

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1967

SANDY RIVER SOLAR, LLC,

Complainant,

v.

PORTLAND GENERAL ELECTRIC
COMPANY,

Defendant.

COMPLAINANT’S MOTION FOR
LEAVE TO FILE SUPPLEMENT TO
SECOND MOTION TO COMPEL

I. INTRODUCTION

Pursuant to OAR 860-001-0420 and OAR 860-001-0500(7), Sandy River Solar, LLC (“Sandy River”) hereby moves the Oregon Public Utility Commission (“Commission”) for permission to supplement its second motion to compel, filed on February 28, 2019 in this proceeding. With the Commission’s permission, Sandy River asks that certain commitments or statements by PGE in other forums that it will publicly provide certain of the information Sandy River requests through its second motion to compel be considered as the Commission determines how to proceed on Sandy River’s motion. Sandy River is not seeking to expand the scope of its request in its second motion to compel, but only to supplement the motions practice by providing additional information that became available after pleadings were filed. The supplemental information is contained in the separately-filed Complainant’s Supplement to Second Motion to Compel, and the Declaration of Marie P. Barlow in support of this motion.

II. BACKGROUND

On December 31, 2018, Sandy River filed a motion to compel PGE's production of certain information Sandy River had requested, but which PGE had refused to provide ("First Motion to Compel"). This included various information related to other solar projects, including information that could be found in PGE's interconnection studies and agreements for those projects. Ultimately, the Administrative Law Judge denied the portion of Sandy River's First Motion to Compel that would have required PGE to produce the information from the interconnection studies, but noted that Sandy River could request the underlying studies themselves through separate data requests and allow PGE to respond.¹ On February 6, 2019, after receiving the order, Sandy River sent a Data Request to PGE (Data Request No. 80) seeking the underlying interconnection studies and agreements, rather than information that PGE would have to glean from those documents. Sandy River asked, specifically:

For each solar interconnection application submitted since January 2015, please provide:

- a. The Feasibility Study and any revised feasibility studies
- b. The System Impact Study and any revised system impact studies
- c. The Facilities Study and any revised feasibility studies

¹ The ALJ's order noted that "Sandy River acknowledges that PGE may not have the requested information easily available and indicates a willingness to accept the underlying interconnection studies and agreements. Sandy River may request the underlying interconnection studies and agreements in a new data request, thereby allowing PGE to consider the request and respond." ALJ's Ruling at 7 (Feb. 5, 2019). With respect to certain other data requests, the ALJ also directed PGE to respond to Sandy River's questions to the extent that Sandy River or its parent already has access to the interconnection studies or agreements, and noted that to the extent that Sandy River or its parent does not have such access, "Sandy River may request the underlying interconnection studies and agreements in a new data request and ask follow up questions in subsequent data requests." *Id.*

d. The Interconnection Agreement and any revised interconnection agreement

On February 20, 2019, PGE responded to the Data Request by providing the interconnection studies and agreement for only one additional project and objected to the provision of other interconnection studies. After consulting with PGE, but failing to gain resolution of the matter, Sandy River filed a motion to compel PGE to respond to Data Request No. 80 on February 28, 2019 (“Second Motion to Compel”).

PGE responded to Sandy River’s Second Motion to Compel on March 22, 2019, arguing that the information is irrelevant and would be burdensome to produce. Sandy River filed its reply on March 29, 2019. Sandy River’s Second Motion to Compel is currently pending before the Commission.

Subsequent to Sandy River’s reply in support of its Second Motion to Compel, PGE made certain commitments or statements in other forums regarding its interconnection studies, and Commission Staff has made certain draft proposals related to these studies. Specifically, these include: 1) Staff’s May 13, 2019 draft recommendation regarding the availability of interconnection studies; 2) PGE’s statements at a May 17, 2019 workshop, regarding its planned release of the interconnection studies; 3) a PGE presentation evidencing a commitment or statements that it will provide interconnection studies publicly; and 4) PGE’s June 3, 2019 Comments in UM 2001 regarding its planned release of the interconnection studies. This new information is relevant to the Commission’s consideration of Sandy River’s Second Motion to Compel, because it sheds additional light on the reasonableness of Sandy River’s request that PGE produce the interconnection studies and related agreements requested in Data Request No. 80.

