, and the Reregulating Dam, as well as associated facilities, along with the Tribes. However, the powerhouse and turbine-generator at the Reregulating Dam is entirely owned by the Tribes, but is operated by PGE.

1 106. On October 5, 2017, Ecoplexus filed an interconnection request with PGET for
2 ERIS. Based on this request, PGET understood that Ecoplexus intended to interconnect with
3 PGE's system on the generation lead line from PRB to the Round Butte substation.

4 107. On October 7, 2017, PGET informed Ecoplexus that it would be difficult to study
5 Ecoplexus's interconnection service request because the project sought to interconnect on a
6 generation lead line, and the line itself was jointly owned by a non-FERC-jurisdictional entity.
7 Also on October 7, 2017, PGET informed Ecoplexus that there was little to no capacity available
8 to export power from the area without substantial upgrades to transmission facilities.

9 108. On October 17, 2017, Ecoplexus requested indicative pricing for Madras from
10 PGEM.

11 109. On October 18, 2017, Ecoplexus represented to PGEM that its project had a net
12 dependable capacity of 79.66 MW and a nameplate capacity rating of 80 MW.

13 110. On December 19, 2017, PGEM informed Ecoplexus that it was unable to provide
14 indicative pricing given that, by requesting only ERIS (according to the Interconnection Request
15 Queue) the project would not be able to achieve delivery to PGE via the Round Butte substation.

16 111. On December 29, 2017, Ecoplexus responded that its request for ERIS was
17 irrelevant, as PGEM would be responsible for obtaining additional transmission from PGET to
18 deliver the project's output to load. Ecoplexus's response confused Madras's need to obtain
19 adequate interconnection service with PGEM's responsibility to obtain transmission service.

20 112. On January 3, 2018, Ecoplexus informed PGET that it wanted to skip obtaining a
21 Feasibility Study and instead wished to proceed directly to obtaining a System Impact Study (SIS)
22 for the Madras project.

23 113. On January 4, 2018, PGET stated that it was unwilling to move directly to an SIS,
24 *especially given the transmission limitations in the area.* PGET also asked Ecoplexus to clarify
25 if the Madras project was a QF because, if so, the interconnection request would need to be
26 evaluated as NRIS and would not be eligible for ERIS.

1 114. On January 4, 2018, Ecoplexus told PGET that it had not decided whether Madras
2 would be a QF. Simultaneously, Ecoplexus was actively pursuing PPA negotiations with PGEM
3 for the project as a QF. While not disclosing to PGET that the project was a QF, Ecoplexus
4 amended the interconnection study request to include both ER and NR interconnection service. At
5 this time, PGEM was not aware of the revised study request, due to FERC's Standards of Conduct
6 that limit communications between PGET and PGEM.

7 115. On January 19, 2018, PGEM explained why Ecoplexus's ERS request would be
8 insufficient to allow PGEM to proceed to negotiate a Schedule 202 PPA, given that there was no
9 capacity from the Round Butte substation to PGE's load over PGE's system. PGEM referred
10 Ecoplexus to PGE's OASIS website, which indicates that there is no capacity available between
11 the Round Butte substation and the rest of PGE's system. Nonetheless, PGEM indicated that it
12 was willing to consider an interconnection on the PRB generation lead line, with the Round Butte
13 substation as a delivery point, but *only if Ecoplexus accepted responsibility for seeking NRIS*
14 *and paying for associated network upgrades, pursuant to the Commission's QF LGIP*. Given
15 that Ecoplexus was seeking to interconnect in an area from which its generation could not be
16 exported without upgrades, while also pursuing an ERS interconnection that would not
17 incorporate the necessary upgrades, PGEM reiterated that it was unable to evaluate or develop
18 indicative pricing for the Madras project at that time.

19 116. On February 8, 2018, Ecoplexus's legal counsel sent PGEM a letter demanding that
20 PGE immediately provide indicative pricing for its 80 MW-AC facility. Responding to PGEM's
21 concerns about Ecoplexus siting the Madras project in an area where the existing transmission was
22 already fully committed, Ecoplexus asserted that PGEM was responsible for any delivery-related
23 issues and costs, and that the parties did not need to resolve whether NRIS was appropriate before
24 PGE provided indicative prices.

25 117. On February 23, 2018, PGEM provided Ecoplexus with indicative prices under the
26 explicit assumption that Ecoplexus was required to seek NRIS in order to determine the

1 interconnection-related upgrades necessary for the Madras project to serve PGE load. PGEM
2 emphasized that Ecoplexus had chosen a particularly challenging siting location.

3 118. On March 5, 2018, Ecoplexus told PGEM that it neither accepted nor rejected the
4 assertion that it must pursue NRIS, but claimed that the appropriate form of interconnection service
5 did not need to be resolved prior to negotiating a PPA. Thus, having first claimed that the
6 appropriate form of interconnection service did not need to be established before providing
7 indicative pricing, Ecoplexus now claimed that such clarity was similarly not relevant to
8 negotiating a full PPA. Ecoplexus also asked PGEM whether the indicative pricing accounted for
9 PGE needing to redispatch other resources in order to accommodate the Madras project's output—
10 thus seeming to assume that PGE would be responsible for backing down or redispatching existing
11 output to facilitate the project's interconnection.

12 119. On March 27, 2018, PGEM explained that PGE's Commission-approved
13 Schedule 202 procedures require a QF to provide evidence that any necessary interconnection
14 studies have been completed and assurance that the necessary interconnection arrangements have
15 been executed or are under negotiation. Given that Ecoplexus intended to sell the entirety of
16 Madras's net output to PGE, this meant that Ecoplexus needed to commit to obtaining NRIS. Thus,
17 PGEM explained that it would provide a draft PPA within 30 days of Ecoplexus confirming that
18 it had requested a study for NRIS.

19 120. On May 4, 2018, Ecoplexus informed PGEM that it had requested an
20 interconnection study for both NRIS and ERIS. Ecoplexus also asserted that the Madras project
21 was not subject to state-jurisdictional interconnection procedures because Ecoplexus intended to
22 sell some portion of the energy and/or capacity of the project to a third party. Ecoplexus did not
23 say how much of the project's output it intended to sell to a third party.

24 121. On May 4, 2018, Ecoplexus sent PGEM a unilaterally modified and partially
25 executed Schedule 201 PPA, which provided that the Madras project had a net dependable capacity
26 of 79.98 MW and a nameplate capacity rating of 80 MW-AC. This modified PPA revised the
27 Standard PPA's requirement that a QF must be responsible for network upgrades necessary to

1 support interconnection and added a provision authorizing Ecoplexus to sell test energy to third
2 parties.

3 122. On June 16, 2018, PGET provided initial Feasibility Study results.

4 123. On July 23, 2018, PGE's legal counsel responded to Ecoplexus to explain why the
5 Madras project had not established a LEO, to request clarification as to what portion of the
6 project's output would be sold to a third party, and to restate that NRIS was required. PGE noted
7 that the project still appeared to be selling the entirety of its net output to PGE, and thus remained
8 a state-jurisdictional QF for interconnection purposes. PGE's counsel explained that, by studying
9 both NRIS *and* ERIS, PGEM could not provide a meaningful draft contract ***because the avoided***
10 ***cost pricing for the project would differ greatly depending on whether the interconnection-***
11 ***related upgrades necessary to ensure deliverability of the facility's output were to be captured***
12 ***in the interconnection process or in avoided cost prices.*** Nonetheless, PGEM agreed to circulate
13 a draft PPA with placeholders for pricing and other terms, until such time as Ecoplexus clarified
14 whether it intended to seek NRIS and what portion of the project's output it intended to sell to
15 third parties.

16 124. On September 7, 2018, Ecoplexus told PGET that it believed there were no
17 constraints on the Bethel-to-Round Butte 230 kV line, such that there should be no need for
18 upgrades in the SIS.

19 125. On September 28, 2018, PGEM provided Ecoplexus with updated indicative
20 pricing, ***but reiterated that prices and terms could not be determined with any certainty given***
21 ***that Ecoplexus had not clarified that it intended to seek NRIS.*** PGEM emphasized that the
22 project's avoided cost prices would differ greatly depending on whether the interconnection-
23 related upgrades necessary to ensure deliverability of the facility's output were captured in the
24 interconnection process or in avoided costs. PGEM again asked Ecoplexus to clarify its intentions
25 with respect to its dual NRIS/ERIS interconnection requests, and to confirm other project
26 attributes, such as nameplate capacity and project output.

27 126. On October 2, 2018, PGET provided a revised Feasibility Study.

1 127. On October 8, 2018, Ecoplexus informed PGEM that its project's design capacity
2 would be approximately 65 MW-AC, but that it would *attempt* to finalize the project's design
3 capacity prior to executing the PPA. Thus, Ecoplexus was not only continuing to redesign
4 Madras's basic size and output parameters, but did not believe it was necessary to complete this
5 design process until after signing a PPA. In the same correspondence, Ecoplexus stated that it
6 intended to continue pursuing both NRIS and ERIS, and asked whether integrating battery storage
7 into the project could increase the project's value.

8 128. On October 8, 2018, Ecoplexus provided a revised draft PPA, representing that its
9 project had a net available capacity of 65 MW-AC (with a monthly delivery profile reflecting net
10 available capacities of both 57 MW-AC and 66.6 MW-AC), and a nameplate capacity rating of
11 80 MW-DC. The revised PPA also added a new provision allowing Ecoplexus to unilaterally
12 terminate the PPA if it were unable to secure a financeable interconnection agreement, among
13 other changes.

14 129. In two meetings in September 2018, and in writing on October 12, 2018, PGET
15 provided Ecoplexus with additional background on the nature of the transmission limitations
16 between the Round Butte substation and PGE's service territory. PGET also provided additional
17 background on the limits of PRB's FERC license, water quality requirements, and Endangered
18 Species Act-related prohibitions on spilling water over the dams outside of emergency situations.

19 130. On October 12, 2018, Ecoplexus asked PGET to revise the SIS to reflect a 65 MW-
20 AC project with additional battery storage.

21 131. On November 2, 2018, PGEM responded to Ecoplexus's updated contract terms
22 and reiterated that the Madras project's avoided cost prices would vary greatly depending on
23 whether the upgrades necessary to ensure deliverability were captured in the interconnection
24 process. In the same correspondence, PGEM suggested that Ecoplexus could consider delivering
25 Madras's output to PGE's interface with BPA. PGEM also proposed that Ecoplexus could waive
26 the restriction on PGET sharing information with PGEM in order to allow PGEM to better
27 understand Madras's specific interconnection options. PGEM also asked Ecoplexus to explain

1 inconsistencies between the project's stated nameplate capacity in the draft PPA and the
2 accompanying delivery profiles, which suggested nameplate capacities of 66.6 MW-AC or
3 57 MW-AC. Specifically, PGEM asked whether the project's nameplate capacity was 65 MW-
4 AC, 80 MW-AC with 15 MW-AC sold to a third party, 66.6 MW-AC, 57 MW-AC, or some other
5 size.

6 132. On November 7, 2018, Ecoplexus responded to PGEM, representing that it was
7 surprised and confused that PGEM had not provided a final and executable PPA because it claimed
8 that interconnection issues would be resolved in the interconnection process. Ecoplexus did not
9 acknowledge that Madras's avoided cost prices depend on it obtaining NRIS. Instead, *Ecoplexus*
10 *directed PGEM to assume, for purposes of the PPA, that Madras had committed to obtaining*
11 *NRIS and to funding network upgrades*. Ecoplexus also revised the project's nameplate capacity
12 again to 63 MW-AC and declined to provide a waiver to authorize PGEM to communicate with
13 PGET regarding Madras's interconnection study results. Ecoplexus also withdrew its proposal to
14 include batteries in the project.¹⁴

15 133. On November 14, 2018, PGEM informed Ecoplexus that it could not provide an
16 executable PPA by November 16, 2018, because significant terms were still being negotiated and
17 key project attributes were continuing to change.

18 134. On November 14, 2018, Ecoplexus emailed PGEM to state that Ecoplexus's
19 October 8, 2018, edits to the PPA had largely consisted of clerical edits and revisions for clarity,
20 and thus Ecoplexus asserted that it viewed PGE's hesitance to provide an executable PPA as an
21 attempt to delay the negotiation process.

22 135. On November 14, 2018, PGE's legal counsel contacted Ecoplexus's legal counsel
23 to attempt to resolve the question of whether the Madras facility's interconnection was state- or
24 FERC-jurisdictional, and thus allow the PPA negotiations to move forward. PGE highlighted that

¹⁴ Note, while Ecoplexus continues to represent to PGEM that Madras does not include storage (*see, e.g.*, Madras's Proposed PPA, Exhibit E), it appears that Ecoplexus continues to seek an interconnection study from PGET that includes battery storage (*see* PGE/200, Foster-Larson/9).

1 ***Ecoplexus had provided no evidence of any intent to sell a portion of its net output to third***
2 ***parties***, meaning that the project was subject to a state-jurisdictional interconnection and was
3 obligated to seek NRIS and to pay for identified network upgrade costs, absent a demonstration of
4 quantifiable system-wide benefits.

5 136. On November 15, 2018, PGEM responded to Ecoplexus's November 7, 2018, letter
6 and November 14, 2018, email and noted that, under PGE's Schedule 202, the new capacity,
7 output, and interconnection information would normally require Ecoplexus to have returned to
8 Step 1 of the negotiation process. However, in the spirit of cooperation, PGEM was willing to
9 move directly back to Step 5, providing PGE 30 days to give Ecoplexus a draft PPA from the date
10 the new project information was provided.

11 137. On November 26, 2018, Ecoplexus represented to PGEM that the negotiation
12 process should have completed long before, that the Madras project's nameplate capacity was the
13 same as or substantially similar to that provided by Ecoplexus over the past year, and that whether
14 Ecoplexus pursued ERIS or NRIS was irrelevant to the PPA because the interconnection would be
15 dealt with through the interconnection process.

16 138. On November 26, 2018, Ecoplexus provided a waiver allowing PGEM to
17 communicate with PGET regarding the Madras facility's interconnection. In the same
18 correspondence, Ecoplexus directed PGE to move forward with PPA negotiations ***under the***
19 ***assumption that the Madras facility's interconnection would be state-jurisdictional***, but reserved
20 the right to take the position that the interconnection would be FERC-jurisdictional.

21 139. On December 7, 2018, PGEM provided Ecoplexus with updated indicative prices
22 based on changes Ecoplexus had made to the Madras project, and indicated that the revised PPA
23 would be ready the following week.

24 140. On December 12, 2018, PGEM provided Ecoplexus with a revised PPA that
25 included a provision requiring Ecoplexus to pay in full all amounts due under the Interconnection
26 Agreement, including network upgrades necessary to obtain NRIS.

1 141. On January 22, 2019, Ecoplexus sent PGEM a revised PPA that included a
2 provision allowing the remainder of the PPA to remain in effect if this Commission or FERC were
3 to conclude that Madras was not responsible for network upgrades.

4 142. On February 4, 2019, PGET provided Ecoplexus with the initial SIS report.

5 143. On February 12, 2019, Ecoplexus sent PGEM additional proposed changes to the
6 PPA, including a provision allowing the project to freely reduce its capacity. Ecoplexus
7 represented that it sought more flexibility to accommodate further design changes, as it had *only*
8 *a reasonable best guess as to what the project would look like*.

9 144. On February 13, 2019, PGEM provided Ecoplexus with a revised PPA, including
10 a time limit on tolling Ecoplexus's obligation to execute an Interconnection Agreement.

11 145. On February 22, 2019, Ecoplexus provided PGEM with a revised PPA, which
12 included a provision allowing Ecoplexus, in its sole discretion, to refuse to sign a Facilities Study
13 Agreement, and capping the total costs that it could be required to pay for upgrades at \$11 million.
14 Ecoplexus represented that its project had a net available capacity of 63 MW-AC and a nameplate
15 capacity rating of 75 MW-DC.

16 146. On March 9, 2019, Ecoplexus represented to PGET that its interconnection was
17 FERC-jurisdictional because Madras's output would be commingled with other energy in the
18 stream of commerce, and *that Ecoplexus was entitled to seek refunds for the cost of any network*
19 *upgrades required to establish its interconnection*.

20 147. On March 11, 2019, PGE's legal counsel contacted Ecoplexus's legal counsel to
21 attempt to clarify that the project's interconnection was state-jurisdictional, given that Ecoplexus
22 sought to sell the entirety of its net output to PGE.

23 148. On March 12, 2019, Ecoplexus told PGET that it had never represented that it either
24 believed or agreed that the project's interconnection was state-jurisdictional, and that FERC would
25 resolve any jurisdictional questions.

26 149. On March 25, 2019, PGEM provided Ecoplexus with a revised PPA, which
27 required that the project achieve interconnected operations using NRIS.

1 150. On March 29, 2019, Ecoplexus provided PGEM with a revised PPA, which *reduced*
2 *Madras's nameplate capacity rating from 75 MW-DC to 65.784 MW-DC* and reinserted the
3 allowance for Ecoplexus to sell test energy to a third party, among other changes.

4 151. On April 9, 2019, PGEM provided Ecoplexus with a revised PPA and inquired as
5 to why Ecoplexus had again changed the Madras facility's nameplate capacity rating.

6 152. On April 14, 2019, PGEM provided Ecoplexus with an updated PPA, which
7 included an explanation that a price adjustment if PGE were obligated to back down existing
8 generation should not be an issue because Ecoplexus was required to obtain NRIS.

9 153. On April 19, 2019, Ecoplexus demanded that PGEM execute the attached PPA,
10 including Ecoplexus's changes, by the following business day. Ecoplexus explained that it
11 rejected limiting the sale of test energy to PGE because Ecoplexus intended to sell this test energy
12 as a FERC-jurisdictional wholesale sale. Ecoplexus stated that PGEM's deliverability-related
13 revision to the PPA addressed an entirely new concept never previously discussed, and that any
14 deliverability issues would be addressed in the interconnection process.

