



Portland General Electric
121 SW Salmon Street · Portland, Ore. 97204

May 15, 2020

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street, S.E.
P.O. Box 1088
Salem, OR 97308-1088

RE: Supplemental Filing of Advice No. 20-09, Schedule 136 Oregon Community Solar Program Cost Recovery Mechanism Update

Portland General Electric Company (PGE) submits this supplemental filing as a follow-up to the original filing made April 23, 2020, pursuant to Oregon Revised Statutes 757.205 and 757.210, and Oregon Administrative Rules 860-022-0025, for filing proposed tariff sheets associated with Tariff P.U.C. No. 18. PGE originally filed Advice No. 20-09 on April 23, 2020. On May 4, 2020, PGE amended the filing to incorporate input from community solar developers and others negotiating the termination of their PURPA PPAs so that they can participate in the community solar program. The requested effective date of June 7, 2020 remains as filed.

All sheets remain as previously filed.

We submit this Supplemental Filing to provide a copy of the settlement agreement (Attachment A) executed by the parties that memorializes the settlement in principle mentioned in PGE's April 23 and May 4 filings in Advice No. 20-09. The settlement agreement contains a provision that the agreement is nonprecedential. PGE requests that the Commission acknowledge the settlement agreement as part of its review of PGE's Advice No. 20-09 and include written language in its order noting the extraordinary circumstances attaching to this settlement agreement and its nonprecedential effect.

Please direct any questions or comments regarding this filing to me at (503) 464-8954. Please direct all formal correspondence and requests to the following email address pge.opuc.filings@pgn.com

Sincerely,

\s\ Robert Macfarlane

Robert Macfarlane
Manager, Pricing & Tariffs

Enclosure
cc: UM 2024 Service List

PGE Supplemental Filing of Advice No. 20-09
Attachment A

SETTLEMENT AGREEMENT

Preface. The Commission is presented with a series of contract termination disputes that started to arise no later than February, 2020. Those disputes have a significant impact on the prospects of Oregon’s Community Solar Program (CSP) in the Portland General Electric Company (PGE) service territory. As part of putting these disputes in front of the Commission, comment was received from Renewable Energy Coalition (REC), the Oregon Solar Energy Industries Association (OSEIA), the Coalition for Community Solar Access (CCSA), PGE, and individual affected project developers. The Commission considered this conflict, and issued Order No 20-076, which approved a process for conditional pre-certification of projects. Order No 20-076 strongly encouraged “stakeholders to work to a negotiated resolution to these issues” (the Termination Dispute). The order also directed the Administrative Hearings Division (AHD) to “offer an ADR [Alternative Dispute Resolution] option for the projects directly involved, PGE, and Commission Staff (Staff) to facilitate the development of an agreement or proposed resolution.” Since the issuance of that order, AHD has conducted a mediation with stakeholders. REC, OSEIA, CCSA, PGE, affected project developers, and Staff have all participated in the mediation over the two months.

Ashfield Solar, LLC; Auburn Solar, LLC; Belvedere Solar, LLC; Buckner Creek Solar, LLC; Carnes Creek Solar, LLC; Clayfield Solar, LLC; Cork Solar, LLC; Cospers Creek Solar, LLC; Cusack Solar, LLC; Dover Solar, LLC; Dunn Rd Solar, LLC; Fruitland Creek Solar, LLC; Gun Club Solar, LLC; Kaiser Creek Solar, LLC; Manchester Solar LLC; Marquam Creek Solar, LLC; Mt Hope Solar, LLC; River Valley Solar, LLC; Sandy River Solar, LLC; Sesqui-C Solar, LLC; Waterford Solar, LLC; Williams Acres Solar, LLC; Zena Solar, LLC (including owners, agents, managers, employees, and counsel, jointly the “CSP Projects”, listed in Appendix A); OSEIA; REC; and CCSA (jointly, the CSP Interest Groups); and PGE have agreed to the following terms (the CSP Projects, CSP Interest Groups, and PGE, are each a Party and collectively Parties to this Agreement), which address termination of existing Public Utility Regulatory Policies Act (PURPA) Power Purchase Agreements (PURPA PPAs):

