

ORDER NO. 11 261.

ENTERED JUL 14 2011

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1538

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON STAFF

Request by Sunlight Solar Energy for
waiver of the 12 months installation
requirement and a three month extension
under OAR 860-084-0210.

ORDER

DISPOSITION: WAIVER DENIED

On June 9, 2011, Sunlight Solar Energy (Sunlight) filed, on behalf of Peter Dinsdale, a request to waive the 12-month installation requirement for a nine kW Solar Photovoltaic System (SPV). Mr. Dinsdale made a capacity reservation with PacifiCorp for the proposed SPV in July 2010.

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.

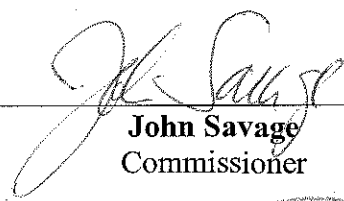
At the July 5, 2011 Public Meeting, the Commission set aside Staff's recommendation to deny the waiver to allow more time to investigate the circumstances giving rise to the request. Specifically, the Commission directed Staff to inform Sunlight of the opportunity to file additional information to support the request by June 12, 2011. No additional information was submitted, and the time for doing so has expired.

Accordingly, the Commission adopts Staff's recommendation to deny the waiver request.

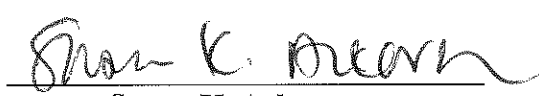
ORDER

IT IS ORDERED that the waiver request filed by Sunlight Solar Energy, on behalf of Peter Dinsdale, is denied.

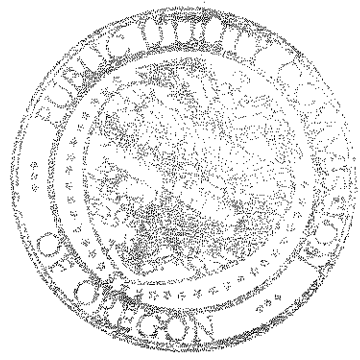
Made, entered, and effective JUL 14 2011.



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. 6

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

REGULAR CONSENT EFFECTIVE DATE July 5, 2011

DATE: June 27, 2011

TO: Public Utility Commission

FROM: Moshrek Sobhy

THROUGH: Lee Sparling, Maury Galbraith, and Lori Koho

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1538) Request by Sunlight Solar Energy for a waiver of the 12 months installation requirement and a three months extension under OAR 860-084-0210.

STAFF RECOMMENDATION:

Staff recommends the Commission deny the waiver request by Sunlight Solar Energy.

DISCUSSION:

On June 9, 2011, Sunlight Solar Energy (Sunlight) filed, on behalf of Peter Dinsdale, a request to waive the 12-month installation requirement and a three-month extension to install a nine kW Solar Photovoltaic System (SPV). The proposed SPV is planned to serve Blue Heron Farm, which borders the Willamette River in Marion County. Mr. Dinsdale made a capacity reservation with PacifiCorp for the proposed SPV in July 2010. Pursuant to OAR 860-084-0210(1), the installation deadline expires July 2011.

On June 27, 2011, Sunlight provided supplemental information explaining the issues surrounding the delay in completing the SPV installation prior to the expiration of the 12-month period. Initially, Mr. Dinsdale considered installing the SPV at a location near the utility meter. However, this location was determined to be in the floodway zone of the Willamette River where all construction is prohibited by Marion County Planning Division (MCPD).

A second location, approximately one thousand feet east of the original site and the utility meter located within the floodplain zone but outside the floodway zone was

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approved by MCPD on September 22, 2010 (Floodplain Permit, Case No. 10-06). Consequently, Sunlight and Mr. Dinsdale determined that the relatively long distance between the SPV and the utility meter prohibited the project from moving forward under the approved location. First, there is a significant voltage drop due to this distance. Second, the cost of installing copper wire connections between the SPV and the meter was prohibitive. In February 2011, an alternative site was determined to be also in the floodway zone. In May 11, 2011, after surveying and investigating another location, Mr. Dinsdale filed for a second floodplain permit with MCPD, which was approved on June 23, 2011.

OAR 860-084-0210(1) provides that the capacity reservation for small-scale and medium-scale systems expires if a completed interconnection application is not filed within two months of the reservation start date, or if the system has not been installed within twelve months of the reservation start date. Under OAR 860-084-0000(3), the Commission may waive any of the rules contained in Division 084 for good cause.

The information submitted by Sunlight indicates that the construction-in-floodway issue was identified shortly after reserving capacity in July 2010. This is clear since the permit for the first site is dated September 22, 2010.¹ Therefore, it does not appear that the construction-in-floodway question caused significant delay to the project. On another note, Sunlight states that the floodplain application was approved in November 2010 and notice of approval was received in December 2010. Sunlight included in its supplemental information a copy of the correspondence between the Department of State Lands and Mr. Dinsdale in support of its claim. However, it appears that this correspondence is associated with a wetland determination request. The relevance of the wetland determination review, to the floodplain permit, and to the 12-month installation requirement is unclear.²

It appears that the main reason causing the delay in completing the project within the 12-month installation requirement is largely due to changing the location of the SPV after the first approval. This decision was made after determining that there were voltage drop and cost issues caused mainly by the relatively long distance between the SPV and the meter. Consequently, it was determined that these issues would prohibit the project from moving forward and that the SPV location should be changed. In Staff's opinion, the impact of these technical issues on the project viability should have

¹ Sunlight indicates that approximately 45 days for application review and 60 days for engineering and surveying plans are needed. The total number of days closely tracks the period between July 2010 (capacity reservation date) and September 2010 (permit approval date).

² The wetland determination review is conducted by Oregon's State Lands Department and does not appear to be part of the floodplain permit, which is issued by Marion County Planning Division.

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been identified during the site selection and the engineering planning phase of the project prior to submitting the permit application.

It is clear that Sunlight and Mr. Dinsdale were aware of the restrictions imposed by the construction-in-floodway issue on site selection at the beginning of the process. Accordingly, the technical issues regarding site selection and project feasibility should have been addressed well in advance during the planning phase. Based on this information, Staff finds that Sunlight and Mr. Dinsdale do not show good cause to support granting the waiver and extension request.

PROPOSED COMMISSION MOTION:

Sunlight 's request for a waiver of the 12-month installation requirement and three-month extension under OAR 860-084-0210(1) based on the Commission's authority in OAR 860-084-0000(3) be denied.

UM 1538-Sunlight (extension)