

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1971

WACONDA SOLAR, LLC,

vs.

PORTLAND GENERAL ELECTRIC  
COMPANY,

Pursuant to ORS 756.500.

RULING

**DISPOSITION: WACONDA MOTION TO STAY DENIED**

On October 5, 2021, Waconda Solar, LLC (Waconda), filed a motion requesting to stay the deadline for its response to PGE's second motion for summary judgment (MSJ) until three weeks after a decision has been reached in docket DR 57.<sup>1</sup> Docket DR 57 is a request for a declaratory ruling from this Commission, filed by a group of Interconnection Trade Associations, on legal issues surrounding an interconnection customer's right and ability to employ an independent system impact study and what information and system access must be supplied by a utility to assist with such a study.<sup>2</sup>

In its motion, Waconda states that, because the same legal issues in this docket with regard to independent system impact studies (iSIS) will be decided in the declaratory ruling, its response to PGE's MSJ should be delayed until three weeks after the declaratory ruling is issued. According to Waconda, this will promote judicial economy by deciding these issues in one docket and engender greater participation by more parties interested in the decision of these legal issues. In addition, Waconda requested expedited consideration of the motion and that PGE file its response to the motion by October 8, 2021.

PGE opposes the motion to stay. PGE filed its response to Waconda's motion on October 12, 2021. PGE proposes that instead of a stay, the procedural schedule should be modified to extend the deadline for Waconda's response to PGE's MSJ to November 9, 2021. PGE states that because it considers Waconda's motion to be procedural, it

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<sup>1</sup> The current deadline is October 19, 2021 (per the ALJ ruling issued August 4, 2021).

<sup>2</sup> The Interconnection Trade Associations that jointly filed the October 5, 2021 request for declaratory ruling are: Renewable Energy Coalition, Community Renewable Energy Association, and Oregon Solar plus Storage Industries Association.

submitted its response within the timeline provided in the administrative rules for such a filing, and notes that the moving party is not permitted to file a reply to a procedural motion response without the ALJ's permission.<sup>3</sup>

Waconda requested and received permission respond. In its October 19, 2021 Reply, Waconda insists that this complaint and the declaratory ruling docket address the same issues:

- 1) whether an interconnection customer has the right to conduct an iSIS;
- 2) whether the utility must provide sufficient information to the interconnection customer to conduct the iSIS;
- 3) whether the utility must provide the interconnection customer access to its system to conduct the iSIS; and
- 4) whether the rules that require a utility to act in a reasonable, nondiscriminatory manner consistent with Good Utility Practice and contractual duty of good faith apply to utility decisions in the iSIS process.<sup>4</sup>

PGE submitted a motion to file a sur-reply accompanied by a sur-reply on October 26, 2021. PGE insists that the above issues are not the same as the remaining issues in this proceeding. PGE further states that granting the motion to stay "would create unnecessary delay for no actual benefit."<sup>5</sup>

On October 29, 2021, Waconda objected to the filing of the sur-reply and urged the Commission to grant its motion to stay, or in the alternative, to allow it submit a sur-reply.

I will not address the similarity or differences of the issues in the two cases at this time, given the nascent stage of the docket DR 57 proceeding. Regarding the request for declaratory ruling, the Commission has not determined whether it will substantively consider the declaratory ruling request, and may not do so for several weeks. Even if the Commission decides to substantively consider the declaratory ruling request, it could be additional weeks or months before a procedural schedule is established and a ruling is issued. Therefore, at this time, the motion to stay is denied.

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<sup>3</sup> PGE response at 3.

<sup>4</sup> Waconda Solar Reply at 2 (October 19, 2021).

<sup>5</sup> PGE sur-reply at 4 (October 29

## **RULING**

Waconda's motion to stay these proceedings is denied. The procedural schedule is modified as follows:

- 1) Waconda must file its response to PGE's second motion for summary judgment by November 22, 2021.
- 2) PGE will file its reply on or before December 15, 2021.

Dated this 4th day of November, 2021, at Salem, Oregon.



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Christopher J. Allwein  
Administrative Law Judge