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February 14, 2023

***VIA ELECTRONIC FILING***

Public Utility Commission of Oregon  
Attn: Filing Center  
201 High Street SE, Suite 100  
Salem, OR 97301-3398

**Re: Docket UM 2011—Public Utility Commission of Oregon, General Capacity Investigation**

Attached for filing in the above captioned docket is the Joint Utilities Response to NewSun Energy LLC's Application for Rehearing or Reconsideration.

Please direct any questions regarding this filing to Cathie Allen, Regulatory Affairs Manager, at (503) 813-5934.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew McVee".

Matthew McVee  
Vice President, Regulatory Policy and Operations

Enclosure

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UM 2011**

<p>In the Matter of</p> <p>PUBLIC UTILITY COMMISSION OF OREGON,</p> <p>General Capacity Investigation.</p>	<p>Joint Utilities’ Response To NewSun’s Application for Rehearing or Reconsideration</p>
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In accordance with OAR 860-001-0720(4), PacifiCorp d/b/a Pacific Power (PacifiCorp), Idaho Power Company (Idaho Power), and Portland General Electric Company (PGE) (collectively, the Joint Utilities) respectfully respond to NewSun Energy LLC’s (NewSun) Application for Rehearing or Reconsideration of the Public Utility Commission of Oregon (Commission) Order No. 22-468 (NewSun Application). The Commission should deny the NewSun Application. NewSun mischaracterizes the record and rehashes arguments and recommendations the Commission already considered and rejected. NewSun provides no new evidence, presents no new argument, demonstrates no Commission error, and fails to show good cause; the Commission should therefore reject NewSun’s request for reconsideration or rehearing.

**I. INTRODUCTION**

On April 24, 2019, the Commission opened its investigation into capacity, initiating docket UM 2011.<sup>1</sup> In the Staff Report recommending that an investigation be opened (April 23 Staff Report), Staff concluded:

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<sup>1</sup> Staff Report dated Apr. 23, 2019.

Launching a three-phased general capacity investigation would ensure a common framework of understanding by parties and stakeholders of appropriate assumptions to value capacity. Staff envisions this investigation resulting in establishment of a methodology that looks to the characteristics of capacity a resource provides. This methodology could then be used across multiple dockets and technologies for valuing capacity brought to the electric system.<sup>2</sup>

For almost four years, with Staff’s leadership, many parties representing diverse interests participated in this proceeding through workshops and in written comments.<sup>3</sup> As explained in the Staff Report recommending the adoption of the Capacity Contribution Best Practices (November 21 Staff Report), as Phase 3 progressed, an important distinction between capacity contribution and capacity value developed.<sup>4</sup> Specifically, Staff found “that capacity contribution methods can be meaningfully applied fairly and consistently in a more universal manner, while many of the capacity valuation and associated compensation practices explored in UM 2011 should be considered on a use case specific basis.”<sup>5</sup> Thus the scope originally contemplated in April 23 Staff Report evolved with the learnings gained in Phase 3 of this docket. The Capacity Contribution Best Practices is the product of Staff’s consideration of comments from all parties whether in workshops or through written comments.<sup>6</sup> Furthermore, at the November 29, 2022, Public Meeting (November 29 Public Meeting) where the Commission deliberated on the November 21 Staff Report, the Commission heard additional oral comments from parties.

Now NewSun claims rehearing or reconsideration is required to (1) adopt unspecified stakeholder recommendations “to account for the full value of capacity,” or to clarify that the resolution reached does not constitute a Commission decision that such values should not be

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<sup>2</sup> *Id.*, at 4.

<sup>3</sup> For example, parties include PacifiCorp, PGE, Idaho Power, Community Renewable Energy Association, Northwest & Intermountain Power Producers Coalition, NW Energy Coalition, NewSun, Obsidian Renewables, Oregon Solar + Storage Industries Association (OSSIA), Pacific Ocean Energy Trust, Renewable Energy Coalition, and Renewable Northwest.

<sup>4</sup> November 21 Staff Report at 4.