SECTION 1

Each Party agrees that all terms of this settlement (Agreement) are driven in part by the unique needs and issues associated with the CSP, the events leading up to the Commission’s approval of the CSP Program Implementation Manual (PIM), and the policy objectives of the Parties. As such, other than the terms of Section 1, each Party agrees that the terms of the Agreement shall have no precedential effect in any future Commission proceedings or court proceeding other than the Commission process required to implement the terms of the Agreement. In particular, the parties agree that this Agreement shall not be, and should not be, used as precedent regarding the interpretation or implementation of any term or condition of any power purchase agreement other than the PURPA PPAs of the projects listed in Appendix A. The Parties agree not to use the Agreement or the treatment of any of the CSP Projects as the basis for a claim or argument that PGE is unlawfully or unfairly discriminating against qualifying facilities not listed in Appendix A.

Each Party agrees that the terms of the Agreement are not precedential for (i) the interpretation of PURPA PPAs, including but not limited to termination, damages, or non-discrimination provisions of those contracts, and (ii) future implementation of the CSP, because the terms of this Agreement are unique and distinguishable.

SECTION 2

Within 90 days of a Commission Approval Order (defined as a Commission order approving without material modification a tariff filing from PGE that PGE reasonably determines would serve to allocate the costs of the CSP to all PGE customers (Proposed Tariff)), the CSP Projects in Appendix A with currently effective PPAs may exercise a one-time option to terminate existing PURPA PPAs. To exercise this one-time option a CSP Project with an executed PPA must sign the agreed to mutual termination agreement (Mutual Termination Agreement) attached hereto as Appendix B that contains a mutual release of all claims under the PURPA PPAs. If a CSP Project provides written notice that it intends to sign a Mutual Termination Agreement within 90 days of the Commission Approval Order, then PGE shall prepare a Mutual Termination Agreement for execution by both parties. PGE shall provide such execution copy within five business days of receiving a request from a CSP Project. The CSP Projects do not need to request termination of their PPAs until after the Commission issues an order on the Proposed Tariff. In the event a CSP Project terminates or has terminated its PURPA PPA, PGE agrees that section 9.5 of the terminated PURPA PPA applicable to such CSP Project shall have no application to any CSP Power Purchase Agreement (CSP PPA) executed by the applicable CSP Project. The CSP Interest Groups position is that section 9.5 does not apply to any CSP PPAs, and in executing this Agreement, the Interest Groups are not agreeing that section 9.5 of PGE's standard PURPA PPA applies to any other CSP PPAs.

- a. Termination of the PURPA PPAs means that both parties to the PURPA PPA release the other party from all rights and responsibilities under that PURPA PPA, and that contract is null and void, except as to terms that explicitly survive termination under the PURPA PPA. No future claims for either party under the PURPA PPA may arise out of the terminated contract, except for any claim that may arise out of terms that survive termination under the PURPA PPA.
- b. CSP Projects that are on Appendix A, that are not pre-certified or certified or otherwise elect not to participate in the CSP, or do not qualify for the CSP, may exercise rights as allowed and consistent with PURPA. For Projects that enter into a new PURPA PPA, PGE in its sole discretion may require that Seller shall enter into any new PPA or a new PPA subject to the terms of the previously terminated PURPA PPA, including but not limited to the contract price until the term of that PURPA PPA would have run in due course had the PURPA PPA remained in effect.
- c. The CSP Projects eligible to exercise this option are identified in Appendix A.

SECTION 3

If a CSP Project elects to terminate, the CSP Project shall pay \$5,000 to PGE.

- a. The termination fee shall be paid within 14 days after the Project has commenced commercial operation under the CSP PPA.
- b. PGE commits to allocate all termination fee revenues to support low income customers participating in the CSP.
 - i. PGE will consult the signatories to this agreement, as well as Staff, regarding the form of such support at a later date.

