

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1987

In the Matter of	)	
	)	STATUS REPORT
PORTLAND GENERAL ELECTRIC COMPANY,	)	
	)	
Request to Update Schedule 201 and Standard Power Purchase Agreements.	)	
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Portland General Electric Company initiated the above-captioned docket in December 2018 to amend its Standard Power Purchase Agreement offered to qualifying facilities under the Public Utility Regulatory Policy Act (PURPA). In November 2019, the Northwest and Independent Power Producers Coalition (NIPPC), Renewable Energy Coalition (REC), and Community Renewable Energy Association (CREA), asked the Commission to stay this proceeding to allow the Commissions’ rulemaking on standard contracting terms and process (Docket No. AR 631) to go forward. The Commission granted the request to stay Docket No. UM 1987 on December 23, 2019.

On December 31, 2020, Portland General Electric Company (PGE) asked to lift the Commission’s previously imposed staff of the above-captioned proceeding, citing the lack of progress in Docket No. AR 631. The Commission denied PGE’s request on February 19, 2021, but ordered Staff to file progress reports regarding Docket No. AR 631 on April 16 and August 30, 2021. The Commission stated that if rules were not yet filed with the Secretary of State by August 30, 2021, Staff should include a proposed procedural schedule for UM 1987 that led to a final resolution of the docket in the first quarter of 2022.

At the Commission’s Regular Public Meeting on August 24, 2021, Staff presented an informational update on the status of AR 631. Staff noted that it had intended to present draft rules to the Commission on that day and recommend the Commission submit the rules to the

1 Secretary of State for publication in the Oregon Bulletin to commence the formal rulemaking  
2 process. However, Staff had concluded that continuing the informal process to allow additional  
3 refinement of the draft rules would be very beneficial and would ultimately result in a more  
4 efficient formal rulemaking process.

5 All parties submitting comments in the informal rulemaking process conducted by Staff  
6 supported delaying the start of the formal rulemaking process to allow further refinement of the  
7 draft proposal rules.<sup>1</sup> The Joint Utilities, which include PGE, commented as follows:

8 [T]he Joint Utilities suggest that Staff recommend that the Commission delay  
9 the start of the formal rulemaking process to allow one additional round of  
10 written comments. This additional process will ensure that the Draft Rules are  
11 better developed before the formal rulemaking process begins. The Joint  
12 Utilities recognize that Staff is under instructions to submit these rules to the  
13 Commission as soon as possible, and that Staff's timing has been responsive  
14 to concerns previously expressed by the Joint Utilities. However, based on  
15 present circumstances, the Joint Utilities believe an additional round of  
16 comments would benefit Staff, stakeholders, and the Commission in their  
17 efforts to modernize and update the QF PPA process and terms and  
18 conditions.<sup>2</sup>

14 As noted in Staff's informational public meeting memo, presented to the Commission on  
15 August 24, 2021, which is attached to this filing, Staff intends to present draft proposed rules to  
16 the Commission after one more round of draft comments from stakeholders and further revisions  
17 to the rules.

18 Because Staff did not meet the Commission's August 30, 2021 deadline, Staff presents a  
19 procedural schedule that would allow for Commission resolution of UM 1987 in the first quarter  
20 of 2021. This procedural schedule is based on a procedural schedule submitted by PGE to the  
21 Administrative Law Judge in UM 1987 in November 2019 after parties were unable to come to  
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23 <sup>1</sup> The Oregon Solar + Storage Industries Association, NewSun Energy, LLC, the Renewable  
24 Energy Coalition, the Community Renewable Energy Association, and the Northwest and  
25 Intermountain Independent Power Producers, PGE, PacifiCorp, and Idaho Power Company each  
26 filed three rounds of comments regarding draft proposed rules during the informal process  
conducted in 2021.

<sup>2</sup> AR 631 Joint Utilities Comments in Response to Staff's Draft Rules, pp. 5-6 (August 12,  
2021).

1 agreement on a procedural schedule, but before the Commission issued its stay of the  
2 proceedings.<sup>3</sup>

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4 Opening Testimony by PGE	October 29, 2021
5 Response Testimony by Staff and 6 Intervenors	December 17, 2021
7 Reply Testimony by PGE	January 28, 2022
8 Hearing	February 10, 2022
9 Commission Decision	March 2022

10 Staff has not discussed this draft schedule with parties to Docket No. UM 1987. As noted  
11 above, it is based on the procedural schedule previously asked for by PGE prior to the order of  
12 stay in this docket.

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14 DATED this 30<sup>th</sup> day of August, 2021.

