

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UM 2032**

In the matter of

PUBLIC UTILITY COMMISSION OF  
OREGON,

Investigation into the Treatment of Network  
Upgrade Costs for Qualifying Facilities

NORTHWEST AND  
INTERMOUNTAIN POWER  
PRODUCERS COALITION,  
RENEWABLE ENERGY COALITION,  
AND COMMUNITY RENEWABLE  
ENERGY ASSOCIATION’S REQUEST  
FOR LEAVE TO REPLY AND REPLY  
IN SUPPORT OF NEWSUN ENERGY  
LLC’S MOTION TO ALLOW  
BRITTANY ANDRUS AS A WITNESS

Pursuant to OAR 860-001-0420, the Northwest and Intermountain Power Producers Coalition, the Renewable Energy Coalition, and the Community Renewable Energy Association (together referred to as the “Interconnection Customer Coalition”) respectfully submit this Request for Leave to Reply and the proposed Reply In Support of NewSun Energy LLC’s Motion to Allow Brittany Andrus As a Witness in this proceeding before the Public Utility Commission of Oregon (the “Commission” or “OPUC”).

**REQUEST FOR LEAVE TO REPLY**

The Interconnection Customer Coalition respectfully requests leave to submit this short Reply. The Interconnection Customer Coalition expressly supported NewSun Energy’s Motion at the time it was filed. Moreover, the Commission’s decision on the Motion will materially impact the Interconnection Customer Coalition because it will impact the ability of Brittany Andrus and other former Staff members to participate on behalf of parties, including potentially

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UM 2032 – PAGE 1

the members of the Interconnection Customer Coalition, in future dockets. This Reply is further warranted because the Investor-Owned Utilities'<sup>1</sup> opposition of Brittany Andrus's participation was not fully anticipated, despite the fact that NewSun Energy LLC asked the utilities to state their position at the time it filed its Motion. The Interconnection Customer Coalition was not aware of the sweeping precedent that the utilities would seek at the time that the Interconnection Customer Coalition had the opportunity to file a response. Given that this issue has been addressed only once previously, it would be appropriate to allow the Interconnection Customer Coalition to respond to the Investor-Owned Utilities' Response.

The Interconnection Customer Coalition attempted to contact other parties to ascertain their position whether this reply should be allowed. At the time of this filing, the following parties stated they do not oppose this request to file a reply: Portland General Electric Company, PacifiCorp, Idaho Power Company and the Alliance of Western Energy Consumers. NewSun Energy, LLC supports the request, and the Commission Staff has not responded.

#### **REPLY IN SUPPORT OF NEWSUN ENERGY'S MOTION**

The Interconnection Customer Coalition reiterates its support for NewSun Energy's Motion to Allow Brittany Andrus As a Witness. The applicable rule states: "Except with the Commission's written permission, a former Commission employee may not appear as a witness on behalf of other parties in contested case proceedings in which the former employee took an active part on the Commission's behalf."<sup>2</sup> In this case, Brittany Andrus did not actively

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<sup>1</sup> This Reply refers to PacifiCorp, Portland General Electric Company, and Idaho Power Company jointly as the Investor-Owned Utilities.

<sup>2</sup> OAR 860-001-0330(2).

participate in the contested case proceeding at issue – which is limited to Docket No. UM 2032 – on behalf of the Commission because nothing meaningful occurred in the contested case proceedings in this docket before Brittany Andrus’s employment at the Commission ended.

The utilities argue for an unjustifiably sweeping interpretation of the applicable rule. The utilities argue that a former Staff person should be barred from participating in any proceeding that regards issues that overlap with issues in which the Staff person was engaged while employed at the Commission. Applied here, the utilities’ interpretation of the rule would likely bar Brittany Andrus from ever testifying in any matter or way related to the Commission’s umbrella proceeding under Public Utilities Regulatory Policies Act of 1978 (“PURPA”), Docket No. UM 2000, and potentially any other matter related to PURPA, which was one of her subjects of expertise while employed at the Commission.

In addition to imposing unreasonable burdens on future employment of Commission Staff and likely undermining the Commission’s ability to attract qualified Staff, the utilities’ position contradicts the plain language of the applicable rule. The rule only bars the person from first testifying or otherwise actively representing the Commission in a case, such as Docket No. UM 2032, and then subsequently testifying for another party in the same proceeding. It should not be stretched to reach the unreasonable and unfair result for which the utilities advocate here.

In sum, for the reasons set forth in NewSun Energy’s Motion and Reply, the Interconnection Customer Coalition urges the Commission to determine that the rule does not apply here, or in the alternative, grant the requested permission to Brittany Andrus in this proceeding.

Dated this 1st day of December 2020.

Respectfully submitted,

Sanger Law, PC

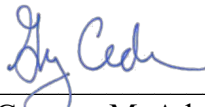


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