SECTION 4

Except as provided in Section 11, PGE agrees that this Agreement does not concern and will not affect the current interconnection agreements or interconnection processes, including disputes related thereto, of any of the CSP Projects listed in Appendix A. PGE agrees that once a PURPA PPA subject to this agreement is terminated, executed existing interconnection agreements shall not be terminated as a result of termination of the applicable PURPA PPA, shall remain in full force, and any existing interconnection agreement applicable to that project will continue to apply and will be enforced according to its terms and conditions. PGE agrees that for projects that acquire a CSP PPA, the term of the executed existing interconnection agreement will be the greater of 20 years or the term of the CSP PPA. The CSP Projects and CSP Interest Groups acknowledge that PGE is permitted and required to apply the applicable state and federal interconnection rules, and any interconnection-related agreements to the CSP Projects listed in Appendix A. Until such time as a PURPA PPA is terminated, all terms and conditions of the PURPA PPA shall remain in full force and effect and may be enforced by PGE or the CSP Project according to its terms.

SECTION 5

Sections 2, 3, and 9 of this Agreement no longer are in effect if the Commission rejects or makes a material modification to PGE's Proposed Tariff, which could include a change that would alter the provisions that allocate the costs of the CSP, including subscriber bill payment credits, to all PGE customers including those participating in long term and new load direct access programs. If PGE and CSP Interests Groups and/or CSP Projects disagree about whether a modification is "material", then the Commission shall decide whether the order modifying PGE's Proposed Tariff is "material." Should the Commission reject or fail to approve the Proposed Tariff or any material part of that proposal, the parties agree to the following terms:

- a. If litigation between any CSP Project and PGE regarding the PURPA PPA termination issue continues, PGE waives any claim to damages as a result of termination of a PURPA PPA based on a CSP Project's participation in the CSP subject to the following provisions.
 - i. In lieu of damages, the applicable CSP Project will contribute \$5,000 to support low income non-profits. PGE and such CSP Project will review and

develop a list of eligible low-income non-profits. Under no circumstances is a Party eligible to receive these funds.

- ii. If a CSP Project contributes \$5,000 to support low income non-profits, that Party may make any public or private claim that it contributed that amount in money to low income non-profits. PGE shall not seek recognition for any such contributions.
- b. If the Commission fails to approve PGE's Tariff as of May 20, 2020, and litigation between any party and PGE regarding the termination issue continues, PGE and the signing party will agree to propose a stipulated procedural schedule for complaints, and a request made in docket number UM 1930, described below in Section 6.c.

SECTION 6

Consistent with this agreement, the affected CSP Projects listed on Appendix A may, but are not required to, file "place-holder" complaints regarding the Termination Dispute to preserve rights and timetables, should the Commission reject or fail to act in a timely manner on PGE's Proposed Tariff (CSP Complaint(s)). Such CSP Complaints shall include a statement indicating they will be voluntarily dismissed if PGE agrees to terminate the PURPA PPAs and resolve the Termination Dispute. A CSP Complaint may not disclose any confidential information related to this Agreement, except with the consent of the Parties to the Agreement.

- a. In order to ensure that CSP Complaints are consistent with the below non-disparagement provision and effectively preserve the rights of the CSP Projects, PGE agrees that the complaining party may amend its complaint prior to May 20, 2020. If a CSP Project seeks to amend a CSP Complaint after May 20, 2020, PGE may ask the Commission to grant a reasonable extension of time to file its answer to respond to the amended complaint and to make any other related changes to the schedule and the Complainant will not object to a reasonable extension of time, but reserves the right to oppose the specific number of days requested by PGE. Consistent with the schedule below, PGE reserves the right to submit filings other than those listed in paragraph 6.d.2 below, including but not limited to a motion to dismiss or other motion against any complaint filed by a CSP Project or CSP Interest Group. PGE's motion(s) to dismiss, if any, will be filed on July 3, 2020 with responsive pleadings filed under the schedule for the motions for summary judgment. In response to any motion to dismiss filed by PGE raising procedural or administrative objections to the complaint, a CSP Project may amend its CSP Complaint and PGE agrees, consistent with this paragraph, not to object to such amendment. Nothing in this paragraph is intended to require any CSP Project to file an amended complaint.
- b. If the Commission approves PGE's Tariff, then CSP Projects that have filed a CSP Complaint will request that their CSP Complaints be held in abeyance until the parties to the CSP Complaint file a Motion to Dismiss as provided for in this paragraph.

