

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1538

In the Matter of

PAUL SOLONIKA AND SONS, LLC,¹

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

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on February 7, 2017, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



A handwritten signature in blue ink, appearing to read "Michael Dougherty", is written over a horizontal line.

Michael Dougherty
Chief Operating Officer

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.

¹ The Projects are PGE Tracking Nos. G2S9F9 and I420A3. The reference to Tracking No. G2S9F9 is hereby corrected from 05M2J4 in the Staff Report.

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: February 7, 2017

REGULAR _____ CONSENT _____ EFFECTIVE DATE February 8, 2017

DATE: January 26, 2017

TO: Public Utility Commission

FROM: Paul Rossow^{PR}

THROUGH: ^{JE} Jason Eisdorfer and ^{JC} John Crider

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

STAFF RECOMMENDATION:

Staff recommends the Commission grant the request by Paul Solonika and Sons, LLC (Mr. Solonika) to waive the 12-month deadline to install two specified 5 kW solar photovoltaic (SPV) systems under Portland General Electric's (PGE) Solar Photovoltaic Pilot Program and extend the installation deadline, to April 30, 2017.¹

DISCUSSION:

Issue

Whether Mr. Solonika established good cause supporting its request for waiver of the OAR 860-084-0210(1) requirement that a SPV system be installed within 12 months of the capacity reservation start date.

Applicable Law

Each SPV project that receives a capacity reservation in PGE's Solar Photovoltaic Pilot Program holds that reservation for a period of 12 months following the reservation start date, so long as a completed interconnection application is submitted to the utility within two months of the reservation start date; the deposit fees are paid; and the project is

¹ The project numbers for the PGE projects are: 05M2J4 and I420A3.

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installed within 12 months of its reservation start date; or if needed, the project receives a waiver to extend the installation deadline. See OAR 860-084-0210(1) and (2).²

The evaluation criterion set forth in OAR 860-084-0000(3) for waiver of Division 084 rules is "good cause shown." The Commission has discretion to determine what constitutes "good cause."

Analysis

Mr. Solonika requests a waiver under OAR 860-084-0000(3) of the 12-month installation requirement for two specified 5 kW SPV projects. PGE issued two capacity reservations to Mr. Solonika on January 13, 2016. However, due to paperwork misunderstandings, PGE did not approve the application until April 27, 2016. Mr. Solonika submitted the request for waiver within the 12-month period for installation.

Mr. Solonika explains that the deadline was not met because he was under the impression that he had one year from April 27, 2016, to complete the project, thinking this was the relevant date under the law. However, the trigger date under OAR 860-084-0210(1) is the reservation start date. In the present case, this date was January 13, 2016. Mr. Solonika notes that all permits have been approved and the project is in the construction phase.

Staff conferred with PGE and Mr. Solonika regarding the status of the respective projects and both confirmed the facts that are set forth above in the Analysis part of this memorandum.

Conclusion

To determine whether Mr. Solonika established "good cause" to waive the installation requirement, Staff considered the reason for the delay. The delay arose from Mr. Solonika's misunderstanding of when the project deadline commenced under the law. Mr. Solonika mistakenly believed that the date of the application's approval was the date when the 12-month deadline commenced. This misunderstanding was, in Staff's view, understandable given the delay that arose in PGE approving Mr. Solonika's application and possible miscommunication between PGE and Mr. Solonika regarding various deadlines. In most situations, misinterpretation of a statute or supporting rule is not sufficient to justify waiver of the rules; however, in this particular case no potential

² OAR 860-084-0210(1) states that "a capacity reservation expires if the system has not been installed within twelve months of the reservation start date, unless a waiver is granted under OAR 860-084-0000." OAR 860-084-0210(2) provides that once a capacity reservation expires, the customer must re-apply for a reservation.

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participants are impacted by the delay in installing these projects because PGE's Solar Photovoltaic Pilot Program has closed to new participants. Further, if this reservation is terminated, the previously-reserved 10 kW will simply be unused capacity. In considering all of all these circumstances, Staff recommends that the Commission approve the requested waiver.

PROPOSED COMMISSION MOTION:

Grant Mr. Solonika's request to waive the 12-month installation requirement for the two specified SPV systems under PGE's Solar Photovoltaic Pilot Program and extend the installation date to April 30, 2017.

UM 1538 Mr. Solonika VIR waiver request