

**PETITION OF SOMERS SOLAR CENTER, LLC
FOR A DECLARATORY RULING THAT A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED IS NOT REQUIRED FOR THE
CONSTRUCTION AND OPERATION OF A 5.0MWAC SOLAR PHOTOVOLTAIC
PROJECT AT 458 & 488 SOUTH ROAD IN SOMERS, CONNECTICUT (“SOMERS
SOLAR CENTER”)**

OCTOBER 31, 2012

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1. INTRODUCTION

Pursuant to Section 16-50k(a) and Section 4-176(a) of the Connecticut General Statutes (“CGS”) and Section 16-50j-38 *et seq.* of the Regulations of Connecticut State Agencies (“RCSA”), Somers Solar Center, LLC (“Petitioner”) hereby petitions the Connecticut Siting Council (the “Siting Council”) for a declaratory ruling that a Certificate of Environmental Compatibility and Public Need (“CECPN”) is not required for the construction, operation and maintenance of a ground-mounted solar photovoltaic facility of up to 5MWac¹ (the “Project”) to be constructed on approximately ninety-five (95) acres located at 458 & 488 South Road,² Somers, Connecticut (the “Property”).

CGS § 16-50k(a) provides, in relevant part:

Notwithstanding the provisions of this chapter or title 16a, the council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling . . .the construction or location of any . . . grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, as long as such project meets air and water quality standards of the Department of Environmental Protection

As described more fully below, the construction, operation and maintenance of the proposed Project satisfies the criteria of CGS § 16-50k(a) and will not have a substantial adverse environmental effect.

¹ Direct current (dc) is used for the transmission of electrical power and is the type of electric power produced by the solar panels (i.e., the panel nameplate rating). Alternating current (ac) is the form in which electric power is delivered to businesses and residences from the utility (i.e., the project’s actual output). Accordingly, a solar facility must convert the “dc” power to “ac” before it can be delivered to the utility, which is achieved by the project inverters. Because the sun does not shine all the time and allow the panels to produce at 100% of their nameplate “dc” rating, a higher “dc” rating always exists once the power is converted into “ac” and delivered to the utility (e.g., Somers will utilize approximately 6.75MWdc to produce 5.0MWac).

² Currently, the Property on which the Project will be located is two separate parcels at the addresses indicated. However, prior to construction, at the request of the Town of Somers, the Petitioner will be filing a lot line revision so that the entire Project is located on the parcel known as 488 South Road.

2. PETITIONER

Somers Solar Center, LLC is a Delaware limited liability company with an office at 117 4th Street, SE, Suite B, Charlottesville, VA 22902. Somers Solar Center, LLC was organized in 2012 for the purposes of developing, constructing and operating a 5MWac solar photovoltaic project in the Town of Somers, Connecticut. Leading the development on behalf of the Petitioner is HelioSage, LLC, a company based in Charlottesville, VA (“HelioSage”) and a leading developer of solar energy projects, with clients in eight (8) states across the Mid-Atlantic and Northeast United States. In addition, the Petitioner is co-developing the Project with CleanPath Ventures, a company based out of San Francisco, California (“CleanPath”). CleanPath is a nationally recognized solar project investment firm with deep development and engineering roots. CleanPath’s management team and key personnel have decades of experience in renewable energy investment and development, including technology, risk management, asset management, and policy.

This teaming arrangement provides for local solar project development expertise through HelioSage complimented by sound risk management principles around financing, technology performance, and public policy through CleanPath. This arrangement will ensure that a high-performing and financially strong energy asset will be constructed to contribute to the State’s renewable energy portfolio.

Correspondence and/or communications regarding this petition should be addressed to:

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A copy of all such correspondence or communications should also be sent to the

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3. PROPOSED PROJECT

3.1. PROJECT HISTORY

Section 127 of Public Act 11-80, *An Act Concerning the Establishment of the Department of Energy and Environmental Protection and Planning for Connecticut's Energy Future* (the "Act"),³ required the Connecticut Department of Energy and Environmental Protection ("DEEP") to review proposals by private developers to build, own or operate zero emission Class I renewable energy source generation facilities. Pursuant to this requirement, in December 2011, the DEEP conducted a request for proposals ("RFP") for projects from private developers for up to ten (10) megawatts ("MW") of renewable generation. The Project was one of two selected by DEEP pursuant to the RFP.