- i. CSP Projects that have a fully executed Mutual Termination agreement pursuant to Section 2 above shall move to dismiss within 10 business days of the effective date of the Mutual Termination Agreement their CSP Complaints with prejudice regarding the claims directly relevant to the specific prayers for relief of the CSP Projects' ability to terminate their PURPA PPAs and will move to dismiss any other remaining claims in the complaints without prejudice that are not directly relevant to the specific prayers for relief of the CSP Projects' ability to terminate their PURPA PPAs.
 - ii. CSP Projects that do not exercise their options to terminate their PURPA PPAs shall move to dismiss their CSP Complaints with prejudice regarding the claims directly relevant to the specific prayers for relief of the CSP Projects' ability to terminate their PURPA PPAs and will move to dismiss any other remaining claims in the complaints without prejudice that are not directly relevant to the specific prayers for relief of the CSP Projects' ability to terminate their PURPA PPAs no later than 104 calendar days after Commission approval of PGE's Proposed Tariff.
 - iii. Notwithstanding the above, the CSP Projects, CSP Interest Groups, and PGE reserve their rights to file complaints to enforce this Agreement.
- c. As reviewed above, PGE and the complainants agree to propose a procedural schedule allowing for Commission consideration of the issues raised in the CSP Complaints on an expedited timetable, in two forums –in UM 1930, and in individual CSP Complaint dockets, consistent with the following schedules:
- i. UM 1930 Comments procedural milestones:
 - May 20 CSP Projects and CSP Interest Groups initial comments (consistent with the “friendly version” circulated in the course of this negotiation)
 - June 12 PGE response comments
 - June 19 CSP Projects and CSP Interest Groups reply comments (one week)
 - June 30 Public Meeting Decision (Staff will recommend consideration at the June 30 Public Meeting)
 - ii. PGE and the appropriate signatory will recommend that the ALJ/Commission adopt the following proposed schedule for the CSP Complaints:
 - As soon as reasonably possible, 18 CSP Projects file “place-holder” complaints with appropriate placeholder language for the CSP Projects in Appendix A. On May 21, 5-6 CSP Projects will be identified as active; others are stayed.

- The complaint “placeholder” status on CSP Projects numbered 5-6 (active complaints) is removed if the Commission does not approve PGE’s Proposed Tariff by May 20.
- Starting May 20, 5 business day turnaround on discovery responses.
- June 12th Answers to complaints (parties agree to allow extension on current deadlines to answer to match placeholder status of complaints)
- Cross-summary judgments—3 simultaneous rounds:
 - July 3 Round 1
 - July 17 Round 2
 - July 24 Round 3

Request an expedited ruling on August 7.

- iii. PGE and the complainant’s cross motions for summary judgment may include declarations that raise additional factual claims not included in the “place holder” complaints in support of their motions for summary judgment.
- iv. All remaining complaints are stayed until the 5-6 complaints are resolved by the Commission.

SECTION 7

PGE has filed a tariff which requests Commission approval to allocate all costs of the CSP to all customers, including but not limited to direct access customers.

- a. Staff will facilitate Commission review of, and a decision regarding, this proposal at the earliest practicable date, now identified as May 19, 2020.
- b. The signatory parties to the Agreement will provide public support for the concept that all customers benefit from the CSP, given the broad community benefits that CSP provides, and given its important role in support for the low-income community. This statement need not specifically support the Proposed Tariff filing, but should reflect support for the general principle of broad community benefits for the CSP. The written statement of support will be presented to and filed with the Commission.
- c. The statement of support is as follows: “[Organization(s) and/or Project(s) name] believe that the CSP furthers decarbonization of energy supply in Oregon and provides a public benefit and a public good that benefits all customers. [Organization(s) and/or Project(s) name] do not take a position on PGE’s proposed tariff, but do support the Commission and PGE considering responsibility of program costs.”