15 154. On July 12, 2019, PGET provided Ecoplexus with a System Impact Re-Study.

16 155. On December 5, 2019, PGET provided Ecoplexus with a Facilities Study.

17 156. On December 20, 2019, PGE and Ecoplexus met to discuss the Facilities Study,
18 and Ecoplexus conveyed in person and in writing that it disagrees with the Facilities Study results.

19 ~~154.157.~~ At Ecoplexus's request, PGET continues~~d~~ to process Ecoplexus's
20 interconnection request for both NRIS and ERIS as a FERC-jurisdictional non-QF; ~~PGET has~~
21 through the System Impact Re-Study phase; PGET offered to transition Ecoplexus's
22 interconnection request to the QF LGIP. Ecoplexus's FERC-jurisdictional interconnection request
23 ~~is~~was inconsistent with its direction to PGEM to draft a PPA that assumes that the Madras
24 interconnection is state-jurisdictional.

25 158. Beginning with Ecoplexus's Facilities Study, PGET has studied NRIS only,
26 consistent with the QF-LGIP.

1 ~~155.~~159. Ecoplexus’s refusal to provide key project information—such as the amount
2 of the project’s net output that Ecoplexus intends to sell to third parties and the project’s intended
3 interconnection service—as well as Ecoplexus’s inconsistency regarding the project’s basic size
4 and output information, delayed the negotiation process for many months.

5 ~~156.~~160. Ecoplexus’s inconsistency regarding its intended interconnection service,
6 as well as other assertions regarding PGE’s responsibility to ensure the deliverability of Madras’s
7 output, suggest that Ecoplexus anticipates PGE being required to back down the output of PRB to
8 accommodate Madras’s interconnection.

9 ~~157.~~161. While PGE is not obligated to back down existing generation to
10 accommodate a QF’s interconnection, displacing PRB generation would be particularly harmful
11 to PGE and its customers because it would increase the likelihood of forced spill events and
12 associated mortality of fish species protected by the Endangered Species Act. Backing down PRB
13 could also violate PGE’s obligations under the Ownership and Operation Agreement with the
14 Tribes.

15 ~~158.~~162. Madras is unable to perform according to the Schedule 201 PPA unilaterally
16 modified and executed on May 4, 2018, because Ecoplexus has since represented that the Madras
17 project does not have a nameplate capacity of 80 MW.

18 ~~159.~~163. Madras is not entitled to perform pursuant to a Schedule 201 PPA because
19 all of the sizes claimed for the Madras project are more than 10 MW.

20 ~~160.~~164. Given that Ecoplexus’s initial ERIS study request would have entitled the
21 Madras project to only existing firm or non-firm capacity, and given that the sole PGE transmission
22 line from Madras’s chosen interconnection to PGE’s load across PGE’s system lacks available
23 transmission capacity, PGEM appropriately declined to provide indicative prices until Ecoplexus
24 had informed PGEM that Ecoplexus requested that PGET study NRIS.

25 ~~161.~~165. PGEM explicitly and repeatedly stated that it could not finalize either the
26 Madras project’s avoided cost prices or the PPA without assurance that Ecoplexus would obtain
27 the necessary interconnection arrangements.

1 ~~162.166.~~ Ecoplexus has declined to commit to seeking and paying for a particular
2 interconnection service, which would allow PGEM to finalize the Madras project's avoided cost
3 prices and PPA terms.

4 ~~163.167.~~ Ecoplexus specifically directed PGEM to assume, for purposes of preparing
5 a draft PPA, that Ecoplexus would seek a state-jurisdictional interconnection, which requires a QF
6 to obtain and pay for NRIS. However, in subsequent communications, Ecoplexus disclaimed that
7 its project's interconnection is state-jurisdictional, continued to seek ERIS, and indicated that it
8 intended to seek refunds for any upgrades required to accommodate its project siting decision.

9 ~~164.168.~~ Madras has not demonstrated that the necessary interconnection studies
10 have been completed and has not provided adequate assurance that the necessary interconnection
11 arrangements have either been executed or are under negotiation. As a result, Madras is not
12 entitled to a draft—let alone an executable—PPA because it has failed to meet the requirements
13 of Schedule 202.

14 ~~165.169.~~ In light of Ecoplexus's refusal to provide assurance that it will obtain and
15 pay for the necessary interconnection arrangements, and further given Ecoplexus's stated intent to
16 avoid this obligation by attempting to transfer these costs to PGE's customers, PGE properly
17 declined to provide Madras with an executable PPA.

18 **B. PGE's ~~First~~ Claim for Relief—Proposed PPA**

19 ~~166.170.~~ PGE requests that this Commission order that any executable PPA provided
20 to Ecoplexus reflect the terms and conditions set forth in the draft PPA attached to this Answer as
21 confidential Attachment A.¹⁵ Specific provisions differing from or not contained in Madras's
22 Proposed PPA are detailed below.

23 a. Whereas Clauses (PGE's Proposed PPA, page 1).

¹⁵ A redlined version of the same PPA, showing changes as compared to Madras's Proposed PPA, is attached to this Answer as confidential Attachment B. In addition to the substantive provisions discussed below, this redlined PPA also shows minor corrections for errors contained in Madras's Proposed PPA. Minor errors corrected in PGE's Proposed PPA include ensuring that exhibit references point to the correct exhibits (e.g., Sections 1.50 and 1.94) and that defined terms are referred to by their proper names (e.g., Sections 2.2 and 3.2(f)), among other minor edits for clarity.

1 ~~167.171.~~ In the interests of clarity, PGE asks the Commission to approve the
2 inclusion of two additional whereas clauses that reflect the specific factual circumstances of this
3 PPA, as well as the applicable Commission rules:

4 WHEREAS, the Seller has directed Buyer to assume for purposes of this
5 Agreement that Seller will seek Network Resource Interconnection Service
6 through a state-jurisdictional interconnection; and
7

8 WHEREAS, the Public Utility Commission of Oregon has promulgated
9 Large Generator Interconnection Procedures, as adopted in Order No. 10-
10 132, that direct Qualifying Facilities to obtain Network Resource
11 Interconnection Service and to pay for all network upgrades required to
12 receive such service; and

13 These provisions are appropriate because Ecoplexus specifically directed PGE to assume, for
14 purposes of drafting the Madras project's PPA, that Madras would seek NRIS under this
15 Commission's QF LGIP. However, Ecoplexus has also indicated that it does not agree with, and
16 intends to challenge, this very assumption. Given the uncertainty created by Ecoplexus's
17 inconsistent positions, and further given that the project's avoided cost prices would be
18 dramatically different if Madras were not required to obtain and pay for NRIS, PGE proposes
19 incorporating this critical context into the PPA itself.

20 b. "Fixed Price" (PGE's Proposed PPA, Section 1.32):

21 ~~168.172.~~ PGE proposes revising the definition of "Fixed Price" as follows (with
22 proposed new language italicized):

23 "Fixed Price" means the respective monthly On-Peak and Off-Peak prices
24 per MWh to be paid by Buyer to Seller for Specified Energy scheduled and
25 delivered during each month of the Delivery Period as set forth in the price
26 schedule attached to this Agreement as Exhibit C. *The prices contained in*
27 *Exhibit C are expressly contingent on Seller paying for all interconnection*

1 *costs, as required by Section 3.9, as necessary for the provision of Network*
2 *Resource Interconnection Service, including any required network*
3 *upgrades, as determined in the Facilities Study conducted by PGE pursuant*
4 *to Large Generator Interconnection Procedures adopted by the Public*
5 *Utility Commission of Oregon in Order No. 10-132.*

6 PGE proposes this revision because Madras's avoided cost prices would vary significantly if
7 Madras were not required to pay for system upgrades associated with NRIS, and the price paid
8 under the contract assumes and is expressly contingent upon Madras accepting responsibility for
9 interconnection costs and related upgrades.

10 c. Seller's Obligation to Obtain NRIS (PGE's Proposed PPA, Section 3.9).

11 ~~169-173.~~ PGE asks that the Commission approve the following language specifically
12 requiring Ecoplexus to obtain and pay for NRIS, consistent with this Commission's QF LGIP:

13 Seller is obligated to pay in full all costs determined by PGE to be required
14 for the provision of Network Resource Interconnection Service, including
15 any required network upgrades, as determined in the Facilities Study
16 conducted by PGE pursuant to Large Generator Interconnection Procedures
17 adopted by the Public Utility Commission of Oregon in Order No. 10-132.

18 This proposed language is appropriate because Ecoplexus specifically directed PGE to draft the
19 PPA under the assumption that the Madras project's interconnection would be state-jurisdictional,
20 requiring the project to seek and pay for NRIS,¹⁶ and the avoided cost prices included in the PPA
21 assume that Madras will obtain such interconnection service and therefore do not account for any
22 required upgrades. As offered here, the language reaffirms the central assumption of this PPA,
23 which is that Madras will pursue a state-jurisdictional interconnection and receive NRIS.¹⁷

¹⁶ PGE also proposes moving the relevant NRIS language from Section 10.1(a) ("Buyer Condition Precedent") to Section 3.9 ("Seller's Obligations"). This move reflects the fact that obtaining and paying for NRIS, pursuant to this Commission's Large Generator Interconnection Procedures, is the Seller's affirmative obligation under the PPA.

¹⁷ Note, to clarify that the obligation to obtain and pay for NRIS is not severable, Section 10.8 ("General"), which generally states that a provision found to be unenforceable by a reviewing governmental authority will not cause the remainder of the PPA to be terminated, does not apply to Section 3.9's requirement to obtain NRIS.

1 d. Interconnection Milestones (PGE's Proposed PPA, Sections 2.1(f) and (g)).

2 ~~170.174.~~ PGE asks the Commission to approve the following language for two
3 Project Milestones associated with Madras's interconnection:

4 (f) Seller shall execute the Facilities Study Agreement no later than 60 days
5 following receipt of the System Impact Study.

6 (g) Seller shall execute the Interconnection Agreement no later than
7 September 1, 2020.

8 These provisions are appropriate because they provide clear timelines for the achievement of
9 critical project milestones—as opposed to whenever Madras and PGET reach some “mutual
10 agreement” regarding the form and cost of the project's interconnection, as Madras proposes.
11 While PGE is amenable to including milestones with reasonably generous timelines, it would be
12 unreasonable to establish a date certain for the project's COD without establishing clear deadlines
13 for the subsidiary project milestones. If Madras is not willing to timely commit to pursuing the
14 appropriate interconnection service consistent with these provisions, then it should not enter a PPA
15 at this time.¹⁸

16 e. Commercial Operation Date (PGE's Proposed PPA, Section 2.4)

17 ~~174.175.~~ Once Madras has received a revised SIS, PGE proposes updating Madras's
18 COD to conform to the project's SIS results, so as to allow for the development of any necessary
19 upgrades:

20 Seller shall place the Project in commercial operation on _____ (the
21 “Commercial Operation Date”).¹⁹

¹⁸ Note, the PPA's Exhibit D requires the Seller to include the project's interconnection and transmission agreements. However, the PPA that Madras filed with the Commission includes a placeholder stating that these agreements are to be included prior to execution “as applicable.” PGE disagrees with the implication that some of the project's interconnection and transmission agreements need not be provided prior to the PPA's execution.

¹⁹ The remainder of this section is unchanged. Note, Sections 1.21 (“Delivery Period”), 1.33 (“Fixed Price Term”), and 10.1 (“Term of Agreement”) are revised to conform to the placeholder included in Section 2.4, as the project's delivery period, fixed price term, and agreement term are tied to the COD.

1 Given the likely need for network upgrades to accommodate the project's siting decision, PGE
2 believes the precise COD should be determined after the revised SIS has been issued. PGE
3 proposes this change with the understanding that PGE is not required to execute a PURPA PPA
4 where the COD is more than 3 years in the future.²⁰

5 f. Project Test Energy (PGE's Proposed PPA, Section 2.3).

6 ~~172.176.~~ PGE asks the Commission to approve the following provision for Madras's
7 sale of test energy output:

8 If and to the extent that the Project generates Test Energy, the price for such
9 Test Energy received by Buyer shall be the Market Index Settlement Price.
10 Seller shall reimburse PGE for any commercially reasonable incremental
11 costs or expenses that are required for Buyer to receive such Test Energy,
12 including but not limited to reimbursement for negative pricing and any
13 necessary capacity costs, reserves costs, and imbalance costs necessary to
14 make Buyer whole ("Test Energy Integration Cost"). Seller shall schedule
15 Test Energy according to the Scheduling Procedure in Section 3.10.

16 The proposed language directs PGE to purchase the Madras project's test energy at the Market
17 Index Settlement Price. Madras cannot reasonably expect to exceed the market price by first
18 wheeling its unpredictable test output and then selling it into the market, and therefore any
19 provision that it be allowed to do so is commercially unreasonable. This provision is also
20 consistent with the fact that, once Madras is operational, it seeks to sell the entirety of its net output
21 to PGE.²¹

²⁰ OAR 860-029-0130(3).

²¹ Note, PGE's Proposed PPA includes a separate Exhibit J for start-up test information. While Madras's Proposed PPA's Section 1.94 indicates that start-up tests are to be set forth in Exhibit I, that exhibit is instead labeled "Examples" and is left blank. In PGE's Proposed PPA, Exhibit I is "Examples" and Exhibit J sets forth the requirements for start-up tests.

1 **C. PGE's Second Claim for Relief—Interconnection Studies**

2 177. PGE requests that this Commission conclude that PGE properly performed
3 Madras's System Impact Re-Study and Facilities Study.

4 178. PGE requests that this Commission conclude that Madras is obligated to pay for
5 the costs identified in the Facilities Study.

6 **V. PGE'S PRAYERS FOR RELIEF**

7 PGE respectfully requests that the Commission:

8 ~~173.~~ Deny Madras's Claims for Relief;

9 ~~179.~~

10 ~~174.~~ ////

11 ~~175.~~ ////

12 ~~176.~~ ////

13 ~~177.~~ ////

14 ~~178.~~ ////

15 ~~179.~~ ////

16 ~~180.~~ ////

17 ~~181.~~ ////

18 ~~182.~~ ////

19 ~~183.~~ ////

~~184.~~ ////

1 ~~185.180.~~ Grant PGE's Counterclaims; and
2 ~~186.181.~~ Grant any other such relief as the Commission deems necessary and
3 appropriate.

Dated: ~~June 11, 2019~~January
3, 2020.

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2009

Portland General Electric Company

**Attachment 2 to
Motion to Amend Answer and Counterclaim**

AMENDED COUNTERCLAIM WITH ATTACHMENTS

Clean Version

January 3, 2020

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 2009**

Madras PV1, LLC,
Complainant,

v.

Portland General Electric Company,
Respondent.

**PORTLAND GENERAL ELECTRIC COMPANY'S
FIRST AMENDED ANSWER AND COUNTERCLAIMS**

January 3, 2020

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 2009**

Madras PV1, LLC,
Complainant,

v.

Portland General Electric Company,
Respondent.

**PORTLAND GENERAL ELECTRIC
COMPANY'S FIRST AMENDED
ANSWER AND COUNTERCLAIMS**

I. INTRODUCTION

Madras PV1, LLC, (Madras) asks for a Schedule 202 power purchase agreement (PPA) with avoided cost prices that are based on the assumption that it will pay for Network Resource Interconnection Service (NRIS), which ensures adequate transmission capacity for the project's output to reach load. At the same time, Madras refuses to commit to obtaining that interconnection service or paying for the associated network upgrades. Madras seeks to avoid paying for interconnection upgrades under the creative fiction that its interconnection falls within the Federal Energy Regulatory Commission's (FERC) jurisdiction. Madras attempts to invoke FERC's jurisdiction and avoid paying for the necessary interconnection service by asking the Public Utility Commission of Oregon (Commission) to insert into the PPA a right for Madras to sell its relatively miniscule amount of pre-commercial operation date (COD) test energy to a purchaser other than Portland General Electric Company (PGE)—even though Madras will then sell the entirety of its net output to PGE for at least the next fifteen years. To protect PGE's customers from bearing the costs for which Madras is properly responsible, the Commission should deny Madras's claims and grant PGE's counterclaims, which properly (and fairly) allocates costs caused by a qualifying facility's (QF) siting decision.

II. SUMMARY

On April 22, 2019, Madras filed a complaint with the Commission against PGE, pursuant to both the Commission's dispute resolution rules for negotiated PPAs under the Public Utilities Regulatory Policies Act of 1978 (PURPA)¹ and the Commission's standard complaint rules.²

Madras is a solar project with a nameplate capacity of approximately 66 megawatt (MW) planned for development by Ecoplexus, Inc. (Ecoplexus) in Jefferson County, Oregon, on a site approximately 100 miles east of PGE's service territory. Once Madras begins commercial operations, it seeks to sell the entirety of its net available capacity to PGE as a QF under PURPA. Madras seeks to interconnect to PGE's system on the generation lead line for the Pelton-Round Butte Hydroelectric Project (PRB or Project). The sole path to PGE's load from this location over PGE's system is via PGE's Bethel-to-Round Butte 230 kV transmission line—a line that is already fully committed to carrying PRB's output. While Madras claims that the dispute between the parties presents a narrow question of what terms and prices to include in its negotiated PPA, this proceeding actually presents critical issues regarding the allocation of costs associated with required network upgrades caused by a QF's siting decision, where that QF attempts to exclude those costs from both its avoided cost prices *and* from its interconnection process.

