

ORDER NO. 13 436

ENTERED NOV 26 2013

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1538

In the Matter of

PGPV, LLC,

Request for Waiver of the 12-month Solar Photovoltaic System Installation Requirement under OAR 860-084-0210(1) for the Shasta Way Project.

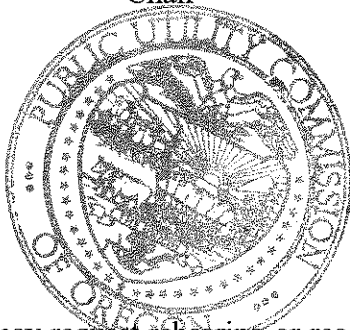
ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at the public meeting on November 26, 2013, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 26th day of NOV., 2013, at Salem, Oregon.

Susan K. Ackerman
Chair



John Savage
Commissioner

COMMISSIONER BLOOM WAS
UNAVAILABLE FOR SIGNATURE

Stephen M. Bloom
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.

ORDER NO.

13 436

ITEM NO. CA13

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: November 26, 2013

REGULAR CONSENT EFFECTIVE DATE November 27, 2013

DATE: November 18, 2013

TO: Public Utility Commission

FROM: Adam Bless 

THROUGH: Jason Eisdorfer, Maury Galbraith, and Aster Adams   

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

STAFF RECOMMENDATION:

Staff recommends the Commission deny the request by PGPV to extend the 12-month deadline to install a solar photovoltaic system (SPV) under the PacifiCorp Solar Incentive Program by 14 months, i.e. from October 10, 2012 to December 15, 2013.

DISCUSSION:

PGPV requests a waiver of the 12-month deadline for installation of a solar photovoltaic system (SPV) under the PacifiCorp Solar Incentive Program for its 10 kilowatt (kW) SPV project at the Shasta Way Christian Church in Klamath Falls, Oregon. PGPV states that the waiver should be granted because the project has been physically complete since July 2, 2013¹, and it thought that the Commission had already granted an extension for the project. The project was originally accepted into the solar incentive program in October 2011 with a completion deadline of October 10, 2012. PGPV requests an extension to December 15, 2013. If granted, it would represent an extension of more than 14 months.

Background

PGPV is a third party solar installation contractor. Under its contract with Shasta Way Church, PGPV finances, owns and maintains the SPV installation and rents space on the roof of the church. PGPV handles the interconnection arrangements with the utility

¹ July 2, 2013 was the date that the local electrical inspector approved the installation.

Docket No, UM 1538 (PGPV Waiver Request: Shasta Way)

November 18, 2013

Page 2

and receives the Volumetric Incentive Rate payments. The church receives rent from PGPV and savings on its electric bill at the retail rate. There is also a financial adjustment between PGPV and the church to account for differences between the expected and actual retail rate. PGPV operates a large number of similar projects in Oregon, with a total capacity of more than 600 kW.

In making the current request, PGPV did not identify the prior Commission order it believed had granted it an extension for the Shasta Way project. As explained below, Staff has found no prior requests by PGPV for an extension for this project.

Staff reviewed the project history and PGPV's previous extension requests filed with the Commission. Relevant milestones are as follows:

- Oct 10, 2011: Shasta Way Church Project accepted into the solar incentive program with a deadline of October 10, 2012.
- Sept 25, 2012: PGPV received three month extensions for nine separate projects, with a new deadline of December 31, 2012. Shasta Way was not among these nine projects. See Order 12-362.
- February 12, 2013: PGPV received six month extensions for eight separate projects, with a new deadline of June 30, 2013. Shasta Way was not among these eight projects. See Order 13-043.
- July 2, 2013: PGPV completed installation at Shasta Way Church. However, PGPV needed to rewrite its contract with the church because it had changed lenders. The rework of the contract took an additional three months.
- October 15, 2013: PGPV completed a new contract with Shasta Way Church and notified PacifiCorp that the system was ready for operation.
- October 21, 2013: PacifiCorp notified PGPV that their original deadline of October 2012 was still effective and had never been extended.

If the Commission denies the waiver, PGPV's options are to (1) remove the SPV from the church and try to use the material in another project, or (2) keep the SPV in place and seek financial support from programs administered by Oregon Department of Energy and the Energy Trust of Oregon.

In making our recommendation, staff considered the following factors:

- The system is completed and ready to operate.
- The financial impact on the church (rent payments and retail kW-hour savings).
- The precedent that might be set by installing a system without a proper waiver and receiving one several months after the fact.

Docket No, UM 1538 (PGPV Waiver Request: Shasta Way)
November 18, 2013
Page 3

- The extent to which the need for the waiver was due to circumstances within PGPV's control.
- The message that approval or denial might send to third party developers seeking financing for any future incentive programs.

Conclusion

OAR 860-084-000(3) allows for a waiver of the 12-month solar photovoltaic system installation requirement for good cause.² Staff is not persuaded that PGPV's apparent difficulty of keeping track of its multiple project deadlines, including not knowing which project were included in its various requests for Commission waivers, constitutes good cause to support its waiver request.³

Further, Staff is concerned that allowing a developer to miss several deadlines, complete a project after all deadlines had elapsed, and then receive a waiver after the fact would render deadlines meaningless in any future programs. Staff regrets the inefficient use of time and money involved in this project, which is already completed, and regrets any loss of future rent income and savings to the church. However, the SPV material may still be used in another project or possibly even kept in its current location, and the church still has opportunity to contract with this or any other third party solar provider. On balance, staff concludes that the factors against granting the waiver outweigh the factors in favor of allowing it, and recommend denial of PGPV's request.

PROPOSED COMMISSION MOTION:

PGPV's request for waiver of the 12-month installation requirement for the SPV system under PacifiCorp's Solar Incentive Program be denied for the Shasta Way Church project.

Ca13 UM 1538 PGPV Shasta VIR Waiver.docx

² See OAR 860-084-0000(3), which states that the Commission may waive any of the rules contained in Division 084 for good cause.

³ As stated, in making its current request for a waiver, PGPV simply stated that it thought it already had an extension for the Shasta Way project. It did not identify which prior Commission order it thought had provided this extension. But, assuming PGPV thought the Shasta Way project was granted an extension by either Order No. 12-362 or Order No.13-043, Staff notes that even under either of these orders, the project would still not have met the deadlines set by those orders.