- d. When PGE refers to the statement of support, it will use the above quote. PGE has filed a corrected cover letter to PGE's Proposed Tariff filing reflecting the above statement of support.

SECTION 8

The Parties may consider other mutually beneficial proposals for working together on CSP Projects.

SECTION 9

The Parties agree to the following non-disparagement terms: Unless the Commission rejects or materially modifies PGE's Tariff such that PGE does not agree to terminate the PURPA PPAs and allow the CSP Projects to participate in the CSP, the Parties agree that they will not publicly disparage the other Parties to the Agreement, regarding the subject of the termination and tariff issues associated with the Agreement, and the conduct of those projects or PGE associated with any aspect of the termination controversy or its relation to the CSP, in relation to the Agreement, subject to the limitations in Section 11.

SECTION 10

The parties to the Agreement will work to develop a joint public communication, which will be shared with the Commission, and may be shared with members of the media, which will address the fact that the parties have come to an agreement they all believe will assist the development of a functioning and equitable CSP in Oregon.

SECTION 11

Notwithstanding Section 4 of this agreement, PGE agrees to allow the Carnes Creek Solar LLC rule waiver request, reflected in a filing made on April 23, 2020, in UM 1631, to be addressed by the Commission. Accordingly, PGE commits that it will not act in a manner that would unnecessarily delay a Commission ruling on that waiver request. PGE commits that it will hold the place of Carnes Creek Solar LLC in the interconnection queue until the Commission has issued a ruling on the waiver request. All parties recognize that PGE's action in this respect is non-precedential and will not be cited or used as justification for a claim or request to the Commission or other Court. The non-disparagement provisions of this agreement do not apply and are not applicable to the issues associated with Carnes Creek Solar LLC's interconnection request, and this agreement does not prevent all parties from protecting, advocating, and enforcing their respective rights associated with this interconnection controversy.

SECTION 12

Each Party agrees that the terms of the Agreement, other than PGE's Proposed Tariff filing referenced above, do not require Commission approval as a condition in order to be effective and binding.

SECTION 13

- a. Confidentiality. The Parties agree to the following confidentiality terms:
- i. The Parties agree that communications, proposals, and representations made as a part of the negotiation leading up to this Agreement are confidential.
 - ii. The Parties agree that PGE may file this Agreement with the Commission and seek written concurrence from the Commission that this Agreement is non-precedential consistent with Section 1.
 - iii. All Parties to this Agreement consent to release the assigned mediator to this settlement negotiation, Nolan Moser, to discuss the terms of this Agreement and the terms of PGE's Proposed Tariff with Commissioners individually, or at a public meeting, to provide them information about the Agreement and PGE's Proposed Tariff and aide in consideration of PGE's Proposed Tariff. The mediator Nolan Moser will not discuss, review, and will keep entirely confidential the content of the settlement discussions, documents presented in negotiation, positions, conversations, and representations. Nolan Moser will not review, participate in, or discuss any of the complaints arising out of this settlement with the Administrative Law Judges assigned to these complaints, or the Commissioners.
- b. LIMITATION OF LIABILITY. IN NO EVENT SHALL A PARTY BE LIABLE TO ANOTHER PARTY FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, MORAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT, OR BASED ON ANY OTHER LEGAL OR EQUITABLE THEORY) UNDER OR IN RESPECT OF THIS AGREEMENT, WHETHER OR NOT ARISING FROM THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OF THE PARTY CLAIMING DAMAGES AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- c. Governing Laws. To the full extent permitted by law, this Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, excluding its conflicts of laws principles, or in accordance with federal law, as applicable. To the full extent permitted by law, the exclusive jurisdiction for any action relating to this Agreement shall be the Public Utility Commission of Oregon.
- d. Construction. The language of all paragraphs, terms, and provisions of this Agreement shall be construed as a whole, according to their fair meaning, and not strictly for or against any Party and without regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

Unless the context indicates otherwise, the term “or” shall be deemed to include the term “and,” and the singular or plural form shall be deemed to include the other.