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Respectfully submitted,

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ELLEN F. ROSENBLUM  
Attorney General

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*/s/ Stephanie Andrus*

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Sr. Assistant Attorney General  
Of Attorneys for Staff of the Public Utility  
Commission of Oregon

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26 <sup>3</sup> UM 1987 Portland General Electric Company's Request for Adoption of Schedule (November 21, 2021).

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 24, 2021**

REGULAR  X  CONSENT       EFFECTIVE DATE \_\_\_\_\_

**DATE:** August 17, 2021

**TO:** Public Utility Commission

**FROM:** Caroline Moore

**THROUGH:** Bryan Conway **SIGNED**

**SUBJECT:** OREGON PUBLIC UTILITY COMMISSION STAFF:  
(Docket No. AR 631)  
Update on Rulemaking to Address Procedures, Terms, and Conditions  
Associated with Qualifying Facility Standard Contracts.

**STAFF RECOMMENDATION:**

No recommendation (informational only).

**DISCUSSION:**

Issue

The process to initiate the “formal” stage of AR 631 and submit a Notice of Proposed Rulemaking for publication in the Oregon.

Applicable Rule or Law

ORS 756.060 provides the “Public Utility Commission may adopt and amend reasonable and proper rules and regulations relative to all statutes administered by the commission and may adopt and publish reasonable and proper rules to govern proceedings and to regulate the mode and manner of all investigations and hearings of public utilities and telecommunications utilities and other parties before the commission.”

ORS 758.535(2)(a) specifies that “the terms and conditions for the purchase of energy or energy and capacity from a qualifying facility shall \* \* \* [b]e established by rule by the commission if the purchase is by a public utility.”

## Analysis

In Docket No. UM 1987, the Commission issued a Ruling directing Staff to provide updates on the progress in docket AR 631, no later than April 16, and August 30, 2021.<sup>1</sup> The Commission stated that “[b]y August 30, we expect proposed rules to have been filed with the Secretary of State and ready for our adoption in AR 631. If proposed rules have not been filed by that time, then the August 30 update must include a Staff proposal for resuming UM 1987 and reaching Commission resolution no later than the first quarter of 2022.”<sup>2</sup>

Staff has circulated proposals for draft rules and draft rules for comment, inviting stakeholders to provide written comment and comment at workshops, which they have done. Most recently, Staff circulated a draft of proposed rules to stakeholders asking for comment no later than August 12, 2021, with the intention of presenting final draft rules to the Commission at the August 24, public meeting. Portland General Electric Company (PGE), PacifiCorp, and Idaho Power Company (Idaho Power) (together the Joint Utilities) filed Joint Comments as did the Renewable Energy Coalition (REC), Northwest Intermountain Power Producers Coalition (NIPPC), the Community Renewable Energy Association (CREA), (together the Coalition), along with separate comments filed by NewSun Energy, LLC. and the Oregon Solar + Storage Industries Association (OSSIA).<sup>3</sup>

Each commenter recommended that the informal process be extended beyond August 24, 2021, to allow additional collaborative work on the draft rules before they are submitted to the Commission and Noticed in a filing with the Secretary of State. Importantly, the Commenters, particularly the Joint Utilities and the Coalition, had also proposed multiple language changes that they believe would improve the rules.

Staff appreciates the considerable effort stakeholders put into providing detailed recommendations regarding the most recent Staff proposal on such a short timeline. Staff finds the latest round of stakeholder feedback particularly constructive and agrees that it will be most efficient to incorporate the feedback received on August 12, 2021 during the informal rulemaking stage, before the rules are Noticed in the Oregon Bulletin.

Accordingly, Staff will not meet the August 30, 2021 deadline imposed in the Commission’s February 19, 2021 Ruling. However, Staff believes that this delay will not cause a significant delay in the ultimate adoption of the rules. Staff intends to circulate

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<sup>1</sup> Docket No. UM 1987 February 19, 2021 Ruling.

<sup>2</sup> Id., p. 2.

<sup>3</sup> All of these stakeholders have submitted three rounds of comments, starting on March 30, 2021.

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August 17, 2021  
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rules, conduct workshops, and receive comments on a tight schedule over the next few weeks and to propose final draft rules at the Commission's regularly scheduled public meeting on September 7, 2021, or September 21, 2021.

### Conclusion

Staff appreciates the constructive feedback from stakeholders submitted August 12, 2021 and plans to extend the AR 631 informal phase to accommodate a few weeks of additional refinement of the draft rules.

### **PROPOSED COMMISSION MOTION:**

No recommendation (informational only).

AR 631