

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1967

In the Matter of

SANDY RIVER SOLAR, LLC,

vs.

PORTLAND GENERAL ELECTRIC
COMPANY,

Pursuant to ORS 756.500.

RULING

DISPOSITION: MOTION TO ALLOW SUR-RESPONSE TO PGE'S REPLY IN
SUPPORT OF MOTION FOR SUMMARY JUDGMENT GRANTED

I. BACKGROUND AND PROCEDURAL HISTORY

On February 27, 2019, Portland General Electric Company, (PGE) filed a motion for summary judgment. Sandy River Solar, LLC (Sandy River) and the Renewable Energy Coalition (the Coalition) filed responses opposing the motion on March 26, 2019. PGE filed a reply in support of its motion on April 4, 2019. Sandy River requested, in its response, an opportunity to file a sur-response to PGE's reply. On April 8, 2019, Sandy River filed a motion for leave to file a sur-response to PGE's reply, in addition to the sur-response itself. On April 15, 2019, PGE filed a response that opposed Sandy's River motion for leave to file a sur-response. The response noted that Sandy River had not conferred with PGE prior to filing its procedural motion, as required by OAR 860-001-0420(2). On April 19, 2019, PGE filed a letter indicating that PGE waives this objection.

II. DISCUSSION

Pursuant to OAR 860-001-0420, Sandy River filed a motion for leave to file a sur-response to PGE's reply. Sandy River noted that it had initially alerted the Commission and parties, in its original response, of its intention to request the opportunity to file a sur-response.

The Commission has the discretion to allow additional responses or replies beyond those specified in the procedural rules when it is determined they better explain positions or otherwise benefit the Commission's review of the issues, Sandy River indicates. Such filings are particularly warranted in response to new arguments raised in a preceding filing, Sandy River asserts. Sandy River argues that this situation has occurred, since PGE made additional statements regarding the effect of its motion for partial summary judgment which Sandy River has not yet responded to.

Sandy River's motion for leave to file a sur-response should be denied, PGE responds, because PGE did not raise new theories or rely on new evidence. Sandy River's proposed sur-response instead repeats arguments and seeks to have the last word despite not being the moving party, PGE argues. PGE also responds to the arguments set forth by Sandy River in its sur-response.

As PGE waived its procedural objection to Sandy River's motion, I consider the sur-response with regard to its effect on the review of the issues. As the reiteration of arguments by both Sandy River and PGE may aid the understanding of the issues in this docket, I will allow Sandy River to file a sur-response. Sandy River's motion to allow a sur-response is granted.

III. RULING

Complainant's Motion to Allow Sur-Response to PGE's Reply In Support of Motion for Summary Judgement, filed by Sandy River Solar, LLC, is granted.

Dated this 26th day of April, 2019, at Salem, Oregon.



Traci Kirkpatrick
Administrative Law Judge