- e. Waiver. No waiver of any one of the provisions of this Agreement shall be deemed or constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.
- f. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors, predecessors, assigns, attorneys-in-fact, attorneys-at-law, officers, directors, shareholders, members, employees, agents, parent corporations, subsidiary and affiliated corporations, affiliates, executors, conservators, personal representatives, administrators, and partners of the Parties.
- g. Captions. The captions appearing at the commencement of the paragraphs hereof are descriptive only and for convenience of reference. Should there be any conflict between such caption and the paragraph at the head of which it appears, the paragraph and not such caption shall control and govern in the construction of this Agreement.
- h. No third-party beneficiaries. The Parties do not intend that there are or will be any third-party beneficiaries of this Agreement.
- i. Counterparts. This Agreement may be signed in counterparts by the Parties, which, taken together, shall be deemed to constitute one and the same Agreement.
- j. Support of Agreement. The Parties agree to support all of the terms and conditions of this Agreement before all tribunals.
- k. Signatures. This Agreement (or any agreement or document required by this Agreement, or any amendment to this Agreement) may be executed in as many counterparts as necessary or convenient, including both counterparts that are executed on paper and counterparts that are electronic records and executed electronically, and each executed counterpart shall be deemed an original. All such counterparts shall constitute one and the same agreement. Delivery of a manually executed paper counterpart of this Agreement (or of any agreement or document required by this Agreement, or any amendment to this Agreement) by telecopy or other electronic imaging means shall be as effective and enforceable as delivery of such manually executed paper counterpart of this Agreement.

JRG
JRG

BCG
BCG

**PORTLAND GENERAL ELECTRIC
COMPANY**


James F. Lobdell (May 14, 2020)

By: Jim Lobdell, Senior Vice President
Finance, CFO and Treasurer

**RENEWABLE ENERGY
COALITION**


By: John R. Linn, Executive Director
DATE May 15, 2020

**COALITION FOR COMMUNITY
SOLAR ACCESS**


Charles Coggeshall (May 15, 2020)

By: Charlie Coggeshall

**OREGON SOLAR ENERGY
INDUSTRIES ASSOCIATION**


Angela Crowley-Koch (May 15, 2020)

By: Angela Crowley-Koch

ASHFIELD SOLAR, LLC



By: Colin Murphy

AUBURN SOLAR, LLC



By: Colin Murphy

BELVEDERE SOLAR, LLC



By: Colin Murphy

BUCKNER CREEK SOLAR, LLC

Jonathan Nelson

Jonathan Nelson (May 15, 2020)

By: Jonathan Nelson

CARNES CREEK SOLAR, LLC

Jonathan Nelson

Jonathan Nelson (May 15, 2020)

By: Jonathan Nelson

CLAYFIELD SOLAR, LLC


Kevin White (May 15, 2020)

By: Kevin White

CORK SOLAR, LLC


Kevin White (May 15, 2020)

By: Kevin White

COSPER CREEK SOLAR, LLC

Jonathan Nelson

Jonathan Nelson (May 15, 2020)

By: Jonathan Nelson

CUSACK SOLAR, LLC



By: Colin Murphy

DOVER SOLAR, LLC


Kevin White (May 15, 2020)

By: Kevin White

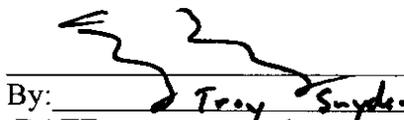
DUNN RD SOLAR, LLC

Stephen Gates

Stephen Gates (May 15, 2020)

By: Stephen Gates

FRUITLAND CREEK SOLAR, LLC


By: Troy Snyder
DATE 5/15/20

GUN CLUB SOLAR, LLC

Jonathan Nelson

Jonathan Nelson (May 15, 2020)

By: Jonathan Nelson

KAISER CREEK SOLAR, LLC

John Hunter Strader

John Hunter Strader (May 15, 2020)

By: Hunter Strader

MANCHESTER SOLAR, LLC


Kevin White (May 15, 2020)

By: Kevin White

MARQUAM CREEK SOLAR, LLC

John Hunter Strader

John Hunter Strader (May 15, 2020)

By: Hunter Strader

MT HOPE SOLAR, LLC

Stephen Gates

Stephen Gates (May 15, 2020)

