

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1967

SANDY RIVER SOLAR, LLC,

vs.

PORTLAND GENERAL ELECTRIC  
COMPANY,

Pursuant to ORS 756.500

RULING

DISPOSITION: PETITION TO INTERVENE GRANTED

**I. BACKGROUND**

On January 29, 2019, the Renewable Energy Coalition (Coalition) filed a petition to intervene in the above-captioned docket. The proceeding involves a complaint by Sandy River Solar, LLC (Sandy River Solar) that seeks a Commission order directing Portland General Electric Company (PGE) to allow Sandy River Solar to hire a third-party consultant to construct the interconnection facilities and system upgrades that are required on PGE's system, and that PGE will own and operate. PGE objected on February 8, 2018, to the Coalition's petition to intervene. On February 15, 2019, the Coalition filed a reply to PGE's objection.

**II. POSITIONS OF THE PETITIONER AND PGE**

**A. Coalition**

Established in 2009, the Coalition is comprised of about 40 small qualifying facilities (QFs) with projects in Oregon, Idaho, Washington, Utah, and Wyoming. The Coalition represents that Sandy River Solar's complaint may have a substantial impact on its members with regard to the availability of interconnection costs and options. The Coalition indicates that the organization participated in the Oregon rulemaking (docket AR 521) and the generic investigation (docket UM 1401) addressing the ability of a QF to hire third-party consultants during the interconnection process. The Coalition states that the organization "is surprised that PGE is refusing to allow Sandy River Solar to retain qualified consultants, and intends to align itself with Sandy River Solar."<sup>1</sup> The Coalition asserts that its participation will assist resolution of the issues without unreasonably broadening them or unduly burdening the record.

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<sup>1</sup> Coalition Petition to Intervene at 2 (Jan 29, 2019).

The Coalition argues that “[t]his case falls squarely within the zone of interests REC exists to protect.”<sup>2</sup> The Coalition explains that the organization was initially formed to address interconnection issues in docket AR 521. As described by the organization’s website, “[u]tility practices and policies associated with interconnection historically have been a significant factor and often a deterrent in the development of renewable resources,” and the Coalition “has been the most active non-utility party in recent dockets in Oregon that involve interconnection issues and plans “to continue its long-standing pro-active involvement in interconnection related matters for all our member states and their projects.”<sup>3</sup>

It is a misstatement by PGE to assert that a Coalition member with an existing interconnection agreement does not have interest in the case, the Coalition asserts. The Coalition’s members with current interconnection agreements will need to enter into new agreements upon expiration of existing agreements, and may seek new agreements for new projects, the Coalition reminds. “This means that REC’s members have much more than a mere curiosity about this case—they have been and will be engaged in the same process as Sandy River, and many have faced similar challenges,” the Coalition states.<sup>4</sup>

These experiences provide the Coalition with a strong interest and unique role in the proceeding, the organization asserts. Having stated an intent to align with Sandy River Solar, the Coalition demonstrates a commitment to the issues already raised in the proceeding. The Coalition points to testimony already filed in the proceeding, arguing that it develops but does not burden the record. The Coalition also asserts that it accepts the existing procedural schedule, rebutting PGE’s vague request to modify the schedule to accommodate the organization’s participation. The Coalition also opposes any conditions being placed on the organization’s participation. The Coalition argues that PGE fails to establish any compelling reason why it should not have the normal rights of a party if granted that status. .

## **B. PGE**

Objecting to the Coalition’s petition to intervene, PGE cites three grounds for denial of the petition. PGE argues that the petition fails to establish that the Coalition has sufficient interest in this proceeding, as there is no indication that any Coalition member has a parallel situation to Sandy River Solar or that any member will be directly or indirectly affected by the proceeding’s outcome. PGE also argues that the petition fails to state the issues that the Coalition intends to address, as the Coalition indicates only that it intends to support Sandy River Solar’s case. Regardless, PGE expresses concern that the Coalition’s participation will unreasonably broaden the issues, burden the record and unreasonably delay the proceeding. The docket now addresses a specific dispute in relation to a particular interconnection request, PGE explains, and PGE worries that the Coalition’s intervention will mean discussion about experiences in unrelated interconnections that will inevitably broaden the scope of the proceeding. The

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<sup>2</sup> Coalition Reply to PGE's Objection to Coalition's Petition to Intervene at 4 (Feb 15, 2019).

<sup>3</sup> *Id.* at 6.

<sup>4</sup>*Id.*

Coalition's participation will also inevitably burden the record and delay the proceeding, PGE asserts, and likely result in more time being needed in the schedule.

