



December 10, 2021

**VIA ELECTRONIC FILING**

Nolan Moser, Chief Administrative Law Judge  
Public Utility Commission of Oregon  
201 High Street, Suite 100  
Salem, Oregon 97301

**Re: AR 631 – Proposed Schedule and Grouping of Issues**

Dear Judge Moser:

Portland General Electric Company, PacifiCorp dba Pacific Power, and Idaho Power Company (together, the Joint Utilities) respectfully offer these brief comments in response to your December 3, 2021 memorandum.

Given the breadth and complexity of the issues in this rulemaking and the scheduling challenges the Joint Utilities have observed recently in other dockets with similar parties, the Joint Utilities respectfully request that you hold a prehearing conference to address the process and schedule for this rulemaking. The Joint Utilities believe this would be the most efficient way to establish a schedule for the formal rulemaking process. Regarding the schedule proposed in the memorandum, the Joint Utilities have conflicts with some of the dates (including the initial workshop) and believe that preparing comments will likely require more time than currently allotted under the proposed schedule, depending on the scope of the comments.

Regarding the proposed process, the Joint Utilities believe that a holistic review of all contract revisions will be necessary to ensure that the final rules result in clear, consistent, and commercially reasonable standard contracts. While the Joint Utilities appreciate that the proposed groupings reflect a desire to approach the draft rules in a methodical and manageable way, addressing the rules in phased groups will not be workable because many of the draft rules are inherently intertwined. For this reason, parties' positions on certain rules, and the rule language itself, will be dependent on the language of other proposed rules. For example, the rules regarding what scheduled commercial operation date (COD) a QF may select relate to the process for obtaining a PPA (New Rule #3), whether and when a QF may come online early (New Rule #4), and the appropriate damages and default provisions for failure to meet scheduled COD (OAR 860-029-0120(8)-(9) and New Rule #6)—but these issues are currently separated into three different groups. Any effort to group these issues together would require other related rules to be moved as

well, and in the end, would likely result in a single group with all or most of the rules.

If, in spite of these concerns, your honor chooses to address the rules in groups, the Joint Utilities suggest the following revisions to the proposed groupings:

- New Rule #1 (Obligation for Costs to Accept Deliveries from Off-System QFs) should be addressed with New Rule #3 (Process for Obtaining Standard PPAs) because both rules include process and specific timing for events that occur prior to execution of a PPA, and therefore the rules need to be consistent.
- New Rule #1 (Obligation for Costs to Accept Deliveries from Off-System QFs) should be addressed with New Rule #4 (Delivery and Purchase) because the utility must have the ability to accept deliveries from an off-system QF before the QF can begin deliveries.
- New Rule # 2 (Eligibility for Standard Power Purchase Agreements) should be addressed with OAR 860-029-0120(16) (Project Development Security) because both rules are relevant to the goal of discouraging speculative contracting, and a potential change to one could impact the other.
- New Rule #6 (Default, Damages, and Termination) should be addressed with OAR 860-029-0120(8)-(9) (default and damages for failure to meet scheduled COD) because these rules address the same issues.
- New Rule #6 (Default, Damages, and Termination) should be addressed with OAR 860-029-0120(11)-(14) (Mechanical Availability Guarantees (MAGs) and Minimum Delivery Guarantees (MDGs)) because these rules address the same issues, and failure to meet the MAG or MDG is a trigger for damages and potentially default.

Further, if the rules are to be addressed in groups, the Joint Utilities recommend that final decisions and recommendations should not be reached until after all rules have been discussed. The schedule should also include time at the end of the formal process for stakeholders to review all of the proposed rules holistically to identify and address any inconsistencies or unintended interactions.

In conclusion, the Joint Utilities appreciate your honor's commitment to establishing a manageable schedule and process for this rulemaking. However, because of the inherently intertwined nature of these rules, the Joint Utilities strongly recommend that all rules be addressed simultaneously, under a schedule that allows sufficient time to prepare and review the robust comments that will be necessary to address all issues. To efficiently establish a schedule that will

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work for all stakeholders, the Joint Utilities recommend that a prehearing conference be scheduled.

Sincerely,



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Lisa Hardie  
Adam Lowney  
Lisa Rackner  
Jordan Schoonover  
McDowell Rackner Gibson PC  
419 SW 11th Avenue, Suite 400  
Portland, OR 97205  
[dockets@mrg-law.com](mailto:dockets@mrg-law.com)

David White  
Portland General Electric Company

Carla Scarsella  
PacifiCorp, dba Pacific Power

Donovan Walker  
Idaho Power Company

Attorneys for Portland General Electric  
Company, PacifiCorp, dba Pacific Power,  
and Idaho Power Company