III. MOTION

Because Sandy River has already explained, in its Second Motion to Compel and the associated reply, the reasons why it believes that PGE should be required to produce the interconnection studies and agreements that Sandy River has requested in Data Request No. 80, Sandy River will not repeat those arguments in any detail here. Through this motion, Sandy River requests that the Commission also consider the concurrently-filed Supplement to Second Motion to Compel, and the Declaration of Marie P. Barlow, which supports that Supplement.

Counsel for Sandy River contacted counsel for PGE by phone and by email on May 24, 2019 regarding the above-described PGE statements or commitments, to determine if PGE continued to object to Sandy River's Data Request No. 80. After continued discussions, counsel for PGE notified counsel for Sandy River that PGE had not changed its position, and that it continues to assert that the information Sandy River has requested in this docket is irrelevant, and would be burdensome to produce. Sandy River informed PGE that it would be filing this motion to supplement its Second Motion to Compel with information about PGE's statements or commitments in other forums regarding the availability of its interconnection studies, and has confirmed that PGE will oppose this motion.

IV. LEGAL STANDARD

The Commission's administrative rules allow a party to a proceeding to file a motion with the Commission, seeking any appropriate order related to the case.² The Commission grants motions to supplement a record before it, including argumentation

² OAR 860-001-0420; OAR 860-001-0390(2).

regarding motions, where doing so provides additional helpful information to the Commission.³

V. ARGUMENT

Since filing its reply in support of its second motion to compel, Staff has, through a deliberative workshop process, determined that it will likely recommend that PGE should make its interconnection studies available, and that doing so is an important part of being able to review the utility's interconnection process and ensure transparency for small generators seeking to interconnect to the utility.⁴ And, PGE itself has (either in response to Staff's request, or in an effort to demonstrate a commitment to improve its interconnection process) committed, or at least made statements, reflecting that it will provide its interconnection studies, subject to some limited redaction.

Sandy River believes that the Commission should consider these subsequent statements and actions as it considers Sandy River's second motion to compel. These statements and actions reinforce that the review of interconnection studies is an important part of ensuring that PGE's interconnection process is made functional, and also that the production of these studies should be done by PGE as part of its regular course of business. PGE's statements also show that it recognizes the value of the studies to small generator customers, or at least that it is seeking to satisfy Staff and other parties' concerns about its interconnection process by providing the studies. PGE's commitments

³ See, e.g., *In Re Pacific Power & Light, Filing of Tariffs Establishing Automatic Adjustment Clauses Under the Terms of SB 408*, Docket No. UE 177, Order No. 08-002 at 4 (Jan. 3, 2008) ("ICNU filed a motion for leave to reply to PacifiCorp's response. Although our procedural rules do not allow for the filing of such a reply, we grant ICNU's request to provide additional information as to the intervenor's conduct in this proceeding.").

⁴ Declaration, Attachment B at 2.

or statements confirm that it is reasonable to produce the studies, and that doing so has value. PGE has acknowledged that to the extent the studies need to be redacted at all, it can do so.

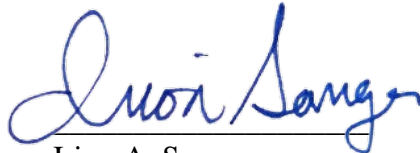
For all of these reasons, Sandy River believes that it would be helpful to the Commission to consider the information as it determines how to proceed with respect to Sandy River's Second Motion to Compel.

VI. CONCLUSION

For all of the reasons described above, the Commission should 1) grant Sandy River's motion for leave to supplement its second motion to compel, and 2) grant Sandy River's Second Motion to Compel PGE to respond to its Data Request No. 80.

Dated this 10th day of June 2019.

Respectfully submitted,



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