In the alternative, should the Coalition be allowed to intervene, PGE requests that the Coalition's intervention be conditioned, as follows: 1) prohibit the Coalition from filing a dispositive motion in the proceeding because it does not have pending claims; 2) prohibit the Coalition from seeking a general change in Commission policy, rule, or order as this docket involves a specific interconnection dispute and not general policy; and 3) prohibit the Coalition from engaging in discovery before the Commission has addressed the motion for summary judgement that PGE plans to file. PGE also asks that the procedural schedule be modified as appropriate to provide PGE with sufficient time to respond to motions or responses from multiple parties.

### III. LEGAL STANDARD

ORS 756.525(2) provides that:

At any time before the final taking of evidence in a proceeding, any person may apply to the commission for permission to appear and participate in the proceeding. The commission shall determine the interest of the applicant in the proceeding and shall grant the application, subject to appropriate conditions, if the commission determines that such appearance and participation will not unreasonably broaden the issues or burden the record, and otherwise may deny the application.

### IV. RULING

The Coalition's petition to intervene is granted. Persuaded that the Coalition has sufficient interest in this proceeding, will not unreasonably broaden the issues or burden the record, I grant the Coalition's petition to intervene. However, I am not persuaded that conditions on the Coalition's participation are necessary at the outset of the organization's participation in the proceeding. PGE may file motions to restrict or limit the Coalition's actions in the proceeding, seek modifications to the procedural schedule, or otherwise as appropriate.

Dated this 20<sup>th</sup> day of February, 2019, at Salem, Oregon.



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Traci Kirkpatrick  
Administrative Law Judge

## NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Oregon law requires state agencies to provide parties written notice of contested case rights and procedures. Under ORS 183.413, you are entitled to be informed of the following:

**Hearing:** The time and place of any hearing held in these proceedings will be noticed separately. The Commission will hold the hearing under its general authority set forth in ORS 756.040 and use procedures set forth in ORS 756.518 through 756.610 and OAR Chapter 860, Division 001. Copies of these statutes and rules may be accessed via the Commission's website at [www.puc.state.or.us](http://www.puc.state.or.us). The Commission will hear issues as identified by the parties.

**Right to Attorney:** As a party to these proceedings, you may be represented by counsel. Should you desire counsel but cannot afford one, legal aid may be able to assist you; parties are ordinarily represented by counsel. The Commission Staff, if participating as a party in the case, will be represented by the Department of Justice. Generally, once a hearing has begun, you will not be allowed to postpone the hearing to obtain counsel.

**Administrative Law Judge:** The Commission has delegated the authority to preside over hearings to Administrative Law Judges (ALJs). The scope of an ALJ's authority is defined in OAR 860-001-0090. The ALJs make evidentiary and other procedural rulings, analyze the contested issues, and present legal and policy recommendations to the Commission.

**Hearing Rights:** You have the right to respond to all issues identified and present evidence and witnesses on those issues. *See* OAR 860-001-0450 through OAR 860-001-0490. You may obtain discovery from other parties through depositions, subpoenas, and data requests. *See* ORS 756.538 and 756.543; OAR 860-001-0500 through 860-001-0540.

**Evidence:** Evidence is generally admissible if it is of a type relied upon by reasonable persons in the conduct of their serious affairs. *See* OAR 860-001-0450. Objections to the admissibility of evidence must be made at the time the evidence is offered. Objections are generally made on grounds that the evidence is unreliable, irrelevant, repetitious, or because its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay. The order of presenting evidence is determined by the ALJ. The burden of presenting evidence to support an allegation rests with the person raising the allegation. Generally, once a hearing is completed, the ALJ will not allow the introduction of additional evidence without good cause.

**Record:** The hearing will be recorded, either by a court reporter or by audio digital recording, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request, if available, a copy of the audio recording from the Commission for a fee set forth in OAR 860-001-0060. The hearing record will be made part of the evidentiary record that serves as the basis for the Commission's decision and, if necessary, the record on any judicial appeal.

**Final Order and Appeal:** After the hearing, the ALJ will prepare a draft order resolving all issues and present it to the Commission. The draft order is not open to party comment. The Commission will make the final decision in the case and may adopt, modify, or reject the ALJ's recommendation. If you disagree with the Commission's decision, you may request reconsideration of the final order within 60 days from the date of service of the order. *See* ORS 756.561 and OAR 860-001-0720. You may also file a petition for review with the Court of Appeals within 60 days from the date of service of the order. *See* ORS 756.610.