

July 18, 2023

## Via Email

Filing Center  
Oregon Public Utility Commission  
201 High Street SE, Suite 100  
Salem, OR 97301-3398  
PUC.FilingCenter@state.or.us

Robert Eckenrod  
PacifiCorp  
825 NE Multnomah Street, Suite 550  
Portland, OR 97232  
robert.eckenrod@pacificorp.com

## Via First-Class Mail

PacifiCorp  
Attention: Transmission Services  
825 N.E. Multnomah Street, Suite 550  
Portland, OR 97232

Re: **Notice of Intent to File Complaint of Enforcement**  
Cherry Creek Solar, LLC

Dear Filing Center:

By this letter, Cherry Creek Solar, LLC (“Cherry Creek Solar”) hereby gives notice of its intent to file a Complaint with the Oregon Public Utility Commission (the “Commission”) for enforcement of an interconnection agreement pursuant to OAR 860-082-0085(2) and OAR 860-088-0110(2)(b). Under OAR 860-082-0085(2), a party must file such notice with the Commission at least 10 days prior to filing a complaint for enforcement. In the alternative (or in addition), a community solar project manager seeking to resolve disputes with a utility related to the Community Solar Program may use the contested case process, OAR 860-001-0000, et seq. OAR 860-088-0110(c).<sup>1</sup> Section M of Pacific Power’s Community Solar Interconnection

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<sup>1</sup> Article 7 of the Cherry Creek Solar Interconnection Agreement, Dispute Resolution states that “Parties will adhere to the dispute resolution provisions in the CSP Interconnection Procedures.” Article 7 of the Standard PacifiCorp Interconnection Agreement, Dispute Resolution states that “Parties will adhere to the dispute resolution provisions in OAR 860-082-0080.” It is unclear if the dispute resolution procedures in OAR 860-082-0085(2) apply.

Procedures similarly provides that 10 Business Days prior to filing a complaint for enforcement, complainant must give written notice to PacifiCorp and the Commission that complainant intends to file a complaint for enforcement. Absent resolution or significant progress toward resolution, Cherry Creek Solar intends to file its complaint on or after August 1, 2023. The complaint will assert, inter alia, that PacifiCorp (“PacifiCorp”) has violated its Interconnection Agreement for a Community Solar Project (the “Interconnection Agreement”) with Cherry Creek Solar, which was executed on June 1, 2021.

The Commission’s small generator interconnection rules (OAR 860-082-0085(2)) and Section M of PacifiCorp’s Community Solar Interconnection Procedures require the notice to “identify the provisions in the agreement that complainant alleges were or are being violated and the specific acts or failure to act that caused or are causing the violation, and whether complainant anticipates requesting temporary or injunctive relief.” The provisions of the interconnection and the specific acts or failure to act are detailed below. Cherry Creek Solar intends to request injunctive relief to direct PacifiCorp to accept all energy delivered pending the complaint.

### **Provisions of Interconnection Agreement Being Violated.**

Cherry Creek Solar asserts that PacifiCorp violated Articles 1.5.3 and 3.4 of the Interconnection Agreement Attachment 4 of the Interconnection Agreement, Attachment 6 of the Interconnection Agreement, PacifiCorp’s Engineering Handbook, PacifiCorp’s 2022 Electric Service Requirements Manual, and various provisions of Oregon law that govern the Interconnection Agreement per Article 8.1 of the agreement. Specifically, the parties dispute, inter alia, the cause and solution to Cherry Creek Solar getting tripped offline. Cherry Creek Solar has explained what it believes is causing the problem and proposed solutions to PacifiCorp, but PacifiCorp has failed to substantively respond.

### **Specific Act or Failure to Act Giving Rise to the Violation.**

The details regarding this dispute stem from a disagreement about the cause and solution to Cherry Creek Solar being tripped offline. Cherry Creek Solar has been tripped offline four times since energization on May 16, 2023. PacifiCorp claimed there were meter issues that caused Cherry Creek Solar to be tripped offline. Cherry Creek Solar investigated the issue and determined Cherry Creek Solar’s recloser is being tripped offline because PacifiCorp’s grid is operating at voltages outside their own power quality standards in PacifiCorp’s Engineering Handbook and PacifiCorp’s 2022 Electric Service Requirements Manual. On June 16, 2023, Cherry Creek Solar proposed three solutions to PacifiCorp to resolve this issue, but Cherry Creek Solar has not received a substantive response from PacifiCorp. Each time Cherry Creek Solar is tripped offline someone has to go onsite and physically close the recloser in order to start producing electricity again. These trips are causing the facility to produce less electricity, which is causing harm to Cherry Creek Solar and its subscribers. Fifty percent of Cherry Creek Solar’s electricity subscribers are low income.

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**Type of Relief Requested.**

The delay in resolution of the tripping offline issue for the Cherry Creek Solar facility is causing economic harm to the developers as well as the Community Solar Program subscribers, including low-income customers, this project serves. Cherry Creek Solar wishes to have the project producing at its full capacity and avoid being tripped offline to avoid further economic harm. Cherry Creek Solar will request that the Commission determine PacifiCorp is the cause of these trips, order an extension of the power purchase agreement for each day of delay due to these trips, impose penalties on PacifiCorp, seek to vacate the provision of the interconnection agreement that limits damages, and modify the interconnection agreement to allow PacifiCorp to owe additional damages to Cherry Creek Solar for the harm from these tripping events. Additionally, Cherry Creek Solar intends to request injunctive relief to direct PacifiCorp to accept all energy delivered pending the complaint.

**Good Faith Efforts to Resolve This Matter.**

Cherry Creek Solar has continually worked in good faith with PacifiCorp to resolve the dispute, and Cherry Creek Solar is willing to continue working toward a resolution.

Sincerely,



Irion A. Sanger

cc: Hunter Strader (via email only)

CERTIFICATE OF SERVICE

In accordance with ORCP 9 and OAR 860-082-0085(2), I hereby certify that on July 18, 2023, I caused to be served a full and exact copy of the foregoing Notice of Intent to file Complaint of Enforcement via e-mail and/or first-class mail to the following parties:

Cherry Creek Solar, LLC Hunter Strader, GreenKey Solar, LLC 3519 NE 15 <sup>th</sup> Ave., #106 Portland, OR 97212 <b>hunter@greenkeysolar.com</b> (Service via email only)	PacifiCorp Attn: Transmission Services 825 NE Multnomah Street, Suite 550 Portland, OR 97232 (Service via first-class mail only)
Filing Center Public Utility Commission of Oregon PO Box 1088 Salem, OR 97308-1088 <b>PUC.FilingCenter@state.or.us</b> (Service via email only)	PacifiCorp Robert Eckenrod 825 NE Multnomah St, Suite 1600 Portland, OR 97232 <b>Robert.Eckenrod@pacificorp.com</b> (Service via email only)

Dated: July 18, 2023

/s/ Irion A. Sanger

Sanger Law PC

Attorney for Cherry Creek, LLC

OSB No. 003750