

ORDER NO. 11 406

ENTERED OCT 10 2011

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1538

In the Matter of

ENERGY RECOVERY GROUP, LLC,

Request for Waiver of 12-Month
Installation Requirement
(OAR 860-084-0210 (1)).

ORDER

DISPOSITION: APPLICATION GRANTED IN PART

On September 19, 2011, the Energy Recovery Group, LLC (ERG) filed an application with the Public Utility Commission of Oregon (Commission) under OAR 860-084-0210 (1) requesting a waiver of the 12 month solar system installation requirement for two systems.

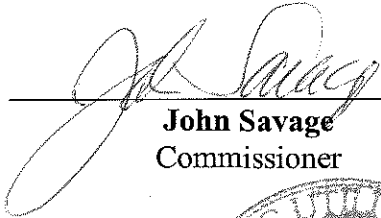
A full description of the filing, its procedural history, and Staff's recommendation are contained in the Staff Report, attached as Appendix A and incorporated by reference.

At the Public Meeting on October 4, 2011, Staff reported that after the attached Staff Report was filed, Staff learned from ERG that the projects were more substantially complete than earlier indicated by ERG. After discussion, we decided, based on the new information received, that a one-time, two-month waiver is appropriate for the two systems and should be approved.

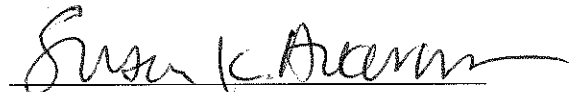
ORDER

IT IS ORDERED that the Energy Recovery Group, LLC's request for waiver of the 12-month installation requirement for the two proposed Solar Photovoltaic systems is granted in part, and the installation deadlines are extended to December 6, 2011.

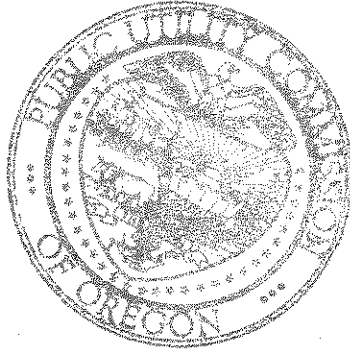
Made, entered, and effective OCT 10 2011



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. 8

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: October 4, 2011**

REGULAR X CONSENT _____ EFFECTIVE DATE October 4, 2011

DATE: September 27, 2011

TO: Public Utility Commission

FROM: Moshrek Sobhy *MS*

THROUGH: *li* Lee Sparling, *MG* Maury Galbraith, and *LK* Lori Koho

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF: (Docket No.UM 1538)
Request by Energy Recovery Group, LLC for a waiver of the 12-month solar system installation requirement pursuant to OAR 860-084-0210(1).

STAFF RECOMMENDATION:

Staff recommends the Commission deny the waiver request by Energy Recovery Group, LLC.

DISCUSSION:

On September 19, 2011, Energy Recovery Group, LLC (ERG) filed a waiver request for two 9.9 kW Solar Photovoltaic (SPV) systems in Lake County, Oregon. Pacific Power and Light (PP&L) awarded Lake County capacity reservation for the two systems in October 2010.

ERG's waiver request indicates the following:

- The 12-month installation requirement for the proposed systems is October 6, 2011.
- The locations of the proposed systems are in Lake County's fairgrounds and road department facilities.
- Following a presentation in late August 2011, the Lake County Commission (Lake County) authorized ERG to install the proposed systems on September 12, 2011.

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- ERG will own the systems for the first six years and one day pursuant to a lease-to-own agreement with Lake County. Thereafter, the ownership of these two systems will be transferred to Lake County pursuant to the agreement.
- On September 16, 2011, ERG filed the permit applications to install the systems with the Town of Lakeview (Lakeview).
- Lakeview Planning Division will conduct its review of the permit applications for the proposed systems in November 2011.
- According to ERG, none of the parties involved with the project anticipated a site review requirement for the installation of the proposed systems.
- Upon receiving the contracts, ERG committed to more than \$7,500 in expenses for the fairgrounds location.

On September 27, 2011, Lake County provided the following information:

- The financing options to install the proposed systems that were available prior to ERG's August 2011 lease-to-own option presentation were economically feasible to Lake County.
- Lake County decided to move forward with the installations on September 12, 2011, and authorized ERG to install the systems, based on ERG's lease-to-own option for the financing.

OAR 860-084-0000(3) provides:

"The Commission may waive any of the rules contained in Division 084 for good cause."¹

Staff is not persuaded that the information provided in this request supports "good cause" for a waiver. In Staff's opinion, the financing and the economic feasibility of installing the proposed systems should be largely determined at the time the applicant decides to participate in the Pilot. Lake County and ERG did not arrange for the financing of the systems until the eleventh month of the 12-month installation window. For this reason, Staff recommends denial.

¹ The rule refers to the Public Utility Commission of Oregon (see OAR 860-084 et. seq).

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PROPOSED COMMISSION MOTION:

Energy Recovery Group's request for waiver of the 12-month installation requirement be denied.

UM 1538. EnergyRecoveryGroup