In Oregon, the interconnection and network upgrade costs associated with a large QF siting in a transmission-constrained area are not directly incorporated into a utility's avoided cost prices, but are instead allocated pursuant to the Commission's QF Large Generator Interconnection Procedures (QF LGIP). Specifically, the QF LGIP requires a QF to obtain NRIS, as defined by FERC.³ NRIS ensures that a generator can deliver its output to the interconnecting utility's load on a firm basis, by establishing that the aggregate of generation in the area where the interconnection customer is siting can successfully reach the aggregate of load over the utility's system during peak conditions.⁴ By comparison, Energy Resource Interconnection Service (ERIS)

¹ OAR 860-029-0100.

² OAR 860-001-0400. Both OAR 860-029-0100 and 860-001-0400 are promulgated pursuant to ORS 756.500, which authorizes the Commission to dispose of complaints within the Commission's jurisdiction.

³ Order No. 10-132, Appendix A at 15 (requiring the QF interconnection customer to obtain NRIS).

⁴ FERC Order 2003-A at ¶ 500.

1 is a basic interconnection service that makes a generator eligible to deliver its output on an “as-
2 available” basis, but does not ensure that a project’s output can reach load. The QF LGIP further
3 establishes the presumption that the QF will bear responsibility for the costs of obtaining NRIS,
4 including any necessary network upgrades. The QF LGIP is applicable to QFs with state-
5 jurisdictional interconnections—that is, where the QF intends to sell the entirety of its net output
6 to the interconnecting utility.

7 A QF’s interconnection process is explicitly incorporated into PGE’s PURPA PPA
8 negotiation process for QFs larger than 10 MW, as codified in PGE’s Commission-approved
9 Schedule 202. Under Schedule 202, a QF is entitled to a draft PPA only after the QF provides
10 “[e]vidence that any necessary interconnection studies have been completed and assurance that the
11 necessary interconnection arrangements have been executed or are under negotiation.”⁵ Ensuring
12 that a QF is obtaining adequate interconnection service is critical because a project’s avoided cost
13 pricing may differ significantly depending on whether the upgrades necessary to ensure
14 deliverability of the facility’s output are captured in the interconnection process or need to be
15 folded into the facility’s avoided cost prices. The facility’s interconnection arrangements are also
16 relevant to determine whether the project’s proposed COD is feasible.

17 Here, Ecoplexus was cautioned from the outset of negotiations by both PGE’s Merchant
18 Function (PGEM) and PGE’s Transmission Function (PGET) that an interconnection near PRB
19 would likely require substantial and costly network upgrades. Indeed, due to the lack of
20 transmission capacity on PGE’s system in that area, PGE’s Open Access Same-Time Information
21 System (OASIS) website has specifically designated the Round Butte substation as physically
22 constrained from the rest of PGE’s system, with no available capacity to reach PGE’s load.

23 Nonetheless, Ecoplexus not only proceeded with its efforts to interconnect Madras on the
24 PRB generation lead line, but has since sought to avoid responsibility for Madras’s
25 interconnection-related costs. Specifically, despite intending to sell the entirety of Madras’s

⁵ PGE’s Schedule 202, Section 4.

1 commercial net output to PGE, Ecoplexus claims that its interconnection is nonetheless FERC-
2 jurisdictional because it intends to preserve the right to sell its pre-COD energy to a third party as
3 a wholesale sale. Ecoplexus has claimed that, because Madras's interconnection is FERC-
4 jurisdictional, Madras is therefore entitled to seek ERIIS only or to receive refunds for any network
5 upgrades necessary to obtain NRIS.⁶

6 Despite refusing to commit to obtaining NRIS, Ecoplexus claims that it is entitled to
7 execute a PPA—and thereby fix its project's avoided cost prices—on the *assumption* that Madras
8 will obtain and pay for NRIS. Specifically, Ecoplexus directed PGE's QF-contracting personnel
9 *to assume, for purposes of developing the PPA*, that Madras will request NRIS as a state-
10 jurisdictional interconnection. However, once PGEM drafted a PPA to this effect, specifically
11 assuming that the project would obtain NRIS, Ecoplexus proceeded to modify the PPA provisions
12 to undermine that very assumption. Indeed, even after directing PGEM to draft a PPA assuming
13 that Madras would obtain NRIS under the QF LGIP, Ecoplexus continued to pursue
14 interconnection studies for both NRIS *and ERIIS* with PGET. Ecoplexus further insisted that
15 PGET undertake FERC-jurisdictional (rather than state-jurisdictional) interconnection studies by
16 refusing to confirm that its project is a QF, even while simultaneously pursuing QF negotiations
17 with PGEM. In the face of such glaring inconsistencies regarding Madras's interconnection
18 process, Ecoplexus has undermined its own right to receive even a *draft* PPA—let alone a final
19 and executable contract.

20 Apart from Ecoplexus's ongoing equivocation regarding its willingness to pursue and pay
21 for NRIS, PGEM's negotiations have been systematically undermined by Ecoplexus's numerous
22 changes to its project's basic characteristics—including Madras's generation technologies, net
23 output, and nameplate capacity. Indeed, Ecoplexus recently indicated that it still had only a

⁶ Madras seems to assume that a QF with a FERC-jurisdictional interconnection may choose either ERIIS or NRIS—
a claim that PGE would dispute. On the contrary, it is PGE's position that all QF's are obligated to pursue and pay for
interconnection that ensures the deliverability of their output, which is only achieved by obtaining NRIS

“reasonable best guess” as to what its project will look like.⁷ As shown in Table 1, these significant changes continued through March of 2019, and required PGEM to continually reevaluate the project’s value to PGE including any impact on the project’s avoided cost prices.

Table 1: Chart of Madras Size Changes⁸

Date of Change	Net Dependable Capacity	Nameplate Capacity
Oct. 17, 2017	79.7 MW	80.0 MW
Oct. 8, 2018 (letter)	<i>unstated</i>	65 MW-AC
Oct. 8, 2018 (PPA)	65 MW-AC	80 MW-DC
Nov. 7, 2018	<i>unstated</i>	63 MW-AC
Jan.22, 2019	63 MW-AC	75 MW-DC
Mar. 29, 2019	63 MW-AC	65.784 MW-DC

Despite these ongoing problems, PGEM has remained committed to attempting to find a reasonable solution and to establishing a fairly negotiated PPA for Madras. For instance, despite Ecoplexus’s refusal to clarify which form of interconnection service it seeks to pursue, and despite the fact that such clarity is critical to solidifying Madras’s avoided cost prices, PGEM offered to prepare a draft PPA with extensive placeholders, until such time as Ecoplexus could commit to the necessary interconnection service, as required by Schedule 202.

Now, in its Complaint, Madras asks the Commission to conclude that Madras is both entitled to an executable PPA, and that this PPA (and the accompanying avoided cost prices) can remain in effect even if Madras successfully avoids responsibility for obtaining and paying for NRIS. Towards this end, Madras seeks Commission resolution of both the PPA’s terms and conditions, as well as various claimed violations of rule and law in the negotiation process. Specifically, Madras asks the Commission to resolve six discrete PPA terms, as presented in its attached PPA (Madras’s Proposed PPA): (a) the applicable avoided cost prices; (b) the project’s nameplate capacity; (c) metering requirements; (d) a price-adjustment provision in case Madras refuses to pay for obtaining NRIS; (e) the project’s COD, as it relates to executing an Interconnection Agreement; and (f) providing for the sale of Madras’s test energy. In addition,

⁷ See Testimony of John Morton (PGE/100, Morton/25).

⁸ Table 1 summarizes Madras’s size changes, described in detail in Section III.A, below.

1 Madras presents the following legal claims: (1) that Madras has established a legally enforceable
2 obligation (LEO) either to the avoided cost prices in effect on May 4, 2018 (by unilaterally
3 executing a modified version of PGE's Standard, Schedule 201 PPA), or to the avoided cost prices
4 in effect on or before April 22, 2019 (by committing to sell the project's output to PGE during
5 PPA negotiations); (2) that PGE inappropriately delayed the negotiation process; and (3) that PGE
6 failed to negotiate in good faith by rejecting Madras's proposed PPA terms and by insisting on
7 unreasonable terms in return.

8 Madras's legal claims are meritless for the following reasons:

- 9 • **First**, Madras has not established a LEO either by executing a modified Standard
10 PPA or during the negotiation process. A QF larger than 10 MW cannot establish
11 a LEO by unilaterally signing a Schedule 201 PPA to which that QF is not entitled.
12 Madras has also failed to establish a LEO during the project's PPA negotiations
13 because it has yet to provide adequate assurances regarding its interconnection
14 arrangements, and has repeatedly changed both its nameplate capacity and net
15 output.
- 16 • **Second**, the parties' protracted negotiation timeline was not caused by
17 unreasonable delays on the part of PGE, but instead was the result of Ecoplexus's
18 unwillingness to clarify its intent to accept responsibility for network upgrades
19 caused by its interconnection, or to finalize its project's basic size and output
20 parameters.
- 21 • **Third**, contrary to Madras's claims, PGE acted in good faith at all times during the
22 negotiations and was entitled to insist on commercially reasonable terms to protect
23 its customers—particularly given Ecoplexus's unwillingness to commit to a clear
24 interconnection process for Madras.

25 Despite the fact that Ecoplexus does not yet have the right to an executable PPA for its Madras
26 project, PGE nonetheless asks the Commission to assist the parties in resolving their
27 disagreements. Through its separate counterclaims, PGE asks that the Commission find that any

1 PPA for the Madras project affirmatively include the following terms, which are incorporated into
2 the draft proposed PPA attached to this Answer as Exhibit A (PGE's Proposed PPA):

3 (a) Two "whereas" clauses reflecting the specific factual circumstances in which this
4 PPA is being drafted—namely, Ecoplexus's direction to assume that its project will
5 obtain NRIS. (PGE's Proposed PPA, page 1)

6 (b) A revised definition of "Fixed Price" clarifying that the project's avoided cost
7 prices are explicitly contingent on Madras obtaining NRIS under this
8 Commission's QF LGIP. (PGE's Proposed PPA, Section 1.32)

9 (c) An explicit obligation for Madras to obtain NRIS. (PGE's Proposed PPA,
10 Section 3.9)

11 (d) Milestones associated with Madras's Interconnection Agreement, including
12 concrete timelines consistent with a date certain for the project's COD. (PGE's
13 Proposed PPA, Sections 2.1(f) and (g))

14 (e) A COD that conforms to the project's SIS, including the time to develop necessary
15 interconnection-related network upgrades. (PGE's Proposed PPA, Section 2.4)

16 (f) A test energy provision providing that such incidental output will be sold to PGE—
17 the sole purchaser of Madras's operational net output—at the Market Settlement
18 Index Price. (PGE's Proposed PPA, Section 2.3)

19 In addition, PGE requests that the Commission find that PGE properly performed its System
20 Impact Re-Study and Facilities Study for Madras, and that Madras is obligated to pay for the costs
21 of network upgrades as reflected in the Facilities Study.

22 In the interest of clarity, PGE has organized this Answer by first responding to each of
23 Madras's numbered allegations and claims, including disputed PPA terms, before turning to PGE's
24 own counterclaims, including substantial additional alleged facts, proposed PPA terms, and
25 prayers for relief. Also attached are three pieces of testimony that provide (1) a detailed discussion

1 of PGEM's experience attempting to negotiate a PPA for Madras with Ecoplexus,⁹ (2) an overview
2 of the transmission constraints and interconnection issues provided by PGET,¹⁰ and finally (3) a
3 high-level background on PRB, as relevant to the parties' negotiations and legal disputes.¹¹

III. ANSWER

4 PGE hereby answers Madras's Complaint. PGE denies any allegation not specifically
5 admitted herein and reserves the right to supplement this Answer if Madras amends its Complaint.
6 As for the introductory portion of Madras's Complaint, entitled "Introduction," this section simply
7 restates facts and arguments alleged later in the Complaint, nor are the paragraphs in this section
8 enumerated. For these reasons, PGE is not required to respond to the assertions contained in this
9 section. To the extent a response is necessary, PGE denies the allegations in the "Introduction"
10 section. With respect to the particular numbered paragraphs of the Complaint, PGE answers as
11 follows:

A. Identity of Parties

- 12
- 13 1. PGE admits the allegations in paragraph 1.
 - 14 2. PGE has insufficient information or knowledge to admit or deny the truth of the
15 allegations in paragraph 2 of the Complaint, which relate to the identity and corporate structure of
16 Madras, as well as Madras's status as a QF.

B. Applicable Statutes and Regulations

- 17
- 18 3. Paragraph 3 contains statements and conclusions of law, which require no response.
 - 19 4. Paragraph 4 contains statements and conclusions of law, which require no response.

C. Jurisdiction

- 20
- 21 5. Paragraph 5 contains statements and conclusions of law, which require no response.
 - 22 6. Paragraph 6 contains statements and conclusions of law, which require no response.

⁹ Testimony of John Morton (PGE/100).

¹⁰ Testimony of Shaun Foster and Sean Larson (PGE/200).

¹¹ Testimony of Megan Hill, Chad Croft, and Ryin Khandoker (PGE/300).

1 **D. Madras's Factual Allegations**

2 7. PGE has insufficient information or knowledge to admit or deny the truth of the
3 allegations in paragraph 7 as to the size of the Madras project. PGE admits that Ecoplexus most
4 recently represented to PGEM that its project has a 63 MW alternating current (AC) net available
5 capacity and a 65.784 MW direct current (DC) nameplate capacity rating. PGE admits that
6 Ecoplexus has represented that the Madras project will be located in Jefferson County, Oregon.

7 8. PGE admits the allegations in paragraph 8. However, PGE adds that Ecoplexus
8 also seeks to establish sales to PGE for the Madras project under a modified version of PGE's
9 Schedule 201, which Ecoplexus submitted to PGEM on May 4, 2018, and which applies to QFs
10 with an aggregate nameplate capacity equal to or less than 10 MW.

11 9. PGE admits the allegations in paragraph 9.

12 10. PGE admits the allegations in paragraph 10.

13 11. PGE admits the allegation in paragraph 11 that, on November 10, 2017, PGEM
14 requested additional or clarifying information regarding the facility's intended point of delivery
15 (POD), as well as other project attributes. PGE further admits that, on November 14, 2017,
16 Ecoplexus responded to clarify that the Madras project would be an on-system QF—requiring a
17 point of interconnection (POI), not a POD—by seeking to interconnect directly to PGE's
18 generation lead line connecting PRB to the Round Butte substation.

19 12. PGE denies the allegation in paragraph 12 that, on December 19, 2017, PGEM
20 stated without qualification that it could not accept deliveries at the Round Butte POD. Rather,
21 PGEM explained that Madras could either request a study that would evaluate the costs associated
22 with interconnecting at the chosen location, or could choose to deliver at a different location.
23 However, given that Ecoplexus had requested only ERIS, and given that no capacity existed at the
24 proposed delivery point, PGEM was unable to evaluate the project or provide indicative prices.

25 13. PGE admits the allegations in paragraph 13.

26 14. PGE admits the allegations in paragraph 14.

27 15. PGE admits the allegations in paragraph 15.

1 16. PGE admits the allegations in paragraph 16, but clarifies that PGEM provided
2 indicative pricing under the explicit assumption that Ecoplexus would obtain and pay for NRIS.

3 17. PGE admits the allegations in paragraph 17.

4 18. PGE admits the allegations in paragraph 18.

5 19. PGE admits the allegations in paragraph 19, insofar as these allegations reflect the
6 assertions made by Ecoplexus.

7 20. PGE admits the allegation in paragraph 20 that, also on May 4, 2018, Ecoplexus
8 informed PGE that it had established a LEO for the 80 MW Madras project pursuant to a modified
9 version of PGE's Schedule 201 PPA. PGE admits that, notwithstanding Ecoplexus's claim to have
10 established a LEO pursuant to this modified Standard PPA, Ecoplexus asked PGEM to provide a
11 draft negotiated PPA. PGE denies that Ecoplexus committed itself to selling the energy and
12 capacity of the Madras facility in accordance with the Schedule 201 PPA.

13 21. PGE admits the allegations in paragraph 19, insofar as these allegations reflect the
14 assertions made by Ecoplexus.

15 22. PGE admits the allegations in paragraph 22.

16 23. PGE admits the allegations in paragraph 23.

17 24. PGE admits the allegations in paragraph 24.

18 25. PGE admits the allegations in paragraph 25.

19 26. PGE admits the allegations in paragraph 26.

20 27. PGE admits the allegations in paragraph 27.

21 28. PGE admits the allegations in paragraph 28.

22 29. PGE admits the allegations in paragraph 19 except, insofar as these allegations
23 describe assertions made by Ecoplexus, PGE admits only that these allegations reflect Ecoplexus's
24 assertions.

25 30. PGE admits the allegations in paragraph 30.

26 31. PGE denies the allegation in paragraph 31 that, on November 14, 2018, PGEM
27 responded without qualification that it would not be able to provide an executable PPA. PGE

1 clarifies that, on November 14, 2018, PGEM responded that it would not be able to provide an
2 executable PPA by November 16, 2018, because significant terms were still being negotiated and
3 because key project attributes were continuing to change.

4 32. PGE admits the allegation in paragraph 32 that, on November 26, 2018, Ecoplexus
5 responded to PGEM and requested that PGE provide an executable draft PPA. PGE denies that
6 Ecoplexus asked PGE to propose a date and time for in-person negotiations. PGE admits the
7 remainder of the allegations in paragraph 32, insofar as these allegations reflect Ecoplexus's
8 assertions.

9 33. PGE admits the allegations in paragraph 33.

10 34. PGE admits the allegations in paragraph 34.

11 35. PGE admits the allegations in paragraph 35.

12 36. PGE admits the allegations in paragraph 36.

13 37. PGE admits the allegations in paragraph 37.

14 38. PGE admits the allegations in paragraph 38.

15 39. PGE admits the allegations in paragraph 39.

16 40. PGE admits the allegations in paragraph 40.

17 41. PGE admits the allegations in paragraph 41.

18 42. PGE admits the allegations in paragraph 42.

19 43. PGE admits the allegations in paragraph 43.