By: Stephen Gates

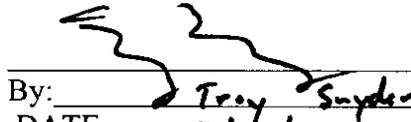
RIVER VALLEY SOLAR, LLC

Stephen Gates

Stephen Gates (May 15, 2020)

By: Stephen Gates

SANDY RIVER SOLAR, LLC


By: Troy Snyder
DATE 5/15/20

SESQUI-C SOLAR, LLC

Jonathan Nelson

Jonathan Nelson (May 15, 2020)

By: Jonathan Nelson

WATERFORD SOLAR, LLC


Kevin White (May 15, 2020)

By: Kevin White

WILLIAMS ACRES SOLAR, LLC

Stephen Gates
Stephen Gates (May 15, 2020)

By: Stephen Gates

ZENA SOLAR, LLC

Jonathan Nelson
Jonathan Nelson (May 15, 2020)

By: Jonathan Nelson

APPENDIX A

The CSP Projects are as follows:

Ashfield Solar, LLC
Auburn Solar, LLC
Belvedere Solar, LLC
Buckner Creek Solar, LLC
Carnes Creek Solar, LLC
Clayfield Solar, LLC
Cork Solar, LLC
Cospers Creek Solar, LLC
Cusack Solar, LLC
Dover Solar, LLC
Dunn Rd Solar, LLC
Fruitland Creek Solar, LLC
Gun Club Solar, LLC
Kaiser Creek Solar, LLC
Manchester Solar LLC
Marquam Creek Solar, LLC
Mt Hope Solar, LLC
River Valley Solar, LLC
Sandy River Solar, LLC
Sesqui-C Solar, LLC
Waterford Solar, LLC
Williams Acres Solar, LLC
Zena Solar, LLC

APPENDIX B

FORM OF TERMINATION AGREEMENT

This Termination Agreement, dated as of [DATE] (the “**Termination Agreement**”), is between Portland General Electric Company (“**PGE**”) and [NAME OF QF], (together with PGE, the “**Parties**”, and each, a “**Party**”).

WHEREAS, the Parties have entered into a [NAME OF UNDERLYING AGREEMENT], entered into as of [DATE OF UNDERLYING AGREEMENT] (as amended from time to time, the “**PPA Agreement**”);

WHEREAS, [NAME OF QF] has informed PGE that it does not intend to sell Net Output from the Facility under the terms of the PPA Agreement because [NAME OF QF] wishes to participate in the Community Solar Program and desires to waive all rights and benefits under the PPA Agreement except those expressly designated under the PPA Agreement as surviving termination and any and all cure periods for default under the terms of the PPA Agreement; and

WHEREAS, the Parties desire to terminate the PPA Agreement on the terms and subject to the conditions set forth herein.

NOW, THEREFORE, in consideration of the premises set forth above and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. Defined terms used and not defined in this Termination Agreement shall have the respective meanings assigned to them in the PPA Agreement.
2. Termination of the PPA Agreement. Subject to the terms and conditions of this Termination Agreement, the PPA Agreement is hereby terminated as of the date first written above (the “**Termination Date**”). From and after the Termination Date, the PPA Agreement will be of no further force or effect, and the rights and obligations of each of the Parties thereunder shall terminate, except for any rights and obligations of the Parties that are expressly designated under the terms of the PPA Agreement as surviving the termination of the PPA Agreement.
3. Termination Fee. [QF NAME] agrees to pay \$5,000 to PGE as a termination fee no later than 14 days after the Facility’s Commercial Operation Date as that term is defined in the *pro forma* Community Solar Program power purchase agreement.
4. Acknowledgment. The Parties agree and acknowledge that (i) [QF NAME] is or expects to be in default of the PPA Agreement because [QF NAME] does not intend to sell to PGE the Net Output from the Facility under the terms of the PPA Agreement; (ii) [QF NAME] waives any and all cure periods under the PPA Agreement that may be applicable under the PPA Agreement; and (iii) the termination of the PPA Agreement pursuant to this Termination Agreement shall be deemed and treated for all purposes as a termination of the PPA Agreement by PGE under Section [9 for in-system projects and 10 for off-system projects] of the PPA Agreement.