3.2. SITE SELECTION

The site selection for the Project was based on a detailed evaluation of the following key criteria:

- Site suitability (solar resource size, grade and surrounding topography);
- Site availability (ability to lease or purchase land); and
- Proximity to critical infrastructure (suitable electrical grid access).

Once the initial evaluation was completed, a preferred site was selected by the Petitioner for development and preliminary due diligence work was initiated. Subsequently, an option to gain site control was executed with the land owner and filed in the Town of Somers land records.

³ Section 127 of the Act was subsequently codified at CGS § 16-244v.

Following DEEP's selection of the Project, the Petitioner began the preliminary design of a site layout in an effort to avoid or minimize environmental impact while maximizing Project capacity. The Petitioner retained the following consultants to assist in the evaluation and design of the Project: (1) Kleinfelder, a global science and engineering firm;⁴ (2) Fuss & O'Neill, a local, full service engineering and environmental consulting firm; and (3) Terracon, consulting engineers and scientists. As illustrated in this petition, these Project consultants have collectively conducted preliminary due diligence investigations, including geotechnical, land use, visual and surface hydrology and communicated with the Town of Somers regarding the Project.

3.3. PROPERTY DESCRIPTION

The Property is located at 458 & 488 South Road in the Town of Somers and consists of approximately 95 acres. The Property is owned by The Pleasant View Farms Realty Company and located in an Agricultural Zone A-1. Currently, the Property is agricultural (open hay and corn fields) and no structures are located on the parcel. A stream (i.e., Abbey Creek), wetlands, and woodlands are located in the central portion of the Property. As discussed more fully below, impacts to Abbey Creek, wetlands and woodlands will be avoided. An area of wetlands and woodlands is also located along the western edge of the Property that will be avoided.

Land uses adjacent to the Project and within the immediate locale are mostly dominated by agricultural production and, to a lesser extent by residential, municipal, recreational (e.g., golf course) and open space, with small portions to the west for

⁴ Kleinfelder has supported the design of over 5,000 MW of PV and concentrated solar thermal projects throughout the United States and Canada.

industrial uses (e.g., gravel pit). The Project site is currently being used for agricultural production.

3.4. PROJECT DESCRIPTION

The Project will use Photovoltaic (“PV”) module technology, which has been extensively tested, is in wide use across the solar industry and meets the traditional level of reliability reflected in the solar power generation industry.

The Project will consist of the installation of approximately 31,000 PV panels which will result in a ground cover ratio of forty to forty-five percent, and associated ground equipment, upgrading and installation of an access road, installation of perimeter maintenance/access roads and installation of an electrical interconnection. See Exhibit A. The solar panels will be divided into four separate arrays as illustrated on Exhibit A. The Project will have a design life of 30 years and efficiency loss of only 0.1% per year.

The Property will be accessed off of South Road as illustrated in Exhibit A. The main access road to the Project site would be 22 feet wide and consist of the upgrade of an existing road located on the Property. The total length for this road would be approximately 3,000 feet long. The perimeter maintenance/access road for the Project site would be 15 feet wide and approximately 10,800 linear feet long.

An electrical collector yard will be constructed on the Property. At the point of common coupling with The Connecticut Light and Power Company (“CL&P”), Somers will provide a utility class circuit breaker or recloser equipped with a multifunctional relay to serve as the Interconnection Interruption Device. Revenue metering will be provided on the utility side of the breaker and a gang operated disconnect switch will be provided on the utility side of the meter. Additional equipment to monitor circuit voltage and to

disconnect the facility from the grid will also be installed as needed on existing grid circuits to protect the system during system outage.

The entire Project will be surrounded by a six foot (6') chain linked fence. A copy of the site development plans illustrating all the above Project attributes is included as Exhibit A.