20 44. PGE admits the allegations in paragraph 44, to the extent that the allegations
21 describe the representations made by Ecoplexus.

22 45. PGE admits the allegations in paragraph 45, subject to the clarification that PGEM
23 informed Ecoplexus that the parties—not merely PGEM—had not reached agreement as to the
24 draft PPA's terms and conditions, and therefore providing an executable PPA would be
25 inappropriate.

26 46. PGE admits the allegations in paragraph 46.

1 47. PGE has insufficient information or knowledge to admit or deny the truth of the
2 allegations in paragraph 47, which relate to Ecoplexus's assessment and opinions of the PPA
3 provided by PGEM, and therefore PGE denies the same.

4 48. PGE admits the allegations in paragraph 48, to the extent that the allegations
5 describe the representations made by Ecoplexus.

6 49. PGE has insufficient information or knowledge to admit or deny the truth of the
7 allegations in paragraph 49, which describe Ecoplexus's understanding and belief, and therefore
8 denies the same.

9 50. PGE denies the allegation in paragraph 50 that it failed to timely respond to requests
10 for information and documents. PGE denies Ecoplexus's characterization of the time periods
11 associated with providing both indicative prices and a draft PPA, as the characterization
12 presupposes that Ecoplexus had provided sufficient information to be entitled to receive such
13 information and documents.

14 51. PGE denies Ecoplexus's characterization in paragraph 51 that it "finally" provided
15 indicative pricing and a draft PPA to the extent that this characterization suggests that PGE's
16 provision of indicative pricing and a draft PPA was less than timely. PGE denies that it "delayed"
17 responding to Ecoplexus's questions or that it failed to timely return documents, including PPA
18 redlines.

19 52. PGE denies the allegations in paragraph 52 that it imposed unreasonable restrictions
20 on the contracting process. PGE denies that the constraints at the Round Butte POD are "alleged."
21 PGE denies that it inappropriately delayed providing Ecoplexus with a draft PPA when Ecoplexus
22 refused, and still refuses, to commit to seeking and paying for the necessary interconnection
23 service.

24 53. With respect to the allegations in paragraph 53, PGE admits that, with the stated
25 assumption that Ecoplexus would agree to seek NRIS, PGEM agreed that Ecoplexus could attempt
26 to provide for deliveries at the Round Butte POD. PGE denies that it agreed that interconnection
27 studies need not be completed prior to PPA execution to the extent this allegation suggests either

1 that PGEM had previously required *all* interconnection studies to be completed prior to PPA
2 execution or that *no* interconnection arrangements needed to be completed prior to PPA execution.
3 Rather, PGE informed Ecoplexus that it would need to request a study for NRIS.

4 54. PGE denies the allegation in paragraph 54 that it has delayed the negotiation
5 process. PGE has insufficient information or knowledge to admit or deny the truth of the allegation
6 that Ecoplexus has been unable to develop its project due to any delays in the negotiations, and
7 therefore denies the same.

8 55. PGE denies the allegation in paragraph 55 that Ecoplexus is ready, willing, and able
9 to abide by the PPA that it executed on May 4, 2018, given that it has already materially and
10 repeatedly revised its project's size and planned output in a manner that fails to conform to that
11 PPA.

12 56. PGE has insufficient information or knowledge to admit or deny the truth of the
13 allegation in paragraph 56 that Ecoplexus is ready, willing, and able to abide by the PPA that
14 Ecoplexus attached to its Complaint, and therefore denies the same.

15 57. PGE admits the allegations in paragraph 57.

16 **E. Madras's Proposed PPA Terms**

17 58. PGE admits that Madras's developer, Ecoplexus, provided written comments on
18 PGEM's draft PPA on October 8, 2018, and that this is more than 60 days before Madras filed this
19 Complaint. The remaining allegations in paragraph 58 are legal conclusions which require no
20 response.

21 59. PGE admits the allegation in paragraph 59 that Ecoplexus conducted negotiations
22 with PGEM. PGE denies that Ecoplexus conducted other methods of informal dispute resolution
23 over the matters addressed in this complaint. PGE admits that Ecoplexus and PGEM exchanged
24 information and held discussions. To the extent that paragraph 59 realleges factual assertions in
25 the preceding paragraphs, PGE refers to and incorporates its admissions and denials in the
26 preceding paragraphs.

1 60. PGE admits the allegation in paragraph 60 that Madras has provided a proposed
2 PPA, including those terms on which the parties have reached agreement. PGE denies that
3 Madras's proposed agreement encompasses all matters that are in dispute. PGE responds to the
4 matters that Madras claims are disputed, below, and then describes those matters that PGE believes
5 are disputed.

6 61. PGE has insufficient information or knowledge to admit or deny the truth of the
7 allegation that Madras's testimony supports Madras's complaint.

8 62. PGE admits that the parties dispute:
9 a. the applicable avoided cost prices;
10 b. provisions ensuring that PGE will not be required to back down PRB due to
11 Madras refusing to obtain NRIS (Madras's Proposed PPA, Section 6.10);
12 c. the project's COD milestone related to executing an Interconnection Agreement
13 (Madras's Proposed PPA, Section 2.1(g)); and
14 d. the sale of test energy to a third party (Madras's Proposed PPA, Section 2.3).

15 PGE denies that the parties dispute:

16 e. the project's nameplate capacity (Madras's Proposed PPA, Exhibit E and page
17 1);
18 f. metering (Madras's Proposed PPA, Section 3.6)

19 63. The allegations in paragraph 63 set forth Madras's position as to the appropriate
20 terms for each of the above PPA provisions. As required by OAR 860-029-0100(7), PGE responds
21 to each of Madras's positions on the provisions in the order presented by Madras.

22 a. Avoided Cost Price.
23 Madras is not entitled to sell power to PGE at the avoided cost prices applicable in
24 the modified Schedule 201 PPA that Ecoplexus unilaterally revised and executed
25 on May 4, 2018. A Schedule 201 PPA applies only to a project with a nameplate
26 capacity equal to or less than 10 MW—substantially less than any of the nameplate
27 capacities offered for the Madras project. Madras is also not entitled to sell power

1 to PGE at the avoided cost prices in effect prior to April 23, 2019, because the
2 facility's draft PPA was still under negotiation and key aspects of the facility—
3 including nameplate capacity, net output, and interconnection status—have
4 continued to change in the weeks prior to Madras filing its Complaint. Pursuant to
5 PGE's Schedule 202, PGEM is responsible for providing an executable PPA with
6 final fixed avoided cost prices only after both parties have come to full agreement
7 as to the appropriate terms and conditions.

8 b. Nameplate Capacity.

9 PGE has no objection to the most recent change in the Madras facility's nameplate
10 capacity, but merely notes that such changes require PGEM to conduct additional
11 analysis to determine whether the new generation profile requires an adjustment to
12 the project's avoided cost prices. For instance, Madras's most recent nameplate
13 capacity change from 75 MW-AC to 65.784 MW-AC, while leaving the net output
14 unchanged, means that the project will meet its net output less often, resulting in a
15 different—and potentially less favorable—generation profile.

16 c. Metering.

17 While PGE had initially flagged this provision for review as part of its due
18 diligence, PGE has no objection to the metering language in Section 3.6.

19 d. Price Adjustment for Backing Down Pelton-Round Butte.

20 Madras opposes Section 6.10, initially offered by PGE, that would have allowed
21 PGE to adjust avoided cost prices if it were required to back down or redispatch its
22 other generation facilities—and, specifically, PRB—in order to accommodate the
23 delivery of Madras's output. PGE initially proposed this provision in an abundance
24 of caution, given the fact that Ecoplexus refused to commit to obtaining NRIS, and
25 repeatedly indicated its belief that PGE was obligated to back down PRB if
26 necessary to accommodate Madras's output. However, PGE has since determined
27 that the proposed language need not be included because (a) the PPA should require

1 NRIS, which would make the provision unnecessary; (b) PGE has no legal
2 obligation to back down its own generation to accommodate a QF's
3 interconnection, which fact renders the proposed language superfluous; and
4 (c) PGE has since concluded that it would be entirely infeasible to attempt to adjust
5 avoided cost prices to reflect the costs associated with backing down the PRB dams,
6 as such a scenario involves likely violations of both legal and contractual
7 obligations and associated penalties and damages.¹² Thus, PGE no longer seeks to
8 include this language, and has instead proposed alternative provisions to clarify
9 Madras's responsibility for obtaining and paying for NRIS.

10 e. Commercial Operation Date & Interconnection Agreement.

11 Madras claims that it needs to be allowed an indefinite extension from the
12 requirement to sign an Interconnection Agreement in order to allow time for
13 Ecoplexus to dispute before FERC the cost and need for network upgrades and
14 interconnection facilities. There are four problems with this proposal. **First**, the
15 PPA's COD must be a date certain to allow PGEM to accurately calculate the
16 project's applicable avoided cost prices. The COD's fixed date would be
17 undermined by allowing for an indefinite extension for one of the COD's
18 milestones—signing the Interconnection Agreement. **Second**, PGE disagrees that
19 the need for network upgrades associated with Madras's interconnection is a
20 question to be resolved by FERC, as the project seeks to sell the entirety of its
21 operational net output to PGE, and is therefore subject to the Commission's state-
22 jurisdictional interconnection process. Thus, there is no need to allow an extension
23 while Madras pursues FERC review. **Third**, PGE disagrees that Madras is entitled
24 to execute a PPA without committing to seek and pay for a specific type of
25 interconnection service, where such interconnection service would significantly

¹² For an overview of the limitations on PRB's operations, see the accompanying testimony of Megan Hill, Chad Croft, and Ryn Khandoker (PGE/300).

1 impact the prices and terms of the PPA. *And fourth*, the PPA was specifically
2 drafted, at Ecoplexus's direction, with the assumption that Madras will seek and
3 pay for NRIS. As a result, it would be inconsistent to include an unlimited
4 extension while Ecoplexus attempts to avoid this central assumption of the PPA.

5 f. Test Energy.

6 Madras's proposed test energy provision is commercially unreasonable and is
7 included solely as an attempt to evade the Commission's carefully crafted
8 interconnection policies, which are designed to protect customers from
9 unreasonable costs imposed by a QF's unilateral decision to site in transmission-
10 constrained areas. Attempts at jurisdictional gaming do not constitute a
11 commercially reasonable basis for including a term in a negotiated PURPA PPA,
12 particularly given that such efforts would harm PGE's customers. While Madras
13 is correct that it is entitled to insist upon *reasonable* PPA terms and conditions, a
14 term that seeks to exploit jurisdictional fissures at customers' expense is manifestly
15 unreasonable and should be denied.

16 64. The allegations in paragraph 64 attempt to characterize PGE's position with respect
17 to the disputed PPA provisions. PGE denies Madras's allegations to the extent that they differ
18 from the discussion of PGE's position stated above, in paragraph 63.

19 **F. Madras's Legal Claims**

20 1. Madras's First Claim for Relief

21 65. In response to paragraph 65, PGE refers to and incorporates herein all preceding
22 paragraphs.

23 66. The allegations in paragraph 66 are legal conclusions and require no response.

24 67. PGE denies the allegations in paragraph 67.

25 68. The allegations in paragraph 68 are legal conclusions and require no response.

26 69. The allegations in paragraph 69 are legal conclusions and require no response.

1 70. PGE denies the allegations in paragraph 70.

2 71. The allegations in paragraph 71 are legal conclusions and require no response.

3 72. PGE denies the allegations in paragraph 72.

4 73. PGE denies the allegations in paragraph 73.

5 74. The allegations in paragraph 74 are legal conclusions and require no response.

6 2. Madras's Second Claim for Relief

7 75. In response to paragraph 75, PGE refers to and incorporates herein all preceding
8 paragraphs.

9 76. The allegations in paragraph 76 are legal conclusions and require no response.

10 77. The allegations in paragraph 77 are legal conclusions and require no response.

11 78. The allegations in paragraph 78 are legal conclusions and require no response.

12 79. The allegations in paragraph 79 are legal conclusions and require no response.

13 80. The allegations in paragraph 80 are legal conclusions and require no response.

14 81. PGE denies the allegations in paragraph 81.

15 3. Madras's Third Claim for Relief

16 82. In response to paragraph 82, PGE refers to and incorporates herein all preceding
17 paragraphs.

18 83. The allegations in paragraph 83 are legal conclusions and require no response.

19 84. PGE denies the allegations in paragraph 84.

20 85. PGE denies the allegations in paragraph 85.

21 4. Madras's Fourth Claim for Relief

22 86. In response to paragraph 86, PGE refers to and incorporates herein all preceding
23 paragraphs.

24 87. The allegations in paragraph 87 are legal conclusions and require no response.

25 88. The allegations in paragraph 88 are legal conclusions and require no response.

26 89. The allegations in paragraph 89 are legal conclusions and require no response.

27 90. The allegations in paragraph 90 are legal conclusions and require no response.

1 91. The allegations in paragraph 91 are legal conclusions and require no response.

2 92. PGE denies the allegations in paragraph 92.

3 5. Madras's Fifth Claim for Relief

4 93. In response to paragraph 93, PGE refers to and incorporates herein all preceding
5 paragraphs.

6 94. PGE denies the allegations in paragraph 94.

7 6. Madras's Sixth Claim for Relief

8 95. In response to paragraph 95, PGE refers to and incorporates herein all preceding
9 paragraphs.

10 96. The allegations in paragraph 96 are legal conclusions and require no response.

11 97. The allegations in paragraph 97 are legal conclusions and require no response.

12 98. PGE denies the allegations in paragraph 98.

13 **G. Madras's Prayers for Relief**

14 PGE notes that Madras's prayers for relief are numbered 1 through 7, as opposed to
15 continuing the numeration of the preceding paragraphs. For consistency, PGE's paragraph
16 numbering conforms to that used by Madras.

17 1. PGE denies the allegations in paragraph 1.

18 2. PGE denies the allegations in paragraph 2.

19 3. PGE denies the allegations in paragraph 3.

20 4. PGE denies the allegations in paragraph 4.

21 5. PGE denies the allegations in paragraph 5.

22 6. PGE denies the allegations in paragraph 6.

23 7. PGE denies the allegations in paragraph 7.

IV. PGE'S COUNTERCLAIMS

24 In support of PGE's Counterclaims, PGE alleges as follows:

1 **A. PGE's Factual Allegations**

2 99. PGE refers to and incorporates herein all preceding paragraphs.

3 100. The Pelton-Round Butte Hydroelectric Project is jointly owned by both PGE and
4 the Confederated Tribes of the Warm Springs Reservation of Oregon (the Tribes), a federally
5 recognized Indian Tribe, and occupies thousands of acres of tribal lands. The Tribes currently own
6 approximately 33 percent of PRB,¹³ with options to purchase additional ownership interests and
7 eventually become the majority owner of the combined Project.

8 101. The Tribes are entitled to a third of the output from PRB operations, which serves
9 as full compensation for the use of tribal land. PGE is obliged to attempt to maximize the Project's
10 operations and must compensate the Tribes for operating PRB at less than peak efficiency.

11 102. PRB's output is conveyed on a generation lead line to the Round Butte substation.
12 This generation lead line is part of the Project and is also co-owned by the Tribes.

13 103. From the Round Butte substation, a portion of PRB's output is transmitted to PGE's
14 service territory and load on PGE's system by means of the Bethel-to-Round Butte 230 kV
15 transmission line. This line is the sole connection between PRB and PGE's service territory over
16 PGE's system. East-to-west capacity on the Bethel-to-Round Butte transmission segment is fully
17 allocated to transmitting PRB's output to PGE's load. The remaining portion of PRB's output that
18 cannot be accommodated by the Bethel-to-Round Butte line flows over Bonneville Power
19 Administration's (BPA) system.

20 104. PRB's transmission arrangements for PRB predate the OATT and are therefore
21 "grandfathered" transmission arrangements.

22 105. PGE's OASIS website specifically states that there is no available capacity to reach
23 PGE's service territory from the Round Butte substation.

¹³ PGE currently co-owns the Round Butte and Pelton Dams and their generators, and the Reregulating Dam, as well as associated facilities, along with the Tribes. However, the powerhouse and turbine-generator at the Reregulating Dam is entirely owned by the Tribes, but is operated by PGE.

1 106. On October 5, 2017, Ecoplexus filed an interconnection request with PGET for
2 ERIS. Based on this request, PGET understood that Ecoplexus intended to interconnect with
3 PGE's system on the generation lead line from PRB to the Round Butte substation.

4 107. On October 7, 2017, PGET informed Ecoplexus that it would be difficult to study
5 Ecoplexus's interconnection service request because the project sought to interconnect on a
6 generation lead line, and the line itself was jointly owned by a non-FERC-jurisdictional entity.
7 Also on October 7, 2017, PGET informed Ecoplexus that there was little to no capacity available
8 to export power from the area without substantial upgrades to transmission facilities.

9 108. On October 17, 2017, Ecoplexus requested indicative pricing for Madras from
10 PGEM.

11 109. On October 18, 2017, Ecoplexus represented to PGEM that its project had a net
12 dependable capacity of 79.66 MW and a nameplate capacity rating of 80 MW.

13 110. On December 19, 2017, PGEM informed Ecoplexus that it was unable to provide
14 indicative pricing given that, by requesting only ERIS (according to the Interconnection Request
15 Queue) the project would not be able to achieve delivery to PGE via the Round Butte substation.

16 111. On December 29, 2017, Ecoplexus responded that its request for ERIS was
17 irrelevant, as PGEM would be responsible for obtaining additional transmission from PGET to
18 deliver the project's output to load. Ecoplexus's response confused Madras's need to obtain
19 adequate interconnection service with PGEM's responsibility to obtain transmission service.

20 112. On January 3, 2018, Ecoplexus informed PGET that it wanted to skip obtaining a
21 Feasibility Study and instead wished to proceed directly to obtaining a System Impact Study (SIS)
22 for the Madras project.

