

ORDER NO. 15 126

ENTERED APR 15 2015

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1538

In the Matter of

KAMANA O'KALA, LLC,

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

ORDER

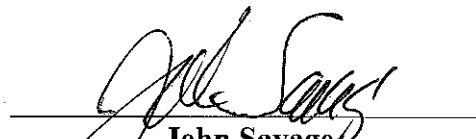
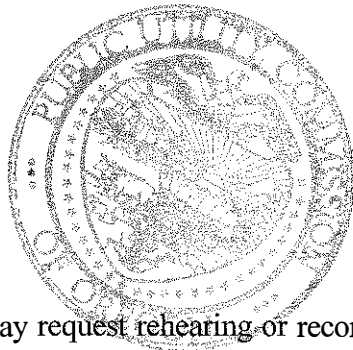
DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

This order memorializes our decision, made and effective at the public meeting on April 14, 2015, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 15th day of April, 2015, at Salem, Oregon.



Susan K. Ackerman
Chair



John Savage
Commissioner



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 Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. 1

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: April 14, 2015

REGULAR X CONSENT EFFECTIVE DATE April 14, 2015

DATE: April 7, 2015

TO: Public Utility Commission

FROM: Cindy Dolezel *CD*

THROUGH: *J* Jason Eisdorfer and *E for AA* Aster Adams

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1538) Request by Kamana O’Kala, on behalf of their customers, for a waiver, pursuant to OAR 860-084-0210(1), of the 12-month solar photovoltaic system installation requirement.

STAFF RECOMMENDATIONS:

Staff recommends that:

1. The request for a waiver for the completion of the seven solar photovoltaic systems, listed as projects 1 through 7 in Table 1 (*i.e.* reserved by Columbia Farms) be granted, which results in an extension from March 31, 2015, to July 31, 2015;
2. By May 15, 2015, Kamana O’Kala be required to provide a written progress update for the seven projects listed as projects 1 through 7 in Table 1; and
3. The request for a waiver for projects 8 through 19 in Table 1 (*i.e.* the non-Columbia Farms reserved projects) be denied because Kamana O’Kala has not provided evidence of securing the necessary financing and a likelihood of completing the projects in a timely manner.