3.5. INTERCONNECTION

The Project is proposed to be interconnected to the CL&P distribution network at an existing 23kV distribution feeder located along South Road in accordance with CL&P technical standards and State of Connecticut, ISO-New England ("ISO-NE"), and the Federal Energy Regulatory Commission ("FERC") requirements. The interconnection will consist of construction of an approximately 500 foot distribution line at spans of approximately 100 feet on approximately 50 foot high wooden poles. An associated Project switchyard that would include a SCADA room, inverters and their associated pads, and other electrical equipment would be contained on an approximately 100' x 100' graded pad. See Exhibit A.

The interconnection will be made pursuant to CL&P and The United Illuminating Company ("UI") Guidelines for Generator Interconnection. As part of the interconnection process, the Petitioner has successfully completed a utility sponsored Scoping Meeting, an Application Request and an Application Review and is now completing a System Impact Study with CL&P. The System Impact Study will include:

- Circuit Modeling,
- Power Flow Analysis,
- Voltage Impact Study,
- Thermal Impact Study,

- Short Circuit Study,
- Review of Distribution Equipment Interrupting Ratings,
- Protection Coordination Review,
- Assessment of Transfer Trip Requirements, and
- Review of Protection Schemes.

Upon completion of the System Impact Study, if required, the Petitioner will engage in the Transmission Study as a final step for an Interconnection Agreement, Interconnection Authorization, Installation, Commissioning Test(s) and final approval to energize the system.

4. PROJECT BENEFITS

A public benefit exists if a project “is necessary for the reliability of the electric power supply of the state or for a competitive market for electricity.” CGS § 16-50p(c)(1). The Project will generate much of its power at peak times, when the demand for electricity is greatest, and will thereby provide the electrical system with flexible peaking capacity that is necessary to keep the electrical grid stable.

Further, the Project supports the State’s energy policies as set forth in CGS § 16a-35k, including the goal to “develop and utilize renewable energy resources, such as solar and wind energy, to the maximum practicable extent.” The Project will provide clean, renewable, solar-powered electricity and assist the State in meeting its legislatively mandated obligations under the Renewable Portfolio Standard.

The Project will also assist the Town of Somers and State of Connecticut in reducing greenhouse gas emissions and reducing criteria air emissions pollutants associated with the displacement of older, less efficient, fossil fuel generation. As part of larger state, national and global strategies, reductions in greenhouse gas emissions from this Project will have long-term secondary biological, social and economic benefits. Similarly, the advancement of renewable resources at a distributed level contribute to our Nation’s desire for energy independence and reduces our dependency upon foreign countries where geo-political issues may not align with National policy or the virtues of Democracy. The Project will also hire local labor, as practical, and be a source of increased revenue for local businesses during construction.

5. LOCAL INPUT & NOTICE

Throughout the process, the Petitioner has kept the Town of Somers and its officials apprised of the Project's progress and the Petitioner is committed to continuing to solicit input from Town officials, other relevant agencies and from the public in an effort to develop an ultimate design that affords the most public benefit with the least environmental impact. The Petitioner has developed a good working relationship with the Town of Somers' officials and local community by pursuing a multi-faceted and inclusive public outreach approach that included:

- Regular briefings with local officials regarding site layout and Project development;
- A Project presentation to the Somers Rotary Club on April 11, 2012;
- An informational filing submitted to the Town of Somers on May 29, 2012;
- Meeting on June 4, 2012 with the Town of Somers Zoning Commission;
- Meeting on June 28, 2012 with Town of Somers Planning Commission;
- Public Information Meeting on July 2, 2012; and
- Meeting on September 11, 2012 with the Town of Somers Fire and Rescue Officials.

In addition, although not required, because of the Project's proximity to its border, on September 11, 2012, the Petitioner also met with the Town of Ellington Town Planner and Assistant Town Planner. The Petitioner also provided notice of its intent to file this petition to those adjacent property owners listed on Exhibit B.⁵ In addition, a copy of this

⁵ Notice was provided via certified mail on September 24, 2012 to all of the property owners listed on Exhibit B except those listed at items 2-4 because those property owners are the current owner of the Project site (Pleasant View Farms Realty), the owners of Pleasant View Farm Realty (Jeffrey & Eleanor Lipton) and the son of the owners of Pleasant View Farm Realty (William Lipton). As such, these property owners are well aware of the Project.

Petition has been sent to: Lisa Pellegrini, Town of Somers First Selectman, Jeff Bord,
Town of Somers Town Engineer, and John Collins, Town of Somers Building Official.