23 113. On January 4, 2018, PGET stated that it was unwilling to move directly to an SIS,
24 *especially given the transmission limitations in the area.* PGET also asked Ecoplexus to clarify
25 if the Madras project was a QF because, if so, the interconnection request would need to be
26 evaluated as NRIS and would not be eligible for ERIS.

1 114. On January 4, 2018, Ecoplexus told PGET that it had not decided whether Madras
2 would be a QF. Simultaneously, Ecoplexus was actively pursuing PPA negotiations with PGEM
3 for the project as a QF. While not disclosing to PGET that the project was a QF, Ecoplexus
4 amended the interconnection study request to include both ER and NR interconnection service. At
5 this time, PGEM was not aware of the revised study request, due to FERC's Standards of Conduct
6 that limit communications between PGET and PGEM.

7 115. On January 19, 2018, PGEM explained why Ecoplexus's ERIIS request would be
8 insufficient to allow PGEM to proceed to negotiate a Schedule 202 PPA, given that there was no
9 capacity from the Round Butte substation to PGE's load over PGE's system. PGEM referred
10 Ecoplexus to PGE's OASIS website, which indicates that there is no capacity available between
11 the Round Butte substation and the rest of PGE's system. Nonetheless, PGEM indicated that it
12 was willing to consider an interconnection on the PRB generation lead line, with the Round Butte
13 substation as a delivery point, but ***only if Ecoplexus accepted responsibility for seeking NRIS***
14 ***and paying for associated network upgrades, pursuant to the Commission's QF LGIP***. Given
15 that Ecoplexus was seeking to interconnect in an area from which its generation could not be
16 exported without upgrades, while also pursuing an ERIIS interconnection that would not
17 incorporate the necessary upgrades, PGEM reiterated that it was unable to evaluate or develop
18 indicative pricing for the Madras project at that time.

19 116. On February 8, 2018, Ecoplexus's legal counsel sent PGEM a letter demanding that
20 PGE immediately provide indicative pricing for its 80 MW-AC facility. Responding to PGEM's
21 concerns about Ecoplexus siting the Madras project in an area where the existing transmission was
22 already fully committed, Ecoplexus asserted that PGEM was responsible for any delivery-related
23 issues and costs, and that the parties did not need to resolve whether NRIS was appropriate before
24 PGE provided indicative prices.

25 117. On February 23, 2018, PGEM provided Ecoplexus with indicative prices under the
26 explicit assumption that Ecoplexus was required to seek NRIS in order to determine the

1 interconnection-related upgrades necessary for the Madras project to serve PGE load. PGEM
2 emphasized that Ecoplexus had chosen a particularly challenging siting location.

3 118. On March 5, 2018, Ecoplexus told PGEM that it neither accepted nor rejected the
4 assertion that it must pursue NRIS, but claimed that the appropriate form of interconnection service
5 did not need to be resolved prior to negotiating a PPA. Thus, having first claimed that the
6 appropriate form of interconnection service did not need to be established before providing
7 indicative pricing, Ecoplexus now claimed that such clarity was similarly not relevant to
8 negotiating a full PPA. Ecoplexus also asked PGEM whether the indicative pricing accounted for
9 PGE needing to redispatch other resources in order to accommodate the Madras project's output—
10 thus seeming to assume that PGE would be responsible for backing down or redispatching existing
11 output to facilitate the project's interconnection.

12 119. On March 27, 2018, PGEM explained that PGE's Commission-approved
13 Schedule 202 procedures require a QF to provide evidence that any necessary interconnection
14 studies have been completed and assurance that the necessary interconnection arrangements have
15 been executed or are under negotiation. Given that Ecoplexus intended to sell the entirety of
16 Madras's net output to PGE, this meant that Ecoplexus needed to commit to obtaining NRIS. Thus,
17 PGEM explained that it would provide a draft PPA within 30 days of Ecoplexus confirming that
18 it had requested a study for NRIS.

19 120. On May 4, 2018, Ecoplexus informed PGEM that it had requested an
20 interconnection study for both NRIS and ERIS. Ecoplexus also asserted that the Madras project
21 was not subject to state-jurisdictional interconnection procedures because Ecoplexus intended to
22 sell some portion of the energy and/or capacity of the project to a third party. Ecoplexus did not
23 say how much of the project's output it intended to sell to a third party.

24 121. On May 4, 2018, Ecoplexus sent PGEM a unilaterally modified and partially
25 executed Schedule 201 PPA, which provided that the Madras project had a net dependable capacity
26 of 79.98 MW and a nameplate capacity rating of 80 MW-AC. This modified PPA revised the
27 Standard PPA's requirement that a QF must be responsible for network upgrades necessary to

1 support interconnection and added a provision authorizing Ecoplexus to sell test energy to third
2 parties.

3 122. On June 16, 2018, PGET provided initial Feasibility Study results.

4 123. On July 23, 2018, PGE's legal counsel responded to Ecoplexus to explain why the
5 Madras project had not established a LEO, to request clarification as to what portion of the
6 project's output would be sold to a third party, and to restate that NRIS was required. PGE noted
7 that the project still appeared to be selling the entirety of its net output to PGE, and thus remained
8 a state-jurisdictional QF for interconnection purposes. PGE's counsel explained that, by studying
9 both NRIS *and* ERIS, PGEM could not provide a meaningful draft contract ***because the avoided***
10 ***cost pricing for the project would differ greatly depending on whether the interconnection-***
11 ***related upgrades necessary to ensure deliverability of the facility's output were to be captured***
12 ***in the interconnection process or in avoided cost prices.*** Nonetheless, PGEM agreed to circulate
13 a draft PPA with placeholders for pricing and other terms, until such time as Ecoplexus clarified
14 whether it intended to seek NRIS and what portion of the project's output it intended to sell to
15 third parties.

16 124. On September 7, 2018, Ecoplexus told PGET that it believed there were no
17 constraints on the Bethel-to-Round Butte 230 kV line, such that there should be no need for
18 upgrades in the SIS.

19 125. On September 28, 2018, PGEM provided Ecoplexus with updated indicative
20 pricing, ***but reiterated that prices and terms could not be determined with any certainty given***
21 ***that Ecoplexus had not clarified that it intended to seek NRIS.*** PGEM emphasized that the
22 project's avoided cost prices would differ greatly depending on whether the interconnection-
23 related upgrades necessary to ensure deliverability of the facility's output were captured in the
24 interconnection process or in avoided costs. PGEM again asked Ecoplexus to clarify its intentions
25 with respect to its dual NRIS/ERIS interconnection requests, and to confirm other project
26 attributes, such as nameplate capacity and project output.

27 126. On October 2, 2018, PGET provided a revised Feasibility Study.

1 127. On October 8, 2018, Ecoplexus informed PGEM that its project's design capacity
2 would be approximately 65 MW-AC, but that it would *attempt* to finalize the project's design
3 capacity prior to executing the PPA. Thus, Ecoplexus was not only continuing to redesign
4 Madras's basic size and output parameters, but did not believe it was necessary to complete this
5 design process until after signing a PPA. In the same correspondence, Ecoplexus stated that it
6 intended to continue pursuing both NRIS and ERIS, and asked whether integrating battery storage
7 into the project could increase the project's value.

8 128. On October 8, 2018, Ecoplexus provided a revised draft PPA, representing that its
9 project had a net available capacity of 65 MW-AC (with a monthly delivery profile reflecting net
10 available capacities of both 57 MW-AC and 66.6 MW-AC), and a nameplate capacity rating of
11 80 MW-DC. The revised PPA also added a new provision allowing Ecoplexus to unilaterally
12 terminate the PPA if it were unable to secure a financeable interconnection agreement, among
13 other changes.

14 129. In two meetings in September 2018, and in writing on October 12, 2018, PGET
15 provided Ecoplexus with additional background on the nature of the transmission limitations
16 between the Round Butte substation and PGE's service territory. PGET also provided additional
17 background on the limits of PRB's FERC license, water quality requirements, and Endangered
18 Species Act-related prohibitions on spilling water over the dams outside of emergency situations.

19 130. On October 12, 2018, Ecoplexus asked PGET to revise the SIS to reflect a 65 MW-
20 AC project with additional battery storage.

21 131. On November 2, 2018, PGEM responded to Ecoplexus's updated contract terms
22 and reiterated that the Madras project's avoided cost prices would vary greatly depending on
23 whether the upgrades necessary to ensure deliverability were captured in the interconnection
24 process. In the same correspondence, PGEM suggested that Ecoplexus could consider delivering
25 Madras's output to PGE's interface with BPA. PGEM also proposed that Ecoplexus could waive
26 the restriction on PGET sharing information with PGEM in order to allow PGEM to better
27 understand Madras's specific interconnection options. PGEM also asked Ecoplexus to explain

1 inconsistencies between the project's stated nameplate capacity in the draft PPA and the
2 accompanying delivery profiles, which suggested nameplate capacities of 66.6 MW-AC or
3 57 MW-AC. Specifically, PGEM asked whether the project's nameplate capacity was 65 MW-
4 AC, 80 MW-AC with 15 MW-AC sold to a third party, 66.6 MW-AC, 57 MW-AC, or some other
5 size.

6 132. On November 7, 2018, Ecoplexus responded to PGEM, representing that it was
7 surprised and confused that PGEM had not provided a final and executable PPA because it claimed
8 that interconnection issues would be resolved in the interconnection process. Ecoplexus did not
9 acknowledge that Madras's avoided cost prices depend on it obtaining NRIS. Instead, *Ecoplexus*
10 *directed PGEM to assume, for purposes of the PPA, that Madras had committed to obtaining*
11 *NRIS and to funding network upgrades*. Ecoplexus also revised the project's nameplate capacity
12 again to 63 MW-AC and declined to provide a waiver to authorize PGEM to communicate with
13 PGET regarding Madras's interconnection study results. Ecoplexus also withdrew its proposal to
14 include batteries in the project.¹⁴

15 133. On November 14, 2018, PGEM informed Ecoplexus that it could not provide an
16 executable PPA by November 16, 2018, because significant terms were still being negotiated and
17 key project attributes were continuing to change.

18 134. On November 14, 2018, Ecoplexus emailed PGEM to state that Ecoplexus's
19 October 8, 2018, edits to the PPA had largely consisted of clerical edits and revisions for clarity,
20 and thus Ecoplexus asserted that it viewed PGE's hesitance to provide an executable PPA as an
21 attempt to delay the negotiation process.

22 135. On November 14, 2018, PGE's legal counsel contacted Ecoplexus's legal counsel
23 to attempt to resolve the question of whether the Madras facility's interconnection was state- or
24 FERC-jurisdictional, and thus allow the PPA negotiations to move forward. PGE highlighted that

¹⁴ Note, while Ecoplexus continues to represent to PGEM that Madras does not include storage (*see, e.g.*, Madras's Proposed PPA, Exhibit E), it appears that Ecoplexus continues to seek an interconnection study from PGET that includes battery storage (*see* PGE/200, Foster-Larson/9).

1 ***Ecoplexus had provided no evidence of any intent to sell a portion of its net output to third***
2 ***parties***, meaning that the project was subject to a state-jurisdictional interconnection and was
3 obligated to seek NRIS and to pay for identified network upgrade costs, absent a demonstration of
4 quantifiable system-wide benefits.

5 136. On November 15, 2018, PGEM responded to Ecoplexus's November 7, 2018, letter
6 and November 14, 2018, email and noted that, under PGE's Schedule 202, the new capacity,
7 output, and interconnection information would normally require Ecoplexus to have returned to
8 Step 1 of the negotiation process. However, in the spirit of cooperation, PGEM was willing to
9 move directly back to Step 5, providing PGE 30 days to give Ecoplexus a draft PPA from the date
10 the new project information was provided.

11 137. On November 26, 2018, Ecoplexus represented to PGEM that the negotiation
12 process should have completed long before, that the Madras project's nameplate capacity was the
13 same as or substantially similar to that provided by Ecoplexus over the past year, and that whether
14 Ecoplexus pursued ERIS or NRIS was irrelevant to the PPA because the interconnection would be
15 dealt with through the interconnection process.

16 138. On November 26, 2018, Ecoplexus provided a waiver allowing PGEM to
17 communicate with PGET regarding the Madras facility's interconnection. In the same
18 correspondence, Ecoplexus directed PGE to move forward with PPA negotiations ***under the***
19 ***assumption that the Madras facility's interconnection would be state-jurisdictional***, but reserved
20 the right to take the position that the interconnection would be FERC-jurisdictional.

21 139. On December 7, 2018, PGEM provided Ecoplexus with updated indicative prices
22 based on changes Ecoplexus had made to the Madras project, and indicated that the revised PPA
23 would be ready the following week.

24 140. On December 12, 2018, PGEM provided Ecoplexus with a revised PPA that
25 included a provision requiring Ecoplexus to pay in full all amounts due under the Interconnection
26 Agreement, including network upgrades necessary to obtain NRIS.

1 141. On January 22, 2019, Ecoplexus sent PGEM a revised PPA that included a
2 provision allowing the remainder of the PPA to remain in effect if this Commission or FERC were
3 to conclude that Madras was not responsible for network upgrades.

4 142. On February 4, 2019, PGET provided Ecoplexus with the initial SIS report.

5 143. On February 12, 2019, Ecoplexus sent PGEM additional proposed changes to the
6 PPA, including a provision allowing the project to freely reduce its capacity. Ecoplexus
7 represented that it sought more flexibility to accommodate further design changes, as it had ***only***
8 ***a reasonable best guess as to what the project would look like.***

9 144. On February 13, 2019, PGEM provided Ecoplexus with a revised PPA, including
10 a time limit on tolling Ecoplexus's obligation to execute an Interconnection Agreement.

11 145. On February 22, 2019, Ecoplexus provided PGEM with a revised PPA, which
12 included a provision allowing Ecoplexus, in its sole discretion, to refuse to sign a Facilities Study
13 Agreement, and capping the total costs that it could be required to pay for upgrades at \$11 million.
14 Ecoplexus represented that its project had a net available capacity of 63 MW-AC and a nameplate
15 capacity rating of 75 MW-DC.

16 146. On March 9, 2019, Ecoplexus represented to PGET that its interconnection was
17 FERC-jurisdictional because Madras's output would be commingled with other energy in the
18 stream of commerce, and ***that Ecoplexus was entitled to seek refunds for the cost of any network***
19 ***upgrades required to establish its interconnection.***

20 147. On March 11, 2019, PGE's legal counsel contacted Ecoplexus's legal counsel to
21 attempt to clarify that the project's interconnection was state-jurisdictional, given that Ecoplexus
22 sought to sell the entirety of its net output to PGE.

23 148. On March 12, 2019, Ecoplexus told PGET that it had never represented that it either
24 believed or agreed that the project's interconnection was state-jurisdictional, and that FERC would
25 resolve any jurisdictional questions.

26 149. On March 25, 2019, PGEM provided Ecoplexus with a revised PPA, which
27 required that the project achieve interconnected operations using NRIS.

1 150. On March 29, 2019, Ecoplexus provided PGEM with a revised PPA, which *reduced*
2 *Madras's nameplate capacity rating from 75 MW-DC to 65.784 MW-DC* and reinserted the
3 allowance for Ecoplexus to sell test energy to a third party, among other changes.

4 151. On April 9, 2019, PGEM provided Ecoplexus with a revised PPA and inquired as
5 to why Ecoplexus had again changed the Madras facility's nameplate capacity rating.

6 152. On April 14, 2019, PGEM provided Ecoplexus with an updated PPA, which
7 included an explanation that a price adjustment if PGE were obligated to back down existing
8 generation should not be an issue because Ecoplexus was required to obtain NRIS.

9 153. On April 19, 2019, Ecoplexus demanded that PGEM execute the attached PPA,
10 including Ecoplexus's changes, by the following business day. Ecoplexus explained that it
11 rejected limiting the sale of test energy to PGE because Ecoplexus intended to sell this test energy
12 as a FERC-jurisdictional wholesale sale. Ecoplexus stated that PGEM's deliverability-related
13 revision to the PPA addressed an entirely new concept never previously discussed, and that any
14 deliverability issues would be addressed in the interconnection process.

15 154. On July 12, 2019, PGET provided Ecoplexus with a System Impact Re-Study.

16 155. On December 5, 2019, PGET provided Ecoplexus with a Facilities Study.

17 156. On December 20, 2019, PGE and Ecoplexus met to discuss the Facilities Study,
18 and Ecoplexus conveyed in person and in writing that it disagrees with the Facilities Study results.

19 157. At Ecoplexus's request, PGET continued to process Ecoplexus's interconnection
20 request for both NRIS and ERIS as a FERC-jurisdictional non-QF through the System Impact Re-
21 Study phase; PGET offered to transition Ecoplexus's interconnection request to the QF LGIP.
22 Ecoplexus's FERC-jurisdictional interconnection request was inconsistent with its direction to
23 PGEM to draft a PPA that assumes that the Madras interconnection is state-jurisdictional.

24 158. Beginning with Ecoplexus's Facilities Study, PGET has studied NRIS only,
25 consistent with the QF-LGIP.

26 159. Ecoplexus's refusal to provide key project information—such as the amount of the
27 project's net output that Ecoplexus intends to sell to third parties and the project's intended

1 interconnection service—as well as Ecoplexus’s inconsistency regarding the project’s basic size
2 and output information, delayed the negotiation process for many months.

3 160. Ecoplexus’s inconsistency regarding its intended interconnection service, as well
4 as other assertions regarding PGE’s responsibility to ensure the deliverability of Madras’s output,
5 suggest that Ecoplexus anticipates PGE being required to back down the output of PRB to
6 accommodate Madras’s interconnection.