Docket No. UM 1538 (Solar VIR Waiver)
 April 7, 2015
 Page 2

Table 1. Projects Requesting Waivers - Kamana O'Kala, LLC

	Site/Project Name	Size Reserved	Code
1	Columbia Farms 1	49.82 KW	EXL1605
2	Columbia Farms 2	49.82 KW	EXL1607
3	Columbia Farms 3	49.82 KW	EXL1609
4	Columbia Farms 4	49.82 KW	EXL1611
5	Columbia Farms 5	49.82 KW	EXL1613
6	Columbia Farms Marshall	49.82 KW	EXL1615
7	Columbia Farms Pump House	49.82 KW	EXL1617
8	Bona Ogilvie	49.82 KW	EXL1619
9	Export 1	49.82 KW	EXL1621
10	Export 2	49.82 KW	EXL1623
11	Export 3	49.82 KW	EXL1625
12	Export 4	49.82 KW	EXL1627
13	Export 5	49.82 KW	EXL1629
14	Export 6	49.82 KW	EXL1631
15	Export 7	49.82 KW	EXL1633
16	Export 8	49.82 KW	EXL1635
17	Export 9	49.82 KW	EXL1637
18	Export 10	49.82 KW	EXL1639
19	Export 11	49.82 KW	EXL1641
20	Export 12	49.82 KW	EXL1643
21	Export 13	49.82 KW	EXL1645
22	Export 14	49.82 KW	EXL1647
23	Export 15	49.82 KW	EXL1649
24	Export 16	49.82 KW	EXL1651
25	Export 17	49.82 KW	EXL1653
26	Export 18	49.82 KW	EXL1655
27	Export 19	49.82 KW	EXL1657
28	Export 20	49.82 KW	EXL1659
29	Export 21	49.82 KW	EXL1661
30	Export 22	49.82 KW	EXL1663
31	Export 23	49.82 KW	EXL1665
32	Export 24	49.82 KW	EXL1667
33	Export 25	49.82 KW	EXL1669
34	Export 26	49.82 KW	EXL1671
35	Export 27	49.82 KW	EXL1673
36	Export 28	49.82 KW	EXL1675
37	Export 29	49.82 KW	EXL1677
38	Export 30	49.82 KW	EXL1679
39	Export 31	49.82 KW	EXL1681
40	Export 32	49.82 KW	EXL1683
41	Export 33	49.82 KW	EXL1685
42	Export 34	49.82 KW	EXL1687
43	Export 35	49.82 KW	EXL1689
44	Export 36	49.82 KW	EXL1691
45	Export 37	49.82 KW	EXL1693
46	Export 38	49.82 KW	EXL1695
47	Export 39	49.82 KW	EXL1697
48	Export 40	49.82 KW	EXL1699
49	Export 41	49.82 KW	EXL1701
50	Export 42	49.82 KW	EXL1703
51	Export 43	49.82 KW	EXL1705
52	Export 44	49.82 KW	EXL1707
53	Export 45	49.82 KW	EXL1709
54	Export 46	49.82 KW	EXL1711
55	Export 47	49.82 KW	EXL1713
56	Export 48	49.82 KW	EXL1715
57	Export 49	49.82 KW	EXL1717
58	Export 50	49.82 KW	EXL1719
59	Export 51	49.82 KW	EXL1721
60	Export 52	49.82 KW	EXL1723
61	Export 53	49.82 KW	EXL1725
62	Export 54	49.82 KW	EXL1727
63	Export 55	49.82 KW	EXL1729
64	Export 56	49.82 KW	EXL1731
65	Export 57	49.82 KW	EXL1733
66	Export 58	49.82 KW	EXL1735
67	Export 59	49.82 KW	EXL1737
68	Export 60	49.82 KW	EXL1739
69	Export 61	49.82 KW	EXL1741
70	Export 62	49.82 KW	EXL1743
71	Export 63	49.82 KW	EXL1745
72	Export 64	49.82 KW	EXL1747
73	Export 65	49.82 KW	EXL1749
74	Export 66	49.82 KW	EXL1751
75	Export 67	49.82 KW	EXL1753
76	Export 68	49.82 KW	EXL1755
77	Export 69	49.82 KW	EXL1757
78	Export 70	49.82 KW	EXL1759
79	Export 71	49.82 KW	EXL1761
80	Export 72	49.82 KW	EXL1763
81	Export 73	49.82 KW	EXL1765
82	Export 74	49.82 KW	EXL1767
83	Export 75	49.82 KW	EXL1769
84	Export 76	49.82 KW	EXL1771
85	Export 77	49.82 KW	EXL1773
86	Export 78	49.82 KW	EXL1775
87	Export 79	49.82 KW	EXL1777
88	Export 80	49.82 KW	EXL1779
89	Export 81	49.82 KW	EXL1781
90	Export 82	49.82 KW	EXL1783
91	Export 83	49.82 KW	EXL1785
92	Export 84	49.82 KW	EXL1787
93	Export 85	49.82 KW	EXL1789
94	Export 86	49.82 KW	EXL1791
95	Export 87	49.82 KW	EXL1793
96	Export 88	49.82 KW	EXL1795
97	Export 89	49.82 KW	EXL1797
98	Export 90	49.82 KW	EXL1799
99	Export 91	49.82 KW	EXL1801
100	Export 92	49.82 KW	EXL1803
101	Export 93	49.82 KW	EXL1805
102	Export 94	49.82 KW	EXL1807
103	Export 95	49.82 KW	EXL1809
104	Export 96	49.82 KW	EXL1811
105	Export 97	49.82 KW	EXL1813
106	Export 98	49.82 KW	EXL1815
107	Export 99	49.82 KW	EXL1817
108	Export 100	49.82 KW	EXL1819

DISCUSSION:

The Applicable Law

Each project that receives a capacity reservation holds that reservation for 12 months from its reservation start date as long as:

Docket No. UM 1538 (Solar VIR Waiver)

April 7, 2015

Page 3

1. a preliminary interconnection application is submitted and approved by the utility within two months of the reservation start date;
2. the deposit fees are paid;
3. the project is installed within 12 months of its reservation start date; or
4. if needed, the project receives a waiver to extend the installation deadline. See OAR 860-084-0210(1).
5. the Commission may waive any of the Division 084 rules "good cause shown." See OAR 860-084-000(3).

Analysis and Recommendation

In 2014, Kamana O'Kala (Kamana) requested and received waivers from the Commission for 20 projects¹ that extended their original solar photovoltaic system installation deadlines from October 22, 2014, to March 31, 2015.

Kamana is now requesting an additional set of waivers to extend the installation deadlines for 19 of those 20 original projects from March 31, 2015, to July 31, 2015, under OAR 860-084-0000(3). This extension request is based on Kamana's need for more time to finalize financing arrangements that are close to completion and for the construction of these projects. The 19 projects are located in Portland General Electric's (PGE) Solar Incentive Program and are identified in Table 1. All of the 19 projects were awarded capacity reservations on October 22, 2013. By Order No. 14-353, issued on October 14, 2014, the Commission granted a waiver request for these projects, extending their installation deadline from October 22, 2014, to March 31, 2015. This new waiver request will extend the installation deadline for 19 projects from March 31, 2015, to July 31, 2015.

