



**Portland General Electric Company**  
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March 9, 2020

*Via Electronic Filing*

Public Utility Commission of Oregon  
Attention: Filing Center  
P.O. Box 1088  
Salem, OR 97308-1088

Re: UM 1930 Portland General Electric Company Reply Comments to OSEIA, CCSA, and REC

Dear Filing Center:

Enclosed for filing in the above captioned docket are PGE's reply comments to comments provided by the Oregon Solar Energy Industries Association and Coalition for Community Solar Access on February 24, 2020, and the Renewable Energy Coalition on February 21, 2020.

Sincerely,

A handwritten signature in blue ink that reads "Karla Wenzel".

Karla Wenzel  
Manager, Regulatory Policy and Strategy

KW/np  
Enclosure

PGE offers the following comments in response to the discussion around the projects PGE submitted to the Community Solar pre-certification queue. Specifically, we address the comments provided by the Oregon Solar Energy Industries Association and Coalition for Community Solar Access (the “Solar Parties”) and the Renewable Energy Coalition (the “Coalition”). Our intention in submitting these comments is to respond to comments made in the record and bring greater transparency and clarity to PGE’s applications to be a Community Solar program project manager (by submitting QF contracts) and then later withdrawing them. In summary, PGE will provide details regarding our applications, the reasoning behind them and why we withdrew them. We will also discuss the eligibility of projects that have qualifying facility (“QF”) power purchase agreements (“PPAs”) in place prior to entering the community solar precertification queue.

PGE continues to support the Community Solar Program (“CSP”) and would like to see it be successful. We are purposefully moving to a resource mix dominated by renewable power sources as we contribute to the decarbonization of the energy economy. We believe Community Solar can play a role in that transformation, and although we understand there may be a premium associated with it, we believe it should be implemented while minimizing the cost and risk to customers and communities. These comments are specifically provided to clarify the record of our activities to date.

### ***Overview***

Over the past several years, PGE has worked with stakeholders to develop a framework to implement Community Solar. We have shown support for the program while consistently emphasizing the importance of minimizing the cost-shift to customers. We worked hard with Staff and stakeholders to develop creative interconnection solutions where PGE and our customers accepted additional risks of cost-shifting, but did so as a compromise in order to support the program. In addition, as the program rules emerged, PGE considered various ways it could support the program as a project manager.

In that context, PGE proposed a solution to minimize the cost-shifting between participants and non-participants. In short, PGE hoped to leverage the must-take energy of QF projects that were already under contract with PGE in order to: 1) focus program benefits on low-income communities; and 2) return subscription fees collected from subscribers, net of program and marketing costs, to cost of service customers. Stated differently, this concept was intended to support and promote CSP while minimizing cost-shifting between participants and non-participants. In addition, PGE would derive no benefit from this proposal – it would only serve to benefit customers while trying to achieve the intent of the CSP.

After submitting its applications, PGE realized that by not notifying the QFs of PGE’s submittal of their projects and the QFs not notifying PGE of their submittal of the same projects,

neither understood that the other had submitted the same projects. In other words: 1) the QFs that had contracts requiring that they sell all of their output and renewable energy certificates (RECs) to us, after 2025, had not let us know that they expected to be released from those agreements; and 2) PGE had not informed them regarding our proposal to submit that QF output and negotiate for the RECs through 2025. Unfortunately, this resulted in unnecessary confusion. PGE apologizes for that confusion, as it was not our intent. To avert further controversy in this regard, PGE withdrew its applications so we can focus on the larger issue of the eligibility of QFs with executed purchase power agreements participating in the community solar program.

***Response to the Coalition's Comments Regarding PGE Serving as a CSP Project Manager***

We appreciate the Coalition's comments regarding PGE's potential to serve as a CSP Project Manager for a QF. Because PGE has withdrawn its applications to act as a CSP Project Manager, we will not address those specific issues here.

***Response to the Solar Parties' and Coalition's Comments Regarding the Termination of Standard QF Contracts***

We disagree with the Solar Parties' and Coalition's comments that QFs should be allowed to submit CSP applications for QF projects with associated QF standard contracts and terminate those QF standard contracts. In particular, we disagree with the Solar Parties that contracts such as these have been terminated by PGE before; stating "(through industry members) that PGE has willingly allowed for the termination of PURPA PPAs, as recently as this past Fall, 2019. These terminations have been completed for a number of reasons spawning from requests by developers."<sup>1</sup>

In reply, PGE notes that it has elected to agree to terminate such agreements in the past, but only when projects defaulted under the agreement because they could not be constructed consistent with the terms of the PPA (i.e., these were failing projects that were not going to be constructed under the existing PPA). In such cases, we calculated a termination penalty, if any, and terminated the agreement. We have never terminated a PPA to allow a QF to enter into a higher cost agreement with PGE. We do not believe it is reasonable or appropriate for parties to assume PGE should elect to terminate agreements under the very different CSP situation. In any event, a decision to terminate an existing PPA must be agreed upon by both the QF and PGE. It is not at the sole discretion of the developer, and PGE has not agreed to terminate the PPAs of these QF projects.