7 161. While PGE is not obligated to back down existing generation to accommodate a
8 QF’s interconnection, displacing PRB generation would be particularly harmful to PGE and its
9 customers because it would increase the likelihood of forced spill events and associated mortality
10 of fish species protected by the Endangered Species Act. Backing down PRB could also violate
11 PGE’s obligations under the Ownership and Operation Agreement with the Tribes.

12 162. Madras is unable to perform according to the Schedule 201 PPA unilaterally
13 modified and executed on May 4, 2018, because Ecoplexus has since represented that the Madras
14 project does not have a nameplate capacity of 80 MW.

15 163. Madras is not entitled to perform pursuant to a Schedule 201 PPA because all of
16 the sizes claimed for the Madras project are more than 10 MW.

17 164. Given that Ecoplexus’s initial ERIS study request would have entitled the Madras
18 project to only existing firm or non-firm capacity, and given that the sole PGE transmission line
19 from Madras’s chosen interconnection to PGE’s load across PGE’s system lacks available
20 transmission capacity, PGEM appropriately declined to provide indicative prices until Ecoplexus
21 had informed PGEM that Ecoplexus requested that PGET study NRIS.

22 165. PGEM explicitly and repeatedly stated that it could not finalize either the Madras
23 project’s avoided cost prices or the PPA without assurance that Ecoplexus would obtain the
24 necessary interconnection arrangements.

25 166. Ecoplexus has declined to commit to seeking and paying for a particular
26 interconnection service, which would allow PGEM to finalize the Madras project’s avoided cost
27 prices and PPA terms.

1 167. Ecoplexus specifically directed PGEM to assume, for purposes of preparing a draft
2 PPA, that Ecoplexus would seek a state-jurisdictional interconnection, which requires a QF to
3 obtain and pay for NRIS. However, in subsequent communications, Ecoplexus disclaimed that its
4 project's interconnection is state-jurisdictional, continued to seek ERIS, and indicated that it
5 intended to seek refunds for any upgrades required to accommodate its project siting decision.

6 168. Madras has not demonstrated that the necessary interconnection studies have been
7 completed and has not provided adequate assurance that the necessary interconnection
8 arrangements have either been executed or are under negotiation. As a result, Madras is not
9 entitled to a draft—let alone an executable—PPA because it has failed to meet the requirements
10 of Schedule 202.

11 169. In light of Ecoplexus's refusal to provide assurance that it will obtain and pay for
12 the necessary interconnection arrangements, and further given Ecoplexus's stated intent to avoid
13 this obligation by attempting to transfer these costs to PGE's customers, PGE properly declined to
14 provide Madras with an executable PPA.

15 **B. PGE's First Claim for Relief—Proposed PPA**

16 170. PGE requests that this Commission order that any executable PPA provided to
17 Ecoplexus reflect the terms and conditions set forth in the draft PPA attached to this Answer as
18 confidential Attachment A.¹⁵ Specific provisions differing from or not contained in Madras's
19 Proposed PPA are detailed below.

20 a. Whereas Clauses (PGE's Proposed PPA, page 1).

21 171. In the interests of clarity, PGE asks the Commission to approve the inclusion of
22 two additional whereas clauses that reflect the specific factual circumstances of this PPA, as well
23 as the applicable Commission rules:

¹⁵ A redlined version of the same PPA, showing changes as compared to Madras's Proposed PPA, is attached to this Answer as confidential Attachment B. In addition to the substantive provisions discussed below, this redlined PPA also shows minor corrections for errors contained in Madras's Proposed PPA. Minor errors corrected in PGE's Proposed PPA include ensuring that exhibit references point to the correct exhibits (e.g., Sections 1.50 and 1.94) and that defined terms are referred to by their proper names (e.g., Sections 2.2 and 3.2(f)), among other minor edits for clarity.

1 WHEREAS, the Seller has directed Buyer to assume for purposes of this
2 Agreement that Seller will seek Network Resource Interconnection Service
3 through a state-jurisdictional interconnection; and
4

5 WHEREAS, the Public Utility Commission of Oregon has promulgated
6 Large Generator Interconnection Procedures, as adopted in Order No. 10-
7 132, that direct Qualifying Facilities to obtain Network Resource
8 Interconnection Service and to pay for all network upgrades required to
9 receive such service; and

10 These provisions are appropriate because Ecoplexus specifically directed PGE to assume, for
11 purposes of drafting the Madras project's PPA, that Madras would seek NRIS under this
12 Commission's QF LGIP. However, Ecoplexus has also indicated that it does not agree with, and
13 intends to challenge, this very assumption. Given the uncertainty created by Ecoplexus's
14 inconsistent positions, and further given that the project's avoided cost prices would be
15 dramatically different if Madras were not required to obtain and pay for NRIS, PGE proposes
16 incorporating this critical context into the PPA itself.

17 b. "Fixed Price" (PGE's Proposed PPA, Section 1.32):

18 172. PGE proposes revising the definition of "Fixed Price" as follows (with proposed
19 new language italicized):

20 "Fixed Price" means the respective monthly On-Peak and Off-Peak prices
21 per MWh to be paid by Buyer to Seller for Specified Energy scheduled and
22 delivered during each month of the Delivery Period as set forth in the price
23 schedule attached to this Agreement as Exhibit C. *The prices contained in*
24 *Exhibit C are expressly contingent on Seller paying for all interconnection*
25 *costs, as required by Section 3.9, as necessary for the provision of Network*
26 *Resource Interconnection Service, including any required network*
27 *upgrades, as determined in the Facilities Study conducted by PGE pursuant*

1 *to Large Generator Interconnection Procedures adopted by the Public*
2 *Utility Commission of Oregon in Order No. 10-132.*

3 PGE proposes this revision because Madras's avoided cost prices would vary significantly if
4 Madras were not required to pay for system upgrades associated with NRIS, and the price paid
5 under the contract assumes and is expressly contingent upon Madras accepting responsibility for
6 interconnection costs and related upgrades.

7 c. Seller's Obligation to Obtain NRIS (PGE's Proposed PPA, Section 3.9).

8 173. PGE asks that the Commission approve the following language specifically
9 requiring Ecoplexus to obtain and pay for NRIS, consistent with this Commission's QF LGIP:

10 Seller is obligated to pay in full all costs determined by PGE to be required
11 for the provision of Network Resource Interconnection Service, including
12 any required network upgrades, as determined in the Facilities Study
13 conducted by PGE pursuant to Large Generator Interconnection Procedures
14 adopted by the Public Utility Commission of Oregon in Order No. 10-132.

15 This proposed language is appropriate because Ecoplexus specifically directed PGE to draft the
16 PPA under the assumption that the Madras project's interconnection would be state-jurisdictional,
17 requiring the project to seek and pay for NRIS,¹⁶ and the avoided cost prices included in the PPA
18 assume that Madras will obtain such interconnection service and therefore do not account for any
19 required upgrades. As offered here, the language reaffirms the central assumption of this PPA,
20 which is that Madras will pursue a state-jurisdictional interconnection and receive NRIS.¹⁷

21 d. Interconnection Milestones (PGE's Proposed PPA, Sections 2.1(f) and (g)).

22 174. PGE asks the Commission to approve the following language for two Project
23 Milestones associated with Madras's interconnection:

¹⁶ PGE also proposes moving the relevant NRIS language from Section 10.1(a) ("Buyer Condition Precedent") to Section 3.9 ("Seller's Obligations"). This move reflects the fact that obtaining and paying for NRIS, pursuant to this Commission's Large Generator Interconnection Procedures, is the Seller's affirmative obligation under the PPA.

¹⁷ Note, to clarify that the obligation to obtain and pay for NRIS is not severable, Section 10.8 ("General"), which generally states that a provision found to be unenforceable by a reviewing governmental authority will not cause the remainder of the PPA to be terminated, does not apply to Section 3.9's requirement to obtain NRIS.

1 (f) Seller shall execute the Facilities Study Agreement no later than 60 days
2 following receipt of the System Impact Study.

3 (g) Seller shall execute the Interconnection Agreement no later than
4 September 1, 2020.

5 These provisions are appropriate because they provide clear timelines for the achievement of
6 critical project milestones—as opposed to whenever Madras and PGET reach some “mutual
7 agreement” regarding the form and cost of the project’s interconnection, as Madras proposes.
8 While PGE is amenable to including milestones with reasonably generous timelines, it would be
9 unreasonable to establish a date certain for the project’s COD without establishing clear deadlines
10 for the subsidiary project milestones. If Madras is not willing to timely commit to pursuing the
11 appropriate interconnection service consistent with these provisions, then it should not enter a PPA
12 at this time.¹⁸

13 e. Commercial Operation Date (PGE’s Proposed PPA, Section 2.4)

14 175. Once Madras has received a revised SIS, PGE proposes updating Madras’s COD
15 to conform to the project’s SIS results, so as to allow for the development of any necessary
16 upgrades:

17 Seller shall place the Project in commercial operation on _____ (the
18 “Commercial Operation Date”).¹⁹

19 Given the likely need for network upgrades to accommodate the project’s siting decision, PGE
20 believes the precise COD should be determined after the revised SIS has been issued. PGE
21 proposes this change with the understanding that PGE is not required to execute a PURPA PPA
22 where the COD is more than 3 years in the future.²⁰

¹⁸ Note, the PPA’s Exhibit D requires the Seller to include the project’s interconnection and transmission agreements. However, the PPA that Madras filed with the Commission includes a placeholder stating that these agreements are to be included prior to execution “as applicable.” PGE disagrees with the implication that some of the project’s interconnection and transmission agreements need not be provided prior to the PPA’s execution.

¹⁹ The remainder of this section is unchanged. Note, Sections 1.21 (“Delivery Period”), 1.33 (“Fixed Price Term”), and 10.1 (“Term of Agreement”) are revised to conform to the placeholder included in Section 2.4, as the project’s delivery period, fixed price term, and agreement term are tied to the COD.

²⁰ OAR 860-029-0130(3).

1 f. Project Test Energy (PGE’s Proposed PPA, Section 2.3).

2 176. PGE asks the Commission to approve the following provision for Madras’s sale of
3 test energy output:

4 If and to the extent that the Project generates Test Energy, the price for such
5 Test Energy received by Buyer shall be the Market Index Settlement Price.
6 Seller shall reimburse PGE for any commercially reasonable incremental
7 costs or expenses that are required for Buyer to receive such Test Energy,
8 including but not limited to reimbursement for negative pricing and any
9 necessary capacity costs, reserves costs, and imbalance costs necessary to
10 make Buyer whole (“Test Energy Integration Cost”). Seller shall schedule
11 Test Energy according to the Scheduling Procedure in Section 3.10.

12 The proposed language directs PGE to purchase the Madras project’s test energy at the Market
13 Index Settlement Price. Madras cannot reasonably expect to exceed the market price by first
14 wheeling its unpredictable test output and then selling it into the market, and therefore any
15 provision that it be allowed to do so is commercially unreasonable. This provision is also
16 consistent with the fact that, once Madras is operational, it seeks to sell the entirety of its net output
17 to PGE.²¹

18 **C. PGE’s Second Claim for Relief—Interconnection Studies**

19 177. PGE requests that this Commission conclude that PGE properly performed
20 Madras’s System Impact Re-Study and Facilities Study.

21 178. PGE requests that this Commission conclude that Madras is obligated to pay for
22 the costs identified in the Facilities Study.

V. PGE’S PRAYERS FOR RELIEF

23 PGE respectfully requests that the Commission:

²¹ Note, PGE’s Proposed PPA includes a separate Exhibit J for start-up test information. While Madras’s Proposed PPA’s Section 1.94 indicates that start-up tests are to be set forth in Exhibit I, that exhibit is instead labeled “Examples” and is left blank. In PGE’s Proposed PPA, Exhibit I is “Examples” and Exhibit J sets forth the requirements for start-up tests.

- 1 179. Deny Madras's Claims for Relief;
2 180. Grant PGE's Counterclaims; and
3 181. Grant any other such relief as the Commission deems necessary and appropriate.

Dated: January 3, 2020.

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2009

Portland General Electric Company

**Attachment A to
First Amended Answer and Counterclaims**

PROPOSED POWER PURCHASE AND SALE AGREEMENT

Clean Version

REDACTED

January 3, 2020

**ATTACHMENT A IS
CONFIDENTIAL PER PROTECTIVE
ORDER 19-162 AND WILL BE
PROVIDED SEPARATELY**

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2009

Portland General Electric Company

**Attachment B to
First Amended Answer and Counterclaims**

PROPOSED POWER PURCHASE AND SALE AGREEMENT

Redline Version

REDACTED

January 3, 2020

**ATTACHMENT B IS
CONFIDENTIAL PER PROTECTIVE
ORDER 19-162 AND WILL BE
PROVIDED SEPARATELY**

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2009

Portland General Electric Company

**Attachment C to
First Amended Answer and Counterclaims**

Madras Solar Facilities Study

January 3, 2020

Portland General Electric Company

Facilities Study

Interconnection request:

#17-068 (65 MW Photovoltaic Project)

Issued December 05, 2019



Prepared by Transmission Planning

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Introduction

This Facilities Study¹ specifies and estimates the cost of the equipment, engineering, procurement, and construction work needed to implement the conclusions of the Interconnection System Impact Study for the proposed interconnection of a 65 MW combined photovoltaic generation and battery energy storage system project to the Portland General Electric (PGE) Transmission System. The Interconnection Customer has requested a Point of Interconnection (POI) on a generation lead line for the Pelton-Round Butte Hydroelectric Facility (PRB) in Central Oregon. PRB, including the generation lead line, is jointly owned by PGE and the Confederated Tribes of the Warm Springs Reservation of Oregon (the Tribes).

This Interconnection Facilities Study report is for generation Network Resource Interconnection Service (NRIS) in conformance with the State QF-Large Generator Interconnection Procedures (QF-LGIP) in Oregon.

¹ With the exception of those terms that are defined herein, capitalized terms used throughout this document have the same meanings as such terms are defined in Public Utility Commission of Oregon (OPUC) Order No. 10-132, Appendix A, herein referred to as the QF-LGIP.

Study Scope

The Interconnection Facilities Study shall specify and estimate the cost of the equipment, engineering, procurement and construction work needed to implement the conclusions of the Interconnection System Impact Study in accordance with Good Utility Practice to physically and electrically connect the Generating Facility to the Transmission System. The Interconnection Facilities Study shall also identify the electrical switching configuration of the connection equipment, including, without limitation: the transformer; switchgear, meters, and other station equipment; the nature and estimated cost of any Transmission Provider's Interconnection Facilities, Network Upgrades, and Distribution Upgrades necessary to accomplish the interconnection; and an estimate of the time required to complete the construction and installation of such facilities.

Study Assumptions

This Facilities Study includes the following assumptions:

- Estimates are in 2021 dollars;
- Estimates are $\pm 20\%$;
- The POI substation will be adjacent to the Pelton-Round Butte 230 kV generator lead line;
- PGE will be able to receive a perpetual easement granted by the property owner directly to PGE for the property on which the POI substation will be constructed;
- Land surveying and geotechnical engineering have not been performed for this Facilities Study. Estimates, therefore, assume that the substations and transmission structures will be constructed on solid rock based on PGE's experience with construction in the area around the Round Butte substation (estimates are subject to change after land surveying and geotechnical engineering is completed);
- The Remedial Action Scheme (RAS) cost estimate assumes that no yard control cables will be replaced;
- The Interconnection Customer will design, permit, build, and maintain a 230 kV generator lead line from the Interconnection Customer's generation site to the POI; and,
- The Interconnection Customer's Interconnection Facilities will be designed, constructed, and operated in accordance with the PGE Interconnection Requirements document available on the PGE OASIS.

Plan of Service

The Plan of Service is needed to implement the conclusions of the Interconnection System Impact Study for the Interconnection Customer's NRIS request. The Plan of Service for NRIS, shown in **Figure 1** below, includes the following Network Upgrades to the PGE Transmission System:

- A new POI substation designed as a 3-position 230 kV ring bus that will sectionalize the Pelton-Round Butte 230 kV generation lead line and accept the Interconnection Customer's generation lead line;
- A new series capacitor on the Bethel-Round Butte 230 kV transmission line;
- Modifications to the Bethel-Round Butte 230 kV and Pelton-Round Butte 230 kV lines to connect the POI substation and the series capacitor substation to the existing lines; and,
- The addition of the Interconnection Customer's Generating Facility and the new series capacitor to the existing Round Butte Remedial Action Scheme (RAS).