Of the 19 projects for which Kamana is seeking waivers, seven projects are located at Columbia Farms on Sauvie Island and the remaining 12 are spread across four other sites near Portland. As stated in the 2014 Staff report, attached to Order No. 14-353, Staff recommended that no further extensions be granted to Kamana if they did not install the systems by March 31, 2015.

Staff reviewed the information submitted by Kamana and found numerous errors and discrepancies between the original application, a subsequent information submittal, and PGE's data, regarding the projects' application status and financing. PGE informed Staff that several of the interconnection applications were not approved, had expired, or needed re-submittal. Errors and discrepancies in the submissions to Staff and a lack of

¹Order No. 14-353 states that 14 waivers were granted, however, there were actually 20 capacity reservations that resulted from that waiver extension. A number of reservations had the same site addresses.

Docket No. UM 1538 (Solar VIR Waiver)

April 7, 2015

Page 4

responsiveness by Kamana caused several delays in Staff being able to complete its investigation of this waiver request. Staff contacted Mr. Schellerup, President of Kamana O'Kala, LLC., by email and telephone more than eight times requesting that Mr. Schellerup call to clarify missing information and inaccuracies for this waiver request. Staff has not heard further from Mr. Schellerup since a short email exchange on March 6, 2015. Staff also called Wisser Capital LLC to receive an update on the financing status of the projects.

There are seven projects at the Columbia Farms site that are listed as projects 1 through 7 in Table 1. Staff notes that the projects at Columbia Farm are significantly further along in the process toward construction as demonstrated by the fact that Kamana indicates that approximately \$65,000 has been already invested in these projects in terms of interconnection, engineering and design, geotechnical reporting, permit submittals, and completing the necessary steps to ensure the proper and safe execution of these projects. Additionally, Kamana and Wisser Capital LLC are in the process of finalizing a financing agreement for the seven projects reserved for Columbia Farms totaling nearly 626.5 kW, subject to the projects receiving an additional extension of the 12-month installation requirement to July 31, 2015, in order to provide certainty that the investment may be completed once construction has begun.² Considering that Kamana appears to have secured financing for the seven projects reserved by Columbia Farms, the substantial capital investment already spent by Kamana toward these projects, and the fact that the capacity not allocated during the May 2015 enrollment window could be allocated in a future enrollment window, Staff recommends that the Commission grant a conditional waiver for these seven projects.

Staff was unable to directly contact Mr. Schellerup, but left a voice mail on March 31, 2015, informing him that he could attend the Commission's April 14, 2015, public meeting to contest Staff's recommendations. Staff further contacted Mr. Schellerup on April 3, 2015, left him a voice message to call Staff and provide the needed information, but Staff has received no response as of the morning of April 6, 2015.

Staff notes that the waiver application submitted by Kamana states that seven projects have approved financing from Wisser Capital, but that Staff ultimately received no further clarification from Kamana as to whether or not financing for the remaining twelve projects was secured. However, representatives of Wisser Capital LLC confirmed the accuracy of their letter to Kamana with their intent to finance seven of the 19 projects listed as project 1 through 7 in Table 1.

² Kamana submitted in the filing a letter by Stephen Honikman, President of Wisser Capital LLC on February 3, 2015, which shows an "Intention to Finance" the seven projects listed as projects 1 through 7 in Table 1, subject to Kamana receiving the additional extension of the waiver.

Docket No. UM 1538 (Solar VIR Waiver)
April 7, 2015
Page 5

PGE commented that it will be challenging for Kamana to finish all 19 installations of these projects by July 31, 2015, considering that several interconnection applications have expired and need re-submittal.

In analyzing the "good cause" rule criterion, Staff notes that Kamana has been non-responsive to numerous requests for clarifying information. Staff also notes that contractor has not secured all of the necessary interconnection approvals, financing, or permits for 12 of the 19 projects, making installation for these 12 projects by July 31, 2015, very unlikely.

Due to a lack of demonstrated progress and non-responsiveness for detailed and accurate information by Kamana, Staff recommends that the waiver requests for 12 of the 19 projects, listed as projects 8 through 19 in Table 1, be denied.

PROPOSED COMMISSION MOTION:

1. The request for a waiver for the completion of the seven solar photovoltaic systems, listed as projects 1 through 7 in Table 1 (*i.e.* reserved by Columbia Farms), be granted, which results in an extension from March 31, 2015, to July 31, 2015;
2. By May 15, 2015, Kamana O'Kala be required to provide a written a progress update for the seven projects, listed as projects 1 through 7 in Table 1;
3. The request for a waiver for projects 8 through 19 in Table 1 (*i.e.* the non-Columbia Farms reserved projects), be denied because Kamana O'Kala has not provided evidence of securing the necessary financing or a likelihood of completing the projects in a timely manner.

RA1-UM 1538 Kamana VIR waiver