

ORDER NO.

11 248

ENTERED

JUL 07 2011

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1538

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON STAFF

Request by RHT Energy Solutions for
waiver of the 90 percent rolling average
requirement under OAR 860-084-0100(e).

ORDER

DISPOSITION: REQUEST FOR WAIVER DENIED

On May 27, 2011, RHT Energy Solutions filed an application with the Public Utility Commission of Oregon (Commission) for waiver of the 90 percent rolling average requirement under OAR 860-084-0100(e).

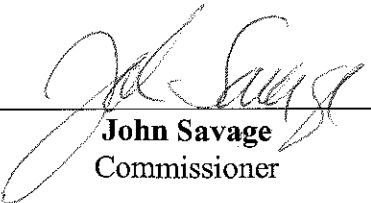
A full description of the filing, its procedural history, and Staff's recommendation are contained in the Staff Report, attached as Appendix A and incorporated by reference.

At its Public Meeting on July 5, 2011, the Commission adopted Staff's recommendation to deny the requested waiver.


ORDER

IT IS ORDERED that RHT Energy Solutions' request for waiver is denied, and PacifiCorp is directed to determine the nameplate capacity of the proposed SPV system based on usage by a similarly-situated customer as authorized by OAR 860-084-0100(2)(e).

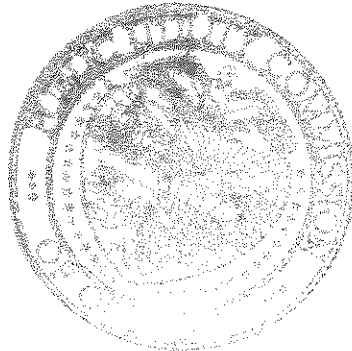
Made, entered, and effective JUL 07 2011.



John Savage
Commissioner



Susan K. Ackerman
Commissioner



A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

ITEM NO. 3

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: July 5, 2011**

REGULAR X CONSENT _____ EFFECTIVE DATE July 5, 2011

DATE: ~~June 27, 2011~~

TO: Public Utility Commission

FROM: Moshrek Sobhy *MS*

THROUGH: *u* Lee Sparling, *MG* Maury Galbraith, and *JK* Lori Koho

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1538) RHT Energy Solutions' waiver request from the 90 percent rolling average requirement in OAR 860-084-0100.

STAFF RECOMMENDATION:

Staff recommends the Commission grant RHT's request that PacifiCorp determine the nameplate capacity of the proposed Solar Photovoltaic System (SPV) based on usage by a similarly-situated customer consistent with OAR 860-084-0100(2)(e).¹

DISCUSSION:

RHT Energy Solutions (RHT) and the Homebuilders Association of Jackson County are constructing a 2,300 square foot Showcase Home in the White Oak Subdivision in Shady Cove, Oregon. RHT made a capacity reservation under the Solar Pilot Program with PacifiCorp in the April 2011 open enrollment period. On April 11, 2011, PacifiCorp rejected RHT's request, stating: "the usage at the premises is so low a system of any size would fail to meet the 90 percent requirement as provided in OAR 860-084-0100(2)(e)."²

RHT proposes to install a small-scale Solar Photovoltaic System (SPV) with a nameplate capacity of three kW. According to RHT this system will provide only 31

¹ As explained in Staff's discussion, the term "waiver" does not accurately describe the issue in this request. Sunlight's interest may be granted by implementing the current rule. Accordingly, a waiver is neither needed nor appropriate.

² This statement appears in PacifiCorp's rejection notice to applicant. Staff's interpretation of this statement is that since the property is under construction, the meter is not registering enough usage to calculate 90% of actual consumption to size the system.

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percent of the home's annual estimated usage using the ETO's usage Calculator. RHT also provided another estimate using Consumer Power Inc.'s energy calculator, indicating the proposed system will produce only 28.6 percent of the home's estimated usage.³ RHT objects to PacifiCorp's decision since the current rule does not explicitly require the 90 percent to be based on historical usage and requests a waiver under the Commission's authority in OAR 860-084-0100. Additionally, RHT states that the current rule allows that the SPV nameplate capacity be based on the usage by a similarly-situated customer. OAR 860-084-0100(2)(e) states the following:

"Capacity of qualifying systems sized to provide an estimated energy generation equal to 90 percent of the rolling average of the usage at the premises at which the qualifying system will be installed. If this average cannot be determined, the nameplate capacity can be no more than 90 percent of a rolling average of three year's usage by a similarly-situated customer, as determined by the electric company. The methodology used to calculate this energy generation will be consistent with the methodologies used by the Energy Trust of Oregon and the Oregon Department of Energy."

Reading the current rule in its entirety, Staff does not believe that a waiver is necessary to address RHT's need. In fact, Staff would be concerned that by granting a waiver of implementing the referenced rule, RHT may be unable to successfully install the proposed SPV under the similarly-situated customer provision. Staff acknowledges that the current rule does not specifically address installation of SPV systems to new construction.⁴ However, it provides authority to size the SPV systems based on usage by a similarly-situated customer. Therefore, Staff confirms that the current rule authorizes PacifiCorp to determine the nameplate capacity of the proposed SPV using the consumption of a similarly-situated customer. Staff notes that it is neither approving nor disapproving RHT's estimates.

Based on this information, Staff recommends that PacifiCorp determine the size of the proposed SPV based on the usage by a similarly-situated customer.

³ Consumers Power, Inc. is a privately owned nonprofit rural electric cooperative serving customers in rural areas in Benton, Lincoln, Lane, Linn, Polk, and Marion counties.

⁴ In Order No. 11-089, Docket No. UM 1505, the Commission directed Staff to convene public workshops to make necessary revisions to the existing rule in light of its authorized modifications to the Solar Pilot Program. Staff, the electric utilities, and other interested parties are currently discussing clarifications of the existing rule to determine capacity of the SPV systems serving new construction.

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PROPOSED COMMISSION MOTION:

RHT's request for waiver be denied, and PacifiCorp be directed to determine the nameplate capacity of the proposed SPV system based on usage by a similarly-situated customer as provided by OAR 860-084-0100(2)(e).

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