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

<sup>6</sup> For example, November 21 Staff Report at pages 5-13.

included in the value of capacity; and (2) amend the Capacity Contribution Best Practices document to reflect the Loss of Load Probability (LOLP) should be provided alongside Effective Load Carrying Capability (ELCC) in all applicable settings for transparency purposes.<sup>7</sup> NewSun attempts to establish good cause for reconsideration by making unsupported accusations that Staff's Capacity Contribution Best Practices are biased toward the utilities; the record shows otherwise. Furthermore, the issues NewSun raises for rehearing or reconsideration are equally without merit. First, both issues in NewSun's Application were raised and considered at the November 29 Public Meeting and rejected. Second as to the value of capacity issue, the November 21 Staff Report and the Commission deliberations at the November 29 Public Meeting make clear that the Capacity Contribution Best Practices apply only to capacity contribution and capacity valuation would be considered on a case specific basis in dockets such as UM 2000. Thus, rehearing or reconsideration is moot.

Therefore, the Commission should reject the NewSun Application as good cause has not been established.

## **II. STANDARD OF DECISION**

The Commission will grant reconsideration or rehearing of a prior Commission order when "sufficient reason" is presented.<sup>8</sup> Sufficient reasons include (1) new evidence that is essential to the decision and that was unavailable and not reasonably discoverable before the issuance of the order; (2) a change of law or policy since the date the order was issued relating to an issue essential to the decision; (3) an error of law or fact in the order that is essential to the decision; or (4) good cause for further examination of an issue essential to the decision.<sup>9</sup>

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<sup>7</sup> NewSun Application at 4.

<sup>8</sup> ORS 756.561(1).

<sup>9</sup> OAR 860-001-0720(3).

### III. ARGUMENT

To establish good cause, NewSun asserts that not all stakeholder comments were considered by the Commission in adopting the November 21 Staff Report. NewSun appears to rely on a mischaracterization of a statement in a Staff Announcement issued on September 23, 2022 (September 23 Announcement) to establish good cause.<sup>10</sup> Such a claim is contradicted by the level of engagement Staff sought from all parties through workshops and written comments. Staff carefully considered all comments and developed a Capacity Contribution Best Practices that “focus[ed] on addressing the most important considerations while acknowledging the need for flexibility and limiting administrative burden.”<sup>11</sup> When placed in context of events during Phase 3 of the proceeding, it is clear no preference to the utilities exists.

Furthermore, the issues raised in NewSun’s Application are equally without merit. The Commission specifically considered both issues raised by NewSun for rehearing or reconsideration at the November 29 Public Meeting, where they were rejected. Further, the capacity valuation is addressed in the November 21 Staff Report as an issue that should be addressed on a case specific basis in other dockets, such as UM 2000. Accordingly, the Application does not present sufficient reasons for rehearing or reconsideration and should be denied.

**A. The Commission Decision Adopting the Staff Report Recommending Approval of Capacity Contribution Best Practices Reflects a Consideration of all Parties’ Positions.**

NewSun claims good cause exists to reconsider Order No. 22-468 because Staff’s

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<sup>10</sup> NewSun requests rehearing or reconsideration based on good cause. *See* NewSun Application at 1. NewSun makes no argument that its request is based on new evidence, a change of law or policy, or an error of law or fact, which are also bases for rehearing or reconsideration under Commission rules.

<sup>11</sup> Staff Report at 9 (Nov. 21, 2022).

Capacity Contribution Best Practices adopted by the Commission “was based solely on consulting with E3 and meetings with each of the three regulated utilities” and did not consider input from other stakeholders.<sup>12</sup> This claim is demonstrably untrue. Staff developed its recommendations after years of extensive and robust stakeholder process, including numerous stakeholder workshops and many opportunities for stakeholders to submit written comments—as Staff outlined in its November 21 Staff Report, attached as Appendix A to Order No. 22-468.<sup>13</sup> The stakeholder process culminated at the November 29 Public Meeting where the Commission had the benefit of all previously filed stakeholder comments and lengthy public comment at the meeting.

Because NewSun cannot dispute the facts in the November 21 Staff Report, NewSun instead mischaracterizes a statement that Staff met individually with the Joint Utilities and E3 to make it appear that Staff’s Capacity Contribution Best Practices was crafted “solely” based on input from E3 and the Joint Utilities.<sup>14</sup> However, the way Staff conducted the docket and the

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<sup>12</sup> NewSun Application at 1.

<sup>13</sup> *In the Matter of the Public Utility Commission of Oregon General Capacity Investigation*, Docket No. UM 2011, Order No. 22-468, App. A at 2-3 (Dec. 1, 2022).