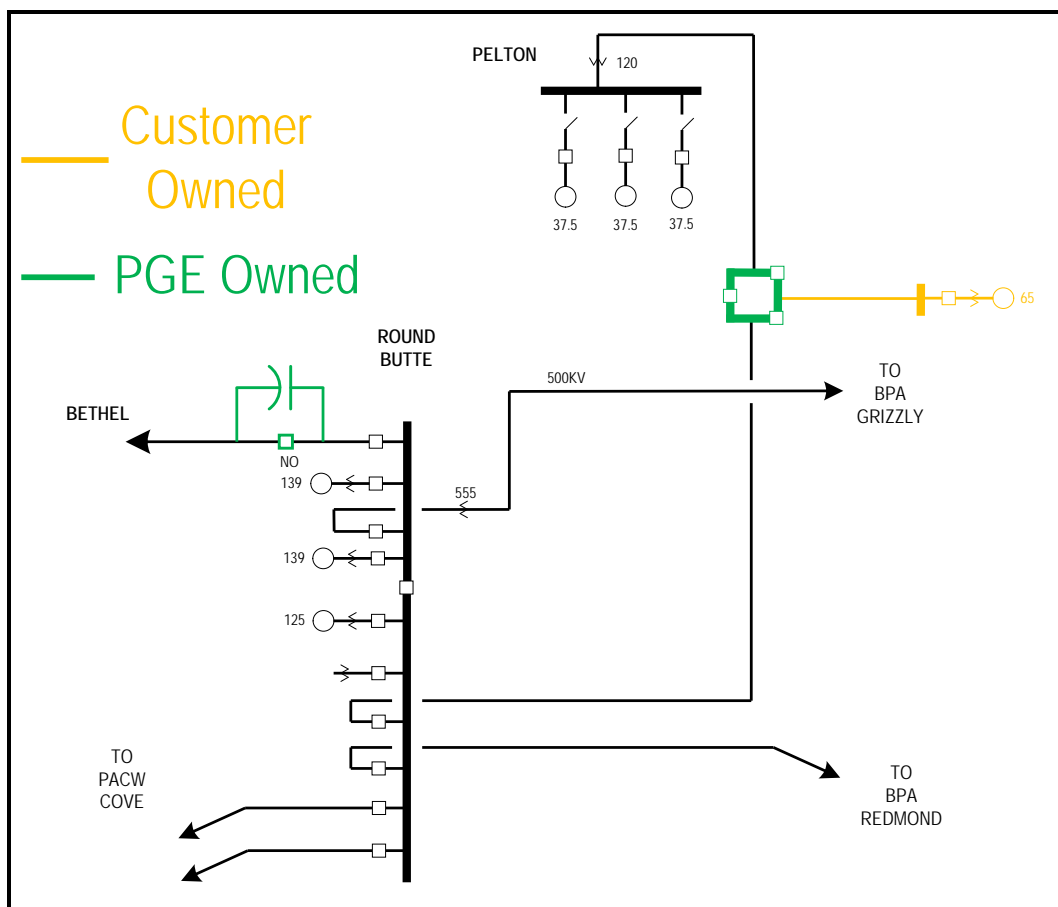


Figure 1: NRIS Preliminary Plan of Service

POI Substation

The POI substation will be located approximately 4.9 miles north of PGE's existing Round Butte Substation on the co-owned² Pelton-Round Butte 230 kV generator lead line. The exact location of the POI substation is unknown at this time, but it is assumed to be generally located adjacent to the Pelton-Round Butte 230 kV generation lead line near the coordinates provided by the Interconnection Customer in the Interconnection Application. The approximate location and footprint of the POI substation and new transmission structures are shown in **Figure 2**. The transmission modifications necessary to connect the POI substation to the Pelton-Round Butte 230 kV generation lead line are discussed later in this report. The Interconnection Customer will design, permit, build, and maintain a 230 kV generator lead line from the Interconnection Customer's generation site to the POI substation. The point of change of ownership between the Interconnection Customer's generator lead line and the POI substation will be at the last dead end structure before entering the POI substation. The conductors and any disconnecting devices between the point of change of ownership and the POI substation bus are considered the Transmission Provider's Interconnection Facilities. All other modifications associated with the POI substation are considered Network Upgrades.

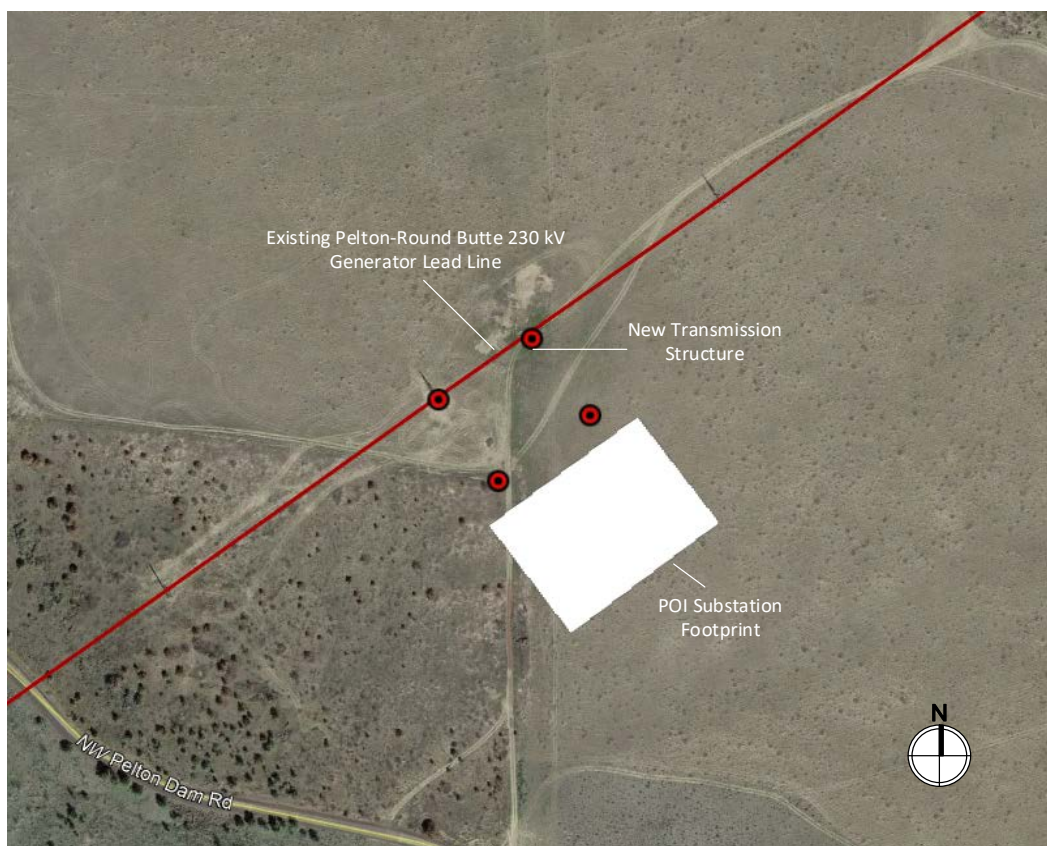


Figure 2: POI Substation and Transmission Structure Location

² The Pelton-Round Butte 230 kV generator lead line is jointly owned by PGE and the Confederated Tribes of the Warm Springs Reservation of Oregon (the Tribes).

The general layout of the POI substation is shown in **Figure 3**. The substation will have a fenced area of 233' x 348' with a surface area of 2.2 acres. The substation will include three 230 kV circuit breakers connected in a ring bus configuration. The existing Pelton-Round Butte 230 kV generator lead line will be looped through the new POI substation creating the POI substation-Round Butte 230 kV transmission line and the Pelton-POI Substation 230 kV generator lead line. Revenue quality meters shall be installed in the POI substation on the Interconnection Customer's generation lead line and on the Pelton-POI Substation 230 kV generation lead line. A microwave tower will be constructed at the POI substation to communicate with the PGE communications network.

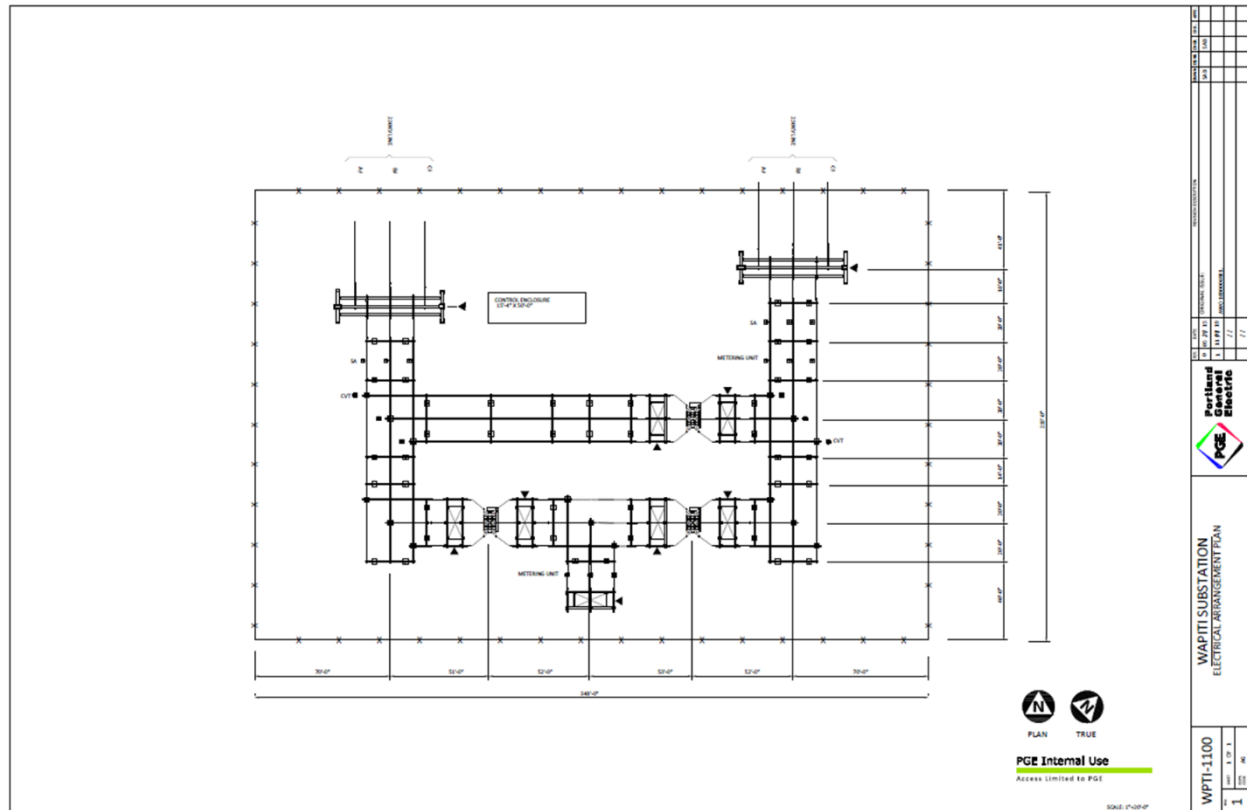


Figure 3: POI Substation General Layout

The estimate for engineering, procurement, installation and construction of the POI substation is shown in **Table 1**. The estimate includes the costs of contract engineering, procurement, and construction. The estimate includes contingencies for unknowns related to the exact location of the substation.

In order to construct the POI substation on the Interconnection Customer's leased site as indicated in the property control documentation provided during the application phase, PGE requires a perpetual easement for, or outright ownership of, the substation property, and a lease would be considered insufficient for property control. The easement would need to be granted by the property owner directly to PGE.

The POI substation is expected to take 2.5-3 years to design and construct.

Point of Interconnection Substation Cost Estimate	
PGE Labor	
Straight Time Labor	\$222,599
Over Time Labor	\$49,857
	Sub Total \$272,456
Purchased Material	
3- Circuit Breaker, 230kV, SF6, 3000A, 50kA, 125VDC.	\$355,919
9 - 230kV, 3000A, Group Operated, VBPA, 12' phase to phase	\$181,632
6 - CCVT, 230kV, Outdoor	\$53,623
6 - Metering class CCVT	\$116,640
6 - Surge Arrestors	\$19,440
1 - 50' x 15', 1 battery room, with floor, without the racks, freight	\$356,400
3 - 230kV Line relay rack, (2) SEL 411L's, 30" x 90"	\$151,632
2 - SCADA/HMI rack	\$55,379
2 - Communications rack	\$90,720
1 - Metering rack, two positions	\$54,432
1 - Battery, 125 VDC with seismic stand, 350AH	\$24,624
1 - Station Service Transformer	\$6,480
1 - non-stores bus, conduit, grounding, cables, relays, etc.	\$32,400
Site Purchased Materials, SCADA Services, and Communications Engineering	\$25,000
Microwave communications tower and equipment	\$250,150
	Sub Total \$1,774,472
Contractor and Outside Services	
General (Mobilization, Site Supervision, Security, etc...)	\$685,440
Site Work (Erosion Control, Grading, Rocking, etc...)	\$826,211
Reinforced Concrete	\$1,008,000
Fencing and Gates	\$374,170
Metals	\$462,202
Substation Electrical Installation of PGE Provided Equipment	\$242,189
Substation Electrical - Contractor Provided Materials (Bus, Cables, Vaults, Conduits, Grounding, Lighting)	\$1,846,320
Substation Electrical Testing	\$67,738
Bonding	\$33,600
Substation Design and Engineering	\$840,000
Misc. Contractor Services	\$789,600
	Sub Total \$7,175,468
Other	
Stores Material	\$83,300
Equipment Rentals	\$5,000
Employee Expenses	\$103,200
Taxes and Permit Fees	\$120,000
	Sub Total \$311,500
	Total \$9,533,896

Table 1: POI Substation Cost Estimate

Series Capacitor Substation

The 230 kV series capacitor will be constructed in a new substation adjacent to the existing Round Butte substation on property owned by PGE. The approximate location and footprint of the series capacitor substation and new transmission structures required to connect them to the Bethel-Round Butte 230 kV transmission line are shown in **Figure 4**. The transmission modifications necessary to connect the series capacitor substation to the Bethel-Round Butte 230 kV transmission line are discussed later in this report. The series capacitor substation and all the components for its connection to the transmission system are considered Network Upgrades.



Figure 4: Series Capacitor Substation and Transmission Structure Location

The general layout of the series capacitor substation is shown in **Figure 5**. This substation will have a fenced area of 300' x 356' with a surface area of 3 acres.

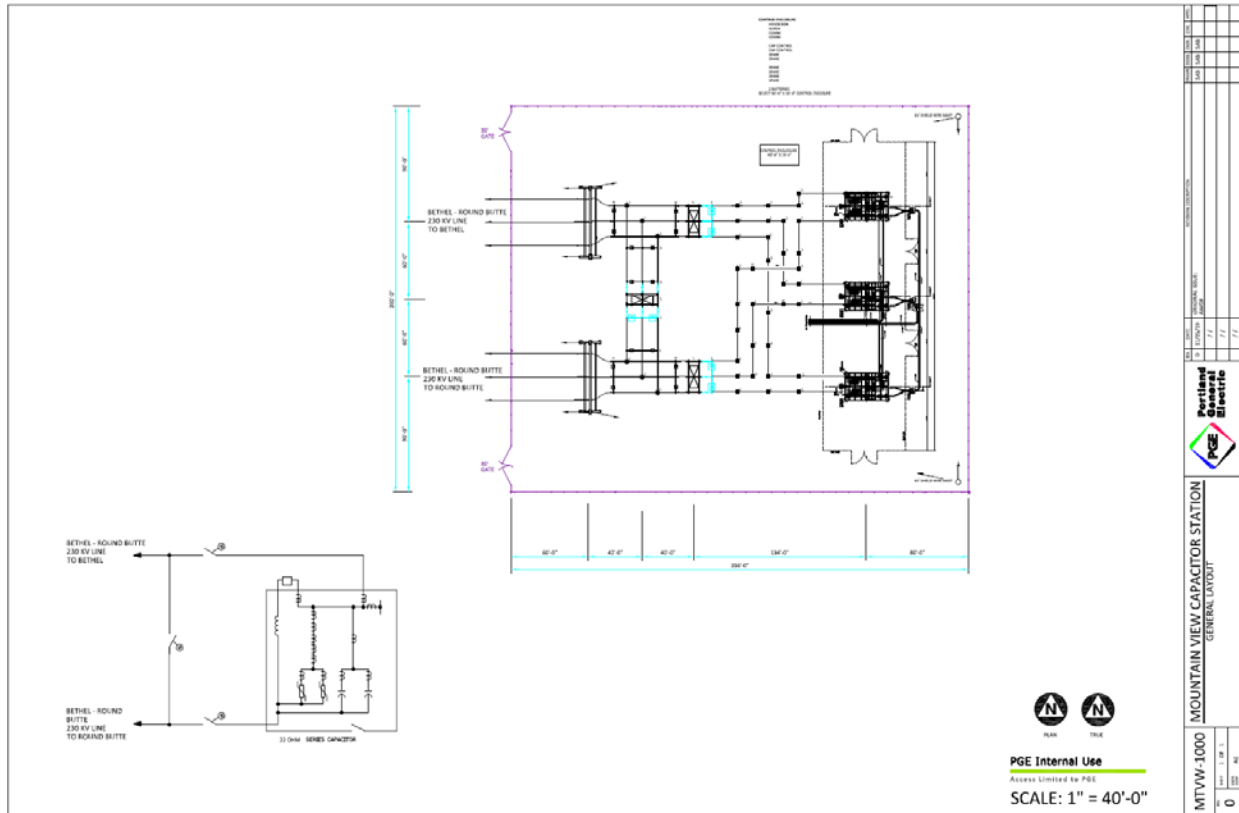


Figure 5: Series Capacitor Substation General Layout

The estimate for engineering, procurement, installation and construction of the series capacitor substation is shown in **Table 2**. The estimate includes the costs of contract engineering, procurement, and construction.

The series capacitor substation is expected to take 2.5-3 years to design and construct, but energization could be delayed until a WECC Path Rating Process of the line is completed. The timeline for construction includes additional time for the purchase of the long-lead-time series capacitor. Once the series capacitor substation is constructed but before the series capacitor can be energized, however, the WECC Path Rating Process must be completed. The WECC Path Rating Process, which will be conducted in parallel with the design and construction of the series capacitor substation, could take as long as three years to complete, and the time to complete that process is not wholly within PGE's control.

The series capacitor substation and the transmission modifications required to connect it to the Bethel-Round Butte 230 kV transmission line exist within the boundaries of the PRB hydro project. The Federal Energy Regulatory Commission may require a full environmental review of modifications or new construction within the hydro project boundaries, which can range from 6 months to 3 years. The construction of the series capacitor substation cannot begin until the necessary environmental reviews are complete, which may extend the timeline beyond 3 years.