6. POTENTIAL ENVIRONMENTAL EFFECTS

The Petitioner and its consultants, Fuss & O'Neill and Kleinfelder, conducted a comprehensive environmental impact assessment of the Project in July and October, 2012. As part of this process, relevant agencies were consulted, Project facilities were overlaid onto the site, environmental impacts were evaluated and mitigation was applied as appropriate. By mid-2012, the public was informed and the Town of Somers had played an active role in designing a project that would be compatible within the existing environment and produce the maximum amount of energy on the land available while avoiding, reducing and mitigating potential environmental impact.

6.1. NATURAL ENVIRONMENT AND ECOLOGICAL BALANCE

The Phase I Environmental Site Assessment (“ESA”) concluded that the Project site contained no recognized environmental conditions that warranted additional investigation or action (see Exhibit C). Based on this, a Phase II ESA was not recommended. Furthermore, no hazardous substances will be used or stored on site during construction and/or operation of the Project.

Minimal grading will be required for the Project. In order to design and install the most efficient and effective Project, Petitioner is conducting a “shading” study and analysis in order to determine what trees on the site will create a shading effect on the PV panels and whether their removal is necessary. Under the proposed site design, it is anticipated that some tree removal will occur on the property in order to avoid or minimize shading on the PV panels. Notwithstanding the foregoing, the final Project design and configuration will attempt to minimize the removal of trees on the property.

At the end of design life of the Project, all equipment (e.g. racking system, panels, invertors, electrical collection system, etc.) will be removed.

6.2. PUBLIC HEALTH AND SAFETY

Overall, the Project will meet or exceed all health and safety requirements applicable for electric power generation. Each employee working on site will:

- Receive required general and site specific health and safety training;
- Comply with all health and safety controls as directed by local and state requirements;
- Understand and employ the site health and safety plan while on the job site;
- Know the location of local emergency care facilities, travel times, ingress and egress routes; and
- Report all unsafe conditions to the construction manager.

During construction, heavy equipment and water trucks for dust suppression would be required to access the Project site during normal working hours. It is anticipated that 8 to 12 construction vehicles would make daily trips onto the Project site during the approximately 3 to 5 month construction period.

The Project will not produce noise during operation. While, during the construction of the Project, higher levels of noise are anticipated, all work be conducted during normal working hours and it is not anticipated that the levels of noise will exceed any state or local noise standard or limit.

On September 11, 2012, the Petitioner met with the Town of Somers Fire and Rescue Officials to discuss the Project. Prior to operation, the Petitioner will meet with these officials again, provide them information regarding response to emergencies at PV facilities and provide a tour of the Project.

6.3. AIR QUALITY

Overall, the Project will have minor air emissions of regulated air pollutants and greenhouse gases during construction and no air permit will be required. During

construction of the Project, any air emission effects will be temporary and will be controlled by enacting appropriate mitigation measures (e.g., water for dust control; avoid mass early morning vehicle startups, etc.). Accordingly, any potential air effects as a result of the Project construction activities will be de-minimus.

During operation, the Project will not produce air emissions of regulated air pollutants or greenhouse gases (e.g., PM10, PM2.5, VOCs, GHG or Ozone). Thus, no air permit will be required. Moreover, over 20 years, the Project will result in the elimination of approximately 102,000 metric tons of CO₂ equivalent, which is equal to 20,000 vehicles off the road and 36,000 tons of avoided landfill waste.

6.4. SCENIC VALUES AND VISUAL RENDERINGS

Kleinfelder and Fuss & O'Neill conducted a site analysis of viewsheds and potential impacts on near-by residents in June and September 2012 and prepared visual renderings of the Project. See Exhibit D. As those visual renderings demonstrate, the proposed Project would not have a substantial adverse visual effect on residences in the foreground viewing threshold (up to 300-feet from Property line) because the immediate foreground threshold views into the site are limited due to topographic and vegetative screening. The images below represent examples of vegetative and topographic screening available on site.

Photograph 1 - Example of Topographic Screening

The vegetated hill in the background of the photograph represents a topographic visual barrier that would shield the Project from view shed.