APPENDIX B

5. Mutual Release. In consideration of the covenants, agreements and undertakings of the Parties under this Termination Agreement, each Party, on behalf of itself and its respective present and former parents, subsidiaries, affiliates, officers, directors, shareholders, members, successors and assigns (collectively, “**Releasors**”) hereby releases, waives and forever discharges the other Party and its respective present and former, direct and indirect, parents, subsidiaries, affiliates, employees, officers, directors, shareholders, members, agents, representatives, permitted successors and permitted assigns (collectively, “**Releasees**”) of and from any and all actions, causes of action, suits, losses, liabilities, rights, debts, dues, sums of money, accounts, reckonings, obligations, costs, expenses, liens, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands, of every kind and nature whatsoever, whether now known or unknown, foreseen or unforeseen, matured or unmatured, suspected or unsuspected, in law, admiralty or equity (collectively, “**Claims**”), which any of such Releasors ever had, now have, or hereafter can, shall, or may have against any of such Releasees for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of time through the date of this Termination Agreement arising out of or relating to the PPA Agreement, except for any Claims relating to rights and obligations preserved by, created by or otherwise arising out of this Termination Agreement (including but not limited to any rights and obligations of the Parties under the PPA Agreement that are expressly designated under the terms of the PPA Agreement as surviving the termination of the PPA Agreement).

6. Miscellaneous.

(a) All notices, requests, consents, claims, demands, waivers, summons and other legal process, and other similar types of communications hereunder (each, a “**Notice**”) must be in writing and provided in accordance with Section 7 of the Termination Agreement.

(b) This Termination Agreement and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the State of Oregon, United States of America, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Oregon. The exclusive venue for resolving any disputes that may arise in connection with this Termination Agreement shall be the Public Utility Commission of Oregon or the federal or state courts located in Multnomah County.

(c) This Termination Agreement and each of the terms and provisions hereof may only be amended, modified, waived or supplemented by an agreement in writing signed by each Party.

(d) This Termination Agreement may be executed in as many counterparts as necessary or convenient, including both counterparts that are executed on paper and counterparts that are electronic records and executed electronically, and each executed counterpart shall be deemed an original. All such counterparts shall constitute one and the same agreement. Delivery of a manually executed paper counterpart of this Termination Agreement by telecopy or other electronic imaging means shall be as effective and enforceable as delivery of such manually executed paper counterpart of this Termination Agreement.

APPENDIX B

(e) This Termination Agreement and Community Solar Program Settlement Agreement, entered into on **to** which PGE and NAME of QF are parties constitutes the sole and entire agreements between the Parties with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

7. Notices.

All notices except as otherwise provided in this Termination Agreement shall be in writing, shall be directed as follows and shall be considered delivered if delivered in person or when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested:

To QF Project: _____

with a copy to: _____

To PGE: Contracts Manager
QF Contracts, 3WTC0306
PGE - 121 SW Salmon St.
Portland, Oregon 97204

IN WITNESS WHEREOF, the Parties have executed this Termination Agreement as of the date first written above.

Portland General Electric Company

By _____
Name:
Title:

[QF NAME]

By _____
Name:
Title:

Signature: J. Richard George
J. Richard George (May 14, 2020)
Email: richard.george@pgn.com

Signature: Brett Greene
Brett Greene (May 14, 2020)
PG&E Supplemental Filing of Advice No. 20-09
Attachment A, Page 17
Email: brett.greene@pgn.com

UM 1930_Parties Final Termination Dispute Settlement Agreement__App AB_05-14-2020_FINAL (2)

Final Audit Report

2020-05-15

Created:	2020-05-15
By:	Svjetlana Tomic (Svjetlana.Tomic@pgn.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAANwMYjPC12kFN1gHglMr-Oa-fMt2-G9OG

"UM 1930_Parties Final Termination Dispute Settlement Agreement__App AB_05-14-2020_FINAL (2)" History

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