Series Capacitor Substation Cost Estimate	
PGE Labor	
Straight Time Labor	\$194,219
Over Time Labor	\$42,191
Sub Total	\$236,410
Purchased Material	
1 - 22 Ohm, 230kV Cap Bank Installation, Equipment, rack, structures, construction	\$5,040,000
3 - 230kV, 3000A, Group Operated, VBPA, 12' phase to phase	\$58,862
6 - CCVT, 230kV, Outdoor, DFK-245	\$52,134
6 - Surge Arrestors	\$18,900
1 - 42' x 15', 1 battery room, with floor, without the racks, freight	\$302,400
1 - 230kV LINE CONTROL rack, (2) SEL 411L's, 30" x 90"	\$49,140
1 - SCADA/HMI rack	\$53,841
1 - Communications rack	\$44,100
1 - Metering rack, two positions	\$52,920
1 - Battery, 125 VDC with seismic stand, 200AH	\$22,050
1 - Station Service Transformer	\$5,670
1 - non-stores bus, conduit, grounding, cables, relays, etc.	\$25,200
Site Purchased Materials, SCADA Services, and Communications Engineering	\$25,000
Sub Total	\$5,750,217
Contractor and Outside Services	
General (Mobilization, Site Supervision, Security, etc...)	\$584,640
Site Work (Erosion Control, Grading, Rocking, etc...)	\$853,924
Reinforced Concrete	\$705,600
Fencing and Gates	\$409,920
Metals	\$338,150
Substation Electrical Installation of PGE Provided Equipment	\$134,669
Substation Electrical - Contractor Provided Materials (Bus, Cables, Vaults, Conduits, Grounding, Lighting)	\$1,548,288
Substation Electrical Testing	\$67,738
Bonding	\$33,600
Substation Design and Engineering	\$540,000
Misc. Contractor Services	\$651,600
Sub Total	\$5,868,129
Other	
Stores Material	\$59,500
Equipment Rentals	\$5,000
Employee Expenses	\$67,200
Taxes and Permit Fees	\$114,000
Sub Total	\$245,700
Total	\$12,100,456

Table 2: Series Capacitor Substation Cost Estimate

Transmission Line Modifications

Transmission line modifications are required to connect the POI substation and the series capacitor substation to the PGE Transmission System, as shown in Figure 1 and Figure 4. The POI substation will require the construction of four new steel transmission structures. The series capacitor substation will require the construction of eight new steel transmission structures. The estimate for engineering, procurement, installation and construction of the transmission modifications is shown in **Table 3**. The estimate includes the costs of contract engineering, procurement, and PGE crew construction. All of the transmission modifications are considered Network Upgrades.

The transmission line modifications are expected to be designed and constructed on the same schedule as the POI substation and the series capacitor substation.

Transmission Modification Cost Estimate		
PGE Labor		
Straight Time Labor		\$506,891
Over Time Labor		\$262,030
	Sub Total	\$768,921
Purchased Material		
230 kV Framing		\$87,510
Anchors and Guying		\$8,628
Conductors		\$47,566
24 - Embedded steel pole, 100'		\$251,369
8 - Embedded steel pole, 120'		\$78,204
4 - Steel Crossarm		\$32,684
Gen Use Hardware		\$3,913
Grounding		\$586
Civil Materials		\$9,948
Other		\$13,965
	Sub Total	\$534,373
Contractor and Outside Services		
Transmission Engineering		\$198,750
Temporary Roads and Pulling Sites		\$134,726
Permits		\$39,750
Survey and Layout		\$9,514
	Sub Total	\$382,740
Other		
Crane Rental		\$30,000
Employee Expenses		\$125,000
	Sub Total	\$155,000
	Total	\$1,841,033

Table 3: Transmission Modification Cost Estimate

RAS Modification

The Interconnection Customer's Generating Facility and the series capacitor must be added to the Round Butte RAS. The RAS currently considers all three Pelton generators as one generation source, because there is only one generator lead line from Pelton to the Round Butte substation. The aggregation of Pelton generators allows the RAS to operate locally at the Round Butte substation and therefore the current RAS does not require communications. However, connecting the Interconnection Customer's Generating Facility to the Pelton-Round Butte 230 kV generator lead line necessitates that the Pelton generation and the Interconnection Customer's output be differentiated at the POI substation, because the point at which the Pelton generation enters the transmission system will be moved, as a result of this interconnection, from Round Butte to the POI substation. Communications facilities used for the RAS are required by NERC³ to be redundant and path diverse. Stated differently, two completely separate communications paths to the POI substation are required. Consequently, incorporating equipment interconnected at the POI substation into the RAS requires a second set of communications facilities to be extended to the POI substation.

PGE currently operates two communications paths from the Round Butte substation to Pelton. One of these communications paths utilizes a combination of fiber optic cable and microwave. The second communications path between Round Butte and Pelton is a fiber optic cable. The two paths currently are not used for the RAS and are not diverse. These two paths share common structures for approximately 1.6 miles. Connecting the POI substation to each of these paths and separating the paths for the 1.6 miles of common structures will provide redundant and path diverse communications for the inclusion of the POI substation into the RAS. The microwave tower constructed per the POI substation scope will utilize path one. The second path will be created by extending the fiber optic cable on path two to the POI substation.

Adding new inputs into the current RAS hardware requires additional equipment to be installed at the POI substation and the replacement of equipment at the Round Butte substation. The estimate for engineering, procurement, installation and construction of the RAS modifications is shown in **Table 4**. The RAS modifications are considered to be Network Upgrades. PGE is continuing to assess the impacts of adding the Interconnection Customer's Generating Facility to the RAS. It is possible that, as a result of this ongoing review, the RAS modification scope of work and estimate could decrease.

It should be noted that any modification to the RAS requires WECC approval. Assuming PGE is granted approval to modify the existing RAS, the new RAS is expected to be constructed on the same schedule as the series capacitor substation.

³ NERC Reliability Standard PRC-012-2.

RAS Cost Estimate	
Second Communications Path	
Labor	\$71,947
Material	\$38,232
Contractor and Outside Services	\$85,853
Sub Total	\$196,032
Separate Fiber on Common Structures	
Labor	\$140,136
Material	\$80,040
Contractor and Outside Services	\$154,103
Sub Total	\$374,279
Communications Installations and Upgrades	
Channel bank expansion at Round Butte substation	\$8,500
SONET reconfiguration at other locations	\$3,300
Fiber splicing and terminations	\$12,280
Engineering	\$45,000
Sub Total	\$69,080
RAS Modifications	
RAS Rack	\$50,000
Stores Material (Control wiring, terminations, etc.)	\$15,000
Labor	\$54,000
Other (Travel, contingency, etc.)	\$51,000
Sub Total	\$170,000
Total	\$809,391

Table 4: RAS Modification Cost Estimate

Project Schedule

The schedule required to implement the conclusions of the Interconnection System Impact Study will require a 2.5-3 year timeline for design, permitting, equipment acquisition, and construction. This schedule is based on the time to construct the POI substation and the series capacitor substation since these substations will take the most time to construct of the Network Upgrades required to accomplish the interconnection.

There are many factors outside of the Transmission Provider's control that could extend the time required for completing construction of the facilities discussed above. These factors include, but are not limited to: unexpected delays in the permitting process, FERC environmental review, the WECC Path Rating Process, long lead times for obtaining electrical equipment, shortages of qualified workers, contractual negotiations with third parties, and inclement weather conditions.

The Pelton-Round Butte 230 kV generator lead-line that the proposed POI is located on is part of the Pelton-Round Butte hydro generating facility which is jointly owned by PGE and the Tribes. Consequently, should the Customer wish to proceed with interconnection, PGE would seek agreement from the Tribes to move forward with the process to separate the line from the hydro facility, as such line is currently identified within the scope of the Hydro License issued by FERC.

Conclusion

This Facilities Study identifies that the cost to implement the conclusions of the Interconnection System Impact Study will be approximately \$24 million as shown in **Table 5**. The Interconnection Customer is responsible to pay actual costs. The timeline for design, equipment acquisition, and construction is 2.5-3 years.

Total Project Cost Estimate	
Point of Interconnection Substation	\$9,533,896
Series Capacitor Substation	\$12,100,456
Transmission Modification	\$1,841,033
RAS Modification	\$809,391
Total \$24,284,775	

Table 5: Total Project Cost Estimate

Interconnection service of any type, including NRIS, does not convey or imply any type of transmission service.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2009

Portland General Electric Company

**Attachment 3 to
Motion to Amend Answer and Counterclaim**

Communication re: Facilities Study

January 3, 2020

From: Nathan Rogers <nrogers@ecoplexus.com>
Sent: Friday, December 20, 2019 9:30 AM
To: Shaun Foster <Shaun.Foster@pgn.com>
Cc: Irion Sanger <irion@sanger-law.com>; Spencer Yang <spencer.yang@bateswhite.com>; Steve Knudsen <sknudsen@threeboys.com>; Scott Piscitello <spiscitello@ecoplexus.com>; Paul Esformes <pesformes@ecoplexus.com>; Cece Coleman <Cece.Coleman@pgn.com>; John Gorman <johng@ecoplexus.com>
Subject: Agenda for today's Madras Solar meeting

*****Please take care when opening links, attachments or responding to this email as it originated outside of PGE.*****

Shaun,

Good morning. Below is a proposed agenda for today's meeting:

1. Ensure common understanding of procedural milestones

- Ecoplexus may provide comments but must do so within 30 calendar days of receipt of the Draft Facilities Study (i.e., no later than January 8, 2020)
- PGE should deliver a Final Facilities Study no later than 15 calendar days after Madras Solar provides comments,
- PGE must tender a Draft LGIA no later than 30 calendar days after Madras Solar submits the above comments to PGE.
- PGE may respond to Madras Solar's comments in the form of an attachment to the Draft LGIA when the Draft LGIA is delivered Ecoplexus.
- What is PGE's understanding if these procedural milestones are not met?

2. Preview of Facilities Study comments

- The full injection of Madras Solar's output to PGE's system did not cause any voltage, stability, or thermal reliability violations under any of the required components of an interconnection System Impact Study (i.e., power flow analysis, short circuit analysis, transient stability analysis and voltage stability analysis).
 - The results of the PGE-conducted contingency analysis between Base Case (no Madras) and With Project Case (with Madras) were identical.
- The Round Butte - Bethel 230 kV line is neither physically nor contractually constrained.
 - - Power flow analyses reveal that the line is 17% utilized under system peak conditions, which increases to 19% with Madras Solar and PRB generation simultaneously running at full output.
 - PGE's Market Based Rate Authority filing noted that PGE could import 200-300 MW of off-system power through Round Butte substation without incurring reliability issues.
 - There are no contractual constraints.
- TTC/ATC contained in the Revised SIS is analysis is misplaced and unsupported by the OATT and QF-LGIP.
- Notwithstanding the fact that the TTC/ATC analysis is misplaced and unsupported by the OATT and/or QF-LGIP:

- PGE had never previously calculated TTC for the Round Butte - Bethel 230 kV line, given that the line is always underutilized (less than 20% loaded).
-
- Real time output of PRB generation varies significantly and often exceeds the purported TTC value, meaning that path TTC is irrelevant for reliable delivery of the PRB's generation.
- Madras Solar adds only 8 MW (i.e., less than 2% line utilization, based on 419 MVA thermal rating) to the existing path flows.
- Moreover, if PGE could import 200-300 MW of off-system power through the Round Butte substation, why would the TTC need to be increased to account for the mere 8 MW that Madras Solar adds to the existing path flows?
- PGE's TTC calculation is based on unrealistic generation dispatch and power flow assumptions (i.e., PGE assumed on-system generation resources produce negative 85 MW during winter on-peak system conditions to maximize the path transfers). In other words, PGE stressed the system to the maximum possible degree (by adding phantom resources) in order to arrive at the purported TTC value and yet still could not arrive at a value that approached the thermal limits of the Round Butte - Bethel 230 kV line.
- Addition of the proposed series capacitor would increase flows on the Round Butte – Bethel 230 kV line in excess of the purported path TTC.
 -
 - This excess power flow above purported TTC values (199 MW in the summer and 260 MW in the winter, which are unrealistic) still did not cause any reliability violations (as confirmed by PGE).
 - Why is a series capacitor needed to increase flows on an underutilized line, and why does the addition of the series capacitor result in flows above the purported TTC values?
- PGE's TTC analysis demonstrates that TTC is irrelevant (since the line is underutilized) and that the series capacitor is unnecessary (since there is no need to increase flows on an already-underutilized line), with the addition of the series capacitor *actually increasing flows on the line above the purported TTC value, while still not causing any reliability violations*, further demonstrating that TTC is irrelevant.
 - PGE originally omitted Madras Solar from the original "Series Cap" TTC case. PGE responded by saying, "As demonstrated in these cases, the omission of the Madras Project did not affect the SIS results," further demonstrating that the series capacitor is unneeded.
- PGE's path-based NRIS analysis is contrary to OATT and QF-LGIP and obscures the fact that PGE has load in Central Oregon (e.g., the Round Butte/Cove Interconnection and Operation Agreement).
- POI Substation and Transmission Line Modification costs roughly doubled from SIS estimate and went up nearly 400% from Feasibility Study estimates.

3. Preview of comments related to OATT/QF-LGIP violations

I. Discriminatory TTC/ATC analysis

- PGE's application of TTC/ATC analysis is contrary to the OATT and QF-LGIP and all other previous interconnection studies performed by PGE (including those for its merchant function).

II. Direct assignment of unnecessary network upgrades

- PGE attempted to assign (without credits) ~\$340 million in network upgrades (i.e., upgrading of the Bethel - Round Butte 230 kV line to 500 kV) to Madras Solar.
 - PGE attempted to assign these upgrades despite the fact that Madras Solar did not cause any voltage, stability, or thermal reliability violations under any of the required components of an interconnection System Impact Study on the Round Butte - Bethel 230 kV line (i.e., power flow analysis, short circuit

analysis, transient stability analysis and voltage stability analysis), and further despite the fact that the Round Butte - Bethel 230 kV is neither physically nor contractually constrained.

- - PGE only revised the SIS to remove the \$340 million in network upgrades after Madras Solar filed a complaint against PGE's merchant function with the Public Utility Commission of Oregon.
 - PGE has not offered or considered a pseudo-tie in lieu of the \$340 million (i.e., rebuilding of the Round Butte - Bethel line) or \$12 million (i.e., the series capacitor) in network upgrades in accordance with PGE's Business Practice dated May 1, 2018.
 - The Revised SIS and Facilities Study attempted to assign network upgrades (e.g., series capacitor and RAS) that may have already been planned for and for which system modifications may have already started to take place.
 - The Local Area Planning process undertaken by PGE in accordance with FERC Order 890/Order 1000 fails to acknowledge the existence of its Central Oregon transmission system, nor does it identify issues in the area or major upgrades needed (e.g., upgrading of the Round Butte - Bethel 230 kV line to 500 kV).
- PGE initially claimed that the AC Intertie Agreement with BPA limits its ability to grant transmission service or schedule power in the east-west direction, thus necessitating the rebuilding of the Round Butte - Bethel 230 kV line to 500 kV. This was proven to be untrue.
 - PGE then claimed that the purported existence of "historical, grandfathered, internal" transmission agreements (that do not actually exist) limited the TTC of the Round Butte - Bethel 230 kV line to the real time output of PRB, thus necessitating the series capacitor to increase the TTC.

III. Standards of Conduct

- PGE stated that FERC Standards of Conduct "do not apply" to QFs, despite attesting under oath that it upheld FERC Standards of Conduct in its interactions with Madras Solar.

IV. Additional violations

- PGE appears to have improperly reserved entire Round Butte to Bethel path transmission capacity for the exclusive use of its merchant function's PRB generation.
 - PGE's merchant function then appears to have used this improper firm transmission reservation to purchase power whenever it was economical.
 - PGE falsely claimed that it has no transmission system load in central Oregon, when in fact:
 - PGE has at least 120 MW of firm obligations in Central Oregon per Section 4.1 of the Round Butte/Cove Interconnection and Operation Agreement executed with PacifiCorp on July 8, 1993.
- PGE appears to be double-selling 120 MW of PRB generation, as PGE has the full 353 MW output of PRB listed as a DNR, while PacifiCorp has 120 MW of Pelton output (i.e., the Round Butte/Cove Interconnection and Operation Agreement) posted as a DNR on PacifiCorp's OASIS).
- PGE may be attempting to assign the costs of certain network upgrades to Madras Solar in order to defer a transmission rate case pending an asset exchange transaction with PacifiCorp.
- According to PGE's 2018 FERC Form 1, in 2018 PGE delivered an average of 487 MW from the PacifiCorp system to PGE load on non-firm transmission every hour of the year under the Round Butte/Cove Interconnection and Operation Agreement (and other exchange agreements?) at no cost to PGE Merchant.
- PGE appears to have executed non-OATT PTP reservations for approximately 300 MW of imports and exports to/from PacifiCorp's system, at no cost to PGE's merchant function, which appear to be designed to allow PGE's merchant function to schedule power to/from California and have it be "deemed delivered" (i.e., delivered to PGE without incurring a BPA wheeling charge) at Grizzly.

4. Potential paths to resolution

- PGE tenders a revised QF-Facilities Study that removes the requirement for a series capacitor and sets the combined POI Substation and Transmission Line Modification at an amount not-to-exceed the estimate contained in the Revised SIS.
- PGE does not tender a revised QF-Facilities Study, but agrees to fund the costs for the series capacitor and any costs for the combined POI Substation and Transmission Line Modification above and beyond the costs contained in Revised SIS in accordance with Section 11.3 of the QF-LGIA.

The comments listed above should in no way be considered exhaustive or final. Madras Solar reserves the right to amend, modify, or remove existing comments and add additional ones as it deems appropriate upon issuance of its formal Facilities Study comments no later than January 8, 2020.

Lastly, will you please update the calendar invite to include a call-in number?

Many thanks,

-Nathan

--

Nathan Rogers

Director of Project Development - Western Region

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CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of PGE's Motion to Amend Answer and Counterclaim and First Amended Answer and Counterclaims in Docket UM 2009 on the following named person(s) on the date indicated below by first-class mail addressed to said person(s) at his or her last-known address(es) indicated below.

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DATED: January 3, 2020



Alisha Till
Paralegal