

BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON

UM 1610

PHASE II

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF OREGON,)	PETITION TO INTERVENE OF
)	GARDNER CAPITAL SOLAR
Investigation into Qualifying Facility Contracting)	DEVELOPMENT, LLC
and Pricing)	
)	

Gardner Capital Solar Development, LLC (“Gardner Solar”) hereby petitions the Public Utility Commission of Oregon (“Commission”), pursuant to ORS § 756.525 and OAR 860-001-0300, to intervene in the above captioned proceeding and to appear and participate as a party. In support of its petition, Gardner Solar states the following:

1. The name and address of the Intervenor is:

Gardner Capital Solar Development, LLC
c/o Joseph Benga
1414 East Primrose, Suite 100
Springfield, Missouri 65804
(415) 760-3193
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2. Gardner Solar will be represented in this docket by:

Ms. Shao-Ying Mautner
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3. Copies of all pleadings, production requests, production responses, Commission orders and other documents in this proceeding should be provided to the following:

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4. Gardner Solar has a direct and substantial interest in this proceeding and its interests cannot be represented by any other party. Gardner Solar is the owner and developer of a number of qualifying facility (“QF”) solar projects in Oregon. Gardner Solar submitted formal requests to Idaho Power Company (“Idaho Power”) for Energy Sales Agreements (“ESA”) with current standard avoided cost prices pursuant to Idaho Power tariff’s Schedule 85. In response, Idaho Power informed Gardner Solar that it had suspended its obligations to enter into Schedule 85 ESAs and that it had filed a motion to stay these obligations in Docket UM 1725. One of the issues that Gardner Solar and Idaho Power dispute is whether the fact that Gardner Solar timely submitted Schedule 85 applications for ESAs creates a Legally Enforceable Obligation (“LEO”) under the Public Utility Regulatory Policies Act of 1978 (“PURPA”).¹

¹ On May 13, 2015, Gardner Solar filed a Protest and Opposition in UM 1725 urging the Commission to deny in part Idaho Power’s April 24, 2015 motion to stay its obligations to enter into ESAs with QFs. In that filing, Gardner Solar reserved the right to raise the LEO issue in the UM 1610 Phase II proceeding. (See Gardner Solar’s protest at p. 17) Gardner Solar also filed a Complaint and Request for Expedited Treatment against Idaho Power on May 18, 2015 in UM 1733 requesting, among other things, that the Commission require Idaho Power to comply with Schedule 85 and its LEO by providing ESAs to Gardner Solar’s QF projects pursuant to the Commission’s prior orders as well as federal and state law.

5. The question as to when a LEO arises under PURPA is one of the identified issues for Phase II of this proceeding. *See* ALJ Ruling of March 26, 2015, (issue number 8) Accordingly, Gardner Solar is seeking to intervene in this proceeding to represent its interests and assist the Commission in developing the record. Without the opportunity to intervene, Gardner Solar would be without any means to participate in this proceeding which could determine how the Commission defines when a LEO is created under PURPA.

6. Gardner Solar’s intervention will not prejudice any party and it accepts the record, procedural schedule and scope of this proceeding as it stands.

7. For all of the above reasons, it is in the public interest to grant Gardner Solar’s Petition to Intervene.

WHEREFORE, Gardner Solar respectfully request that the Commission grant its Petition to Intervene with full party status in this proceeding.

Dated this 22nd day of May, 2015.

FOLEY & LARDNER LLP

By /s/ Thomas McCann Mullooly
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