<sup>14</sup> Specifically, in claiming that the input of all stakeholders were not considered, NewSun appears to rely on a statement in the September 23 Staff Announcement that stated, “Staff and E3 met with each of the three utilities individually.” NewSun does not provide a specific citation and only generally cites the September 23 Staff Announcement. It also cites OSSIA comments filed on October 24, 2022, which implies the same bias without providing any citations to the September 23 Staff Announcement. However, this ignores the context in which those meetings were held and the process that occurred before and after those meetings. On September 30, 2021, Staff filed an updated draft of its Capacity Value Best Practices. Parties filed comments on this draft on October 20, 2021, and Staff workshops were held on November 16, 2021, and December 6, 2021. At the December 6 Workshop, the utilities, PacifiCorp, PGE, and Idaho Power, agreed to provide to the parties certain modeling capacity contribution results by January 25, 2022. See PacifiCorp’s Capacity Contribution Results filed on January 25, 2022. Following the filing of the various modeling results, Staff held a workshop on February 15, 2022, where one of the agenda items was for PacifiCorp, PGE, and Idaho Power to present on each utility’s modeling results that was followed by a discussion of the utilities’ filings. See UM 2011 Agenda for the February 15, 2022, Workshop filed on Feb. 10, 2022. It was following this workshop, in April 2022, Staff contracted with its consultant, E3, to conduct further analysis of the utilities’ modeling results against the E3’s principles report. Staff Letter filed April 18, 2022, with E3 Protective Order signatory pages. With all the comments from stakeholders and the additional analysis performed by E3, Staff developed the Capacity Contribution Best Practices, which it issued on September 23, 2022, with parties’ written comments on the Capacity Contribution Best Practices filed on October 24, 2022. After considering these comments, Staff filed its November 21 Staff Report.

ultimate development of the Capacity Contribution Best Practices demonstrates that all parties' comments were considered. NewSun's baseless accusation that Staff ignored stakeholder input is untrue. Thus, good cause does not exist, and the NewSun Application should be denied.

**B. The Commission Considered and Rejected the Issues Raised in the NewSun Application.**

NewSun raised two issues for reconsideration: (1) adopt unspecified stakeholder recommendations "to account for the full value of capacity," or to clarify that the resolution reached does not constitute a Commission decision that such values should not be included in the value of capacity; and (2) amend the Capacity Contribution Best Practices document to reflect the LOLP should be provided alongside ELCC in all applicable settings for transparency purposes.<sup>15</sup> NewSun raised both issues it seeks rehearing or reconsideration at the November 29 Public Meeting, which the Commission considered and rejected.<sup>16</sup> NewSun provided nothing new in its Application.

Furthermore, as to the first issue regarding the value of capacity, the November 21 Staff Report clearly states that the Capacity Contribution Best Practices are guidelines for determining capacity contribution and that the capacity valuation should be evaluated on a case specific basis.<sup>17</sup> Even though a methodology for determining the value of capacity was originally envisioned as a product of this investigation, based on learnings regarding capacity contribution versus capacity valuation, it was determined that capacity valuation should be determined on a case specific basis in other dockets.

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<sup>15</sup> NewSun Application at 4.

<sup>16</sup> See November 29 public meeting video beginning at 10:24 a.m. and again at 11:00 a.m. ([https://oregonpuc.granicus.com/player/clip/1050?view\\_id=2&redirect=true&h=f0cc9a51321c3e2a87c49af2927411a5](https://oregonpuc.granicus.com/player/clip/1050?view_id=2&redirect=true&h=f0cc9a51321c3e2a87c49af2927411a5)).

<sup>17</sup> November 21 Staff Report at 4.

Finally, NewSun’s request relies on conclusory and unclear requests for relief that fail to satisfy the requirements of OAR 860-001-0720(2)(c) and (d), which require NewSun to specifically explain the “change in the order that the Commission is requested to make” and how NewSun’s “requested change in the order will alter the outcome[.]”

As such, the NewSun Application should be rejected as good cause has not been established.

#### IV. CONCLUSION

The Joint Utilities respectfully requests the Commission deny NewSun’s Application for Rehearing or Reconsideration.

Respectfully submitted this 14<sup>th</sup> day of February 2023.



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