The current situation is very different because parties are expecting PGE to terminate agreements at our QF Schedule 201 price so that customers can pay a significantly higher price

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<sup>1</sup> UM 1930, Solar Parties Comments on PGE's Actions Relating to the Community Solar Program Launch, February 24, 2020, page 4 of 6.

for the same power, from the same projects; the only difference being that the QF projects would be under a different program. In fact, in Order No. 07-360, the Commission adopted guideline no. 4.f. to prevent this very type of situation: “The utility should include a provision in the contract that states a utility may require a QF terminated due to its default and wishing to resume selling to the utility be subject to the terms of the original contract until its end date.”<sup>2</sup>

This guideline was specifically established to prevent developers from vacating agreements at one avoided cost price, only to wait and require the utility to enter into an agreement for the same project at a higher price and to the detriment of customers. This is the situation with which we are currently faced.

PGE recognizes that smaller-scale solar projects approved under this program are not required to be the least-cost and least-risk resources. PGE also understands that this Commission-approved program set the subscriber credit rate at the retail rate. PGE, however, does not believe the Commission intended the premium associated with the program to allow project owners to increase their profits on QF projects already in the pipeline and under contract to PGE. In this context it is also noteworthy that many of the projects in the queue may not ultimately be developed by community partners, but rather large for-profit, out-of-state companies.

### ***Response to the Solar Parties’ Other Comments***

In addition to the primary point regarding the termination of QF contracts, the Solar Parties also raised several additional issues. While PGE has withdrawn the projects and is not interested in serving as a project manager, PGE believes that the Solar Parties assertions still deserve response. We address each of these below.

- “PGE knew very well that many, or all, of the program-eligible projects in its queue were intending on applying into the program ...”<sup>3</sup> To support this assertion Solar Parties cited “clear signals provided by the solar industry in two sets of comments filed in Q4 2019.”<sup>4</sup> PGE disagrees with the Solar Parties’ assertions and believes the two references do not provide such indications or “clear signals”. The referenced OSEIA-CCSA comments filed October 15, 2019,<sup>5</sup> simply recommend that QF’s be able to apply the Solar Parties’ opportunistic treatment of the PPAs, while the Neighborhood Power “PUC Pleadings” filed December 13, 2019,<sup>6</sup> makes no reference to a QF project.

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<sup>2</sup> Order 07-360, Appendix A, page 2 (Docket No. UM 1129).

<sup>3</sup> UM 1930, Solar Parties Comments on PGE’s Actions Relating to the Community Solar Program Launch, February 24, 2020, page 3 of 6.

<sup>4</sup> *Id.* at page 5 of 6.

<sup>5</sup> *Id.*

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

- *“In the best-case scenario, PGE could have assumed owners of the four projects it was targeting did not have their own plans to participate in the Program. This is hard to believe based on the record of comments and stakeholder discussions that occurred during the implementation process where it was clear that a successful launch of the Program would depend on taking advantage of the existing PGE traditional interconnection queue projects.”*<sup>7</sup> PGE disagrees with this characterization and notes, as above, that there was no record of comments or stakeholder discussion that supports this assertion.
- *“PGE’s attempt at participating in the Program by leveraging four projects, ... was ... at worst a strategic (though flawed) plot aimed at obtaining market share by undermining the trust and expectations of other Project Managers and all stakeholders.”*<sup>8</sup> As noted in the Overview, above, PGE would receive no benefit from its proposal – profit or otherwise. The sole reason for PGE’s efforts was to limit the cost shifting that would otherwise occur between participants and non-participants.
- *“... the PPAs don’t require the project owners to give PGE the RECs generated from the project until the resource deficiency period (2025 for most of the PPAs), which means PGE would need the project owner’s authorization to obtain RECs generated in earlier years in order to pass them onto subscribers. Why wouldn’t PGE reach out to the project owners to negotiate those terms? Or, did PGE not understand the REC requirement built into the PPA, or maybe not understand the requirements built into the program regulations.”*<sup>9</sup> PGE did understand the conditions and requirements regarding RECs and intended to follow up with the applicable QFs to establish terms to address them. PGE, however, developed its proposal and applications very shortly before the submission deadline, so this particular aspect was reserved for subsequent treatment, if the applications were accepted. Also as noted above, because PGE was not aware that the same QFs planned to submit applications, we did not believe the negotiations for the RECs would be particularly difficult or onerous. Just as the parties note that PGE did not reach out about the RECs through 2025, the QFs did not reach out to PGE about being bound by contract for the energy and the associated RECs after 2025.
- *“For PGE territory, there was recognition of major challenges for future development due to updated state land-use rules, however there was comfort in the assumption that PGE’s queue contained a few dozen MWs of QF projects at a relatively mature state in development that could be re-purposed in the near-term for community solar.”*<sup>10</sup> PGE does not agree with the Solar Parties’ assumption that QFs under contract could be re-purposed. Instead, it was PGE’s understanding that the CSP was meant to support communities that wanted to develop small local, additional, solar projects, which are very

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<sup>7</sup> *Id.* at page 2 of 6.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at page 4 of 6.

different from these QF projects. If Oregon's land use laws represent a constraint on certain types of renewable power, that is a constraint that all renewable developers will need to address.

***Conclusions***

PGE does not need to be a project manager in the CSP. PGE's applications were developed and submitted in good faith and before we were aware of the issues raised by the QF applications. PGE believed it had developed a creative win for customers, at no detriment to developers or PGE, and with the sole intent of limiting CSP cost-shifting between participants and non-participants. PGE is open to working with the parties to find the best path forward, given the Commission decision on the issues.

Respectfully,



Karla Wenzel  
Manager, Regulatory Policy and Strategy  
Portland General Electric Company