

IN THE COURT OF APPEALS OF THE STATE OF OREGON

In the Matter of:

PACIFICORP, dba Pacific Power,
Applicant-Respondent,

and

OREGON PUBLIC UTILITY
COMMISSION,
Respondent,

v.

RENEWABLE ENERGY
COALITION, NORTHWEST &
INTERMOUNTAIN POWER
PRODUCERS COALITION,
COMMUNITY RENEWABLE
ENERGY ASSOCIATION and
OREGON SOLAR ENERGY
INDUSTRIES ASSOCIATION,
Petitioners,

And

NEWSUN ENERGY, LLC,
Intervenor below.

CA No. A175363

Public Utility Commission of Oregon
Docket No. UM 2108

**PETITIONERS' REPLY IN
SUPPORT OF PETITION FOR
RECONSIDERATION**

Petitioners Renewable Energy Coalition, Northwest & Intermountain Power Producers Coalition, Community Renewable Energy Association, and Oregon Solar Energy Industries Association respectfully submit this reply to PacifiCorp's response to the petition for reconsideration.

PacifiCorp’s response states that Dalreed Solar, LLC (“Dalreed Solar”) is a member of petitioner organizations and appears to assume that Petitioners’ claim to standing is based upon representational standing to advocate for enforcement of contracts on behalf of members of the petitioner organizations. PacifiCorp Resp. at 2, 3-4. To clarify, Dalreed Solar is not a member of any of Petitioners’ organizations.

Petitioners identified Dalreed Solar as a concrete example of a person whose right or privilege was revoked in the administrative proceeding. *Id.* at 6-8. Such discretionary revocation of rights of at least one “person” establishes that the proceeding below was a “contested case.” ORS 183.310(2)(a)(B).

The question of whether Petitioners can themselves successfully establish standing and prevail on any of the issues that would be presented on the merits – such as the failure to hold a contested case proceeding – is a separate question from whether the proceeding below met the definition of “contested case” and thus confers jurisdiction on this Court. *See Patton v. State Bd. of Higher Educ.*, 293 Or 363, 366-67, 647 P.2d 931 (1982) (stating that the question of whether failure to hold contested case was reversible error “does not control the court’s jurisdiction”). If this Court has jurisdiction, Petitioners respectfully submit that standing as to the issues to be raised would be better addressed after all issues Petitioners intend to raise are more fully presented during briefing. At a minimum,

Petitioners' have standing because of their party status in the proceedings below and aggrievement to Petitioners. *See* Petition for Recons. at 21-23.

Dated this 3rd day of August 2021.

Respectfully submitted,

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s/ Irion Sanger

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Of Attorneys for Petitioners
Renewable Energy Coalition,
Northwest & Intermountain
Power Producers Coalition, and
Oregon Solar Energy Industries
Association

CERTIFICATE OF SERVICE

I certify that I served a copy of the foregoing **Petitioners' Reply In Support of Petition for Reconsideration** on all of the following:

Dallas DeLuca, OSB #072992	Denise Fjordbeck, OSB #822578
Anna Joyce, OSB #013112	Oregon Department of Justice
Markowitz Herbold PC	Business Activities Section
1455 SW Broadway, Suite 1900	1162 Court St. NE
Portland, OR 97201-3412	Salem, OR 97301-4096

By

- Mailing, by placing the copy in a postage prepaid sealed envelope addressed to the attorney's or other person's last known address as shown above and deposited with the U.S. Postal Service at Portland, OR by registered or certified mail.
- Commercial Delivery Service
- Facsimile
- Hand Delivery
- E-mail
- Electronic Service via the Appellate Courts' eFiling system at the email address as recorded on the date of service in the appellate eFiling system.

I further certify that I served a copy of the foregoing **Petitioners' Petition for Reconsideration** on all of the following:

Karen Kruse, OSB #112733	Oregon Public Utility Commission
825 NE Multnomah Ste 2000	Stephanie S. Andrus, OSB #925123
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- Mailing, by placing the copy in a postage prepaid sealed envelope addressed to the attorney's or other person's last known address as shown above and deposited with the U.S. Postal Service at Portland, OR by registered or certified mail.
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DATED this 3rd day of August 2021.

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CERTIFICATE OF SERVICE

CERTIFICATE OF FILING

I certify that I filed the foregoing **Petitioners' Reply In Support of Petition for Reconsideration** with the Appellate Court Administrator via the Oregon Appellate Court eFiling system.

DATED this 3rd day of August 2021.

s/ Gregory Adams

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