

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

The Renewable Energy Coalition, Northwest
& Intermountain Power Producers Coalition,
Oregon Solar Energy Industries Association,
and Community Renewable Energy
Association,

Petitioners,

vs.

Public Utility Commission of Oregon,

Respondent,

And

PacifiCorp, dba Pacific Power,

Intervenor-Respondent.

Case No. 21cv03740

Hon. Channing Bennett

**PETITIONERS' UNOPPOSED
MOTION FOR STAY**

1

MOTION

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1.

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Petitioners Renewable Energy Coalition (“REC”), Northwest & Intermountain Power

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Produces Coalition (“NIPPC”), Oregon Solar Energy Industries Association (“OSEIA”), and

5

Community Renewable Energy Association (“CREA”) jointly move for a stay of this proceeding

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until such time as the Public Utility Commission of Oregon (“Commission”) adopts revised rules

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in Docket No. AR 631, *in re Rulemaking to Address Procedures, Terms, and Conditions*

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Associated with Qualifying Facility Standard Contracts. Petitioners conferred with counsel for

9

the respondent Commission and intervenor-respondent PacifiCorp, dba Pacific

1 Power (“PacifiCorp”). The Commission and PacifiCorp both support this motion. While
2 PacifiCorp supports the motion to stay as stated in this first paragraph, PacifiCorp disagrees with
3 some of the allegations and descriptions in the following paragraphs and reserves the right to
4 dispute those if and when necessary.

5 **2.**

6 A status conference is currently scheduled for this case for Monday, January 31, 2022.

7 **3.**

8 Petitioners propose to stay the case and postpone the status conference until Commission
9 adopts revised rules in Docket No. AR 631. The rulemaking could resolve some or all of the
10 matters in dispute on a going forward basis.

11 **4.**

12 This Court has authority to stay this proceeding in order to preserve judicial economy.
13 SLR 7.025; *see also, e.g.*, UTCR 7.020(5) (noting the presiding judge’s discretion to postpone a
14 trial date beyond the anticipated timeline upon a showing of good cause).

15 **5.**

16 Petitioners filed this Petition for Judicial Review “on narrow grounds regarding how
17 Orders No. 20-268 and 20-465 violate or otherwise fail to enforce” the Public Utility Regulatory
18 Policy Act of 1978 (“PURPA”), which is codified at 16 USC § 824a-3; ORS 758.505 - 758.555.
19 Petition for Judicial Review Pursuant to ORS 183.484 ¶ 17. The specific violations at issue
20 concern a business practice of PacifiCorp’s under which PacifiCorp would require certain
21 renewable generators known as Qualifying Facilities (“QFs”) under PURPA to produce an
22 interconnection study demonstrating that the QF can achieve commercial operations within three
23 years before PacifiCorp would negotiate or execute a power purchase agreement (“PPA”) with

1 the QF as mandated by PURPA. *See* Petition for Judicial Review Pursuant to ORS 183.484 ¶¶
2 31, 39-40. In particular, Petitioners are concerned with the impacts of PacifiCorp’s business
3 practice on small QFs 10 megawatts and smaller in size which are currently eligible for pro
4 forma standard PPAs. *See* Petition for Judicial Review Pursuant to ORS 183.484 ¶ 26.
5 Petitioners maintain that such a business practice is illegal, and the Commission’s orders were
6 therefore invalid to the extent they approved or, in the alternative, failed to prohibit the illegal
7 business practice. Petition for Judicial Review Pursuant to ORS 183.484 ¶¶ 73, 93-97.

8 **6.**

9 In Docket No. AR 631, the Commission is considering revising certain PURPA rules.
10 One revision the Commission is considering would effectively prohibit PacifiCorp’s business
11 practice at issue in this proceeding, at least to the extent it could apply to small QFs eligible for
12 standard PPAs. Specifically, the Commission is considering revising its rules to clarify that
13 utilities like PacifiCorp must begin PPA negotiations with small QFs eligible for pro forma PPAs
14 after the QF provides certain specific information that does *not* include a completed
15 interconnection study demonstrating that the QF can achieve commercial operations within three
16 years. *See* Docket No. AR 631, Order No. 21-353, Appendix A at 1-4, 10, 24-26 (Oct. 26, 2021)
17 (stating the revised rule under consideration) (excerpt appended hereto as Exhibit 1 to
18 Declaration of Irion A. Sanger). Instead of requiring a completed interconnection study to
19 commence negotiations and receive a draft PPA, the proposed rules would require that a QF
20 merely provide an executed agreement requiring the utility to conduct an interconnection study
21 “or evidence that no study is required.” *Id.* at 24.

22 **7.**

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ATTORNEY CERTIFICATE OF SERVICE

1 I hereby certify that on January 13, 2022, I made service of the foregoing **PETITIONERS'**
2 **UNOPPOSED MOTION FOR STAY** on the parties listed below in the manner indicated:

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3
4 DATED this 13thrd day of January 2022.

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6
7
8 _____
9 Irion Sanger, OSB No. 003750
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11 Coalition and Northwest & Intermountain Power
12 Producers Coalition, and Oregon Solar Energy
13 Industries Association