Photograph 2 - Example of Vegetative Screening

Visual impacts on adjacent residential areas and from the golf course would be de-minimus due to the natural vegetative screening.



Additionally, the use of low profile Project components (e.g., racking system, panels, inverters, etc.) and minimal grading on site significantly reduce potential visual impact. The electrical interconnect would be visible but would be located in an area that currently has been visually modified, thus reducing visual impact. In addition to the topographic and vegetative screenings on site that will naturally serve to limit visual effects on residences and from other public view sheds, the location of the Project and surrounding area provide for only very limited visual impacts as illustrated in the visual renderings. See Exhibit D. Moreover, there are no scenic by-ways or hiking trails in the vicinity upon which the Project would have any visual impact.

6.5. HISTORIC VALUES

On May 4, 2012 and October 9, 2012, Fuss & O'Neill requested a review of the Project by the State Historic Preservation Officer ("SHPO"). The SHPO determined that "no historic properties will be affected by this project." See SHPO correspondence attached hereto as Exhibit E (emphasis in original).

6.6. WILDLIFE & HABITAT

Extensive field and habitat surveys were conducted to characterize potential special-status plants, wildlife and their associated habitat that may occur on the site. In particular, Fuss & O'Neill performed the following:

- Preliminary Due Diligence Screening (Endangered Species), Fuss & O'Neill – February, 2012;
- Request for Natural Diversity Data Base ("NDDDB") State Listed Species Review – May 2, and October 10, 2012 (See Exhibit F);
- Phase I Environmental Site Assessment – July and October 2012 (see Exhibit C); and
- Wetlands Report, Fuss & O'Neill – April and September 2012 (see Exhibit G).

In its Preliminary Due Diligence Screening, based upon a review of available mapping, Fuss & O'Neill identified a potential "Area of Concern" associated with a threatened or endangered species near Abbey Brook. Based on this, requests were made with the Connecticut DEEP for a review of the NDDDB. See Exhibit F. In response, the DEEP indicated that it does "not anticipate negative impacts to State-listed species (RCSA Sec. 26-306) resulting from the proposed activity at the site." See Exhibit H.

6.7. WATER QUALITY

The Project will use no water during operations in the production of electricity and any water utilized during the construction of the Project for dust suppression will be minimal and have no impact on the water quality in the vicinity of the Project site. The Project site is within Flood Zone X, designated by the Federal Emergency Management Agency (“FEMA”) as an area outside of the 500-year floodplain area with a minimal risk for flooding. In addition, neither the DEEP’s 2011 Connecticut Environmental Conditions Online (DEEP, 2011) nor the Atlas of Public Water Supply Sources and Drainage of Connecticut (CTDEP, 1982) show any public water-supply wells or aquifer protection areas within a one-half mile radius of the site. Thus, no impacts on water quality or supply would occur with the construction or operation of the proposed Project.

6.7.1 Wetlands

A Wetlands Delineation Summary Report was drafted by Fuss & O’Neill on April 25, 2012 (and updated on September 26, 2012) (see Exhibit G) and was used initially to design the Project’s physical layout in an effort to avoid wetlands features. In summary, the Wetlands Report found:

- The principal watercourse on site is an unnamed perennial tributary of Abbey Brook. It flows in a southerly direction through the middle of the site, between array areas A and B and to the east of array area D. The unnamed stream is located in a distinct drainage way and is fed by groundwater discharge as well as runoff and drainage from the surrounding agricultural fields.
- A small wetland area has begun to form on the western edge of the site. The soil in this area has been compacted from historic activities and is fed by groundwater discharge. This wetland area has not developed characteristic morphology of wetland (hydric) soil. However, hydrology and vegetation indicate that this area is wet for a significant portion of the growing season.
- There are no additional wetlands or watercourses within the Project area.

These identified wetlands and the one hundred foot setbacks from wetlands will be observed in accordance with the Town of Somers requirements (see Exhibit I). With these avoidance measures, impacts on wetlands and Abbey Brook will not occur.

6.7.2 Storm Water Management

Attached hereto as Exhibit J is a detailed Stormwater Management Report (“Report”) for the Project. As indicated in the Report, existing and proposed hydrologic conditions for the Project area were evaluated to determine if the development would result in significant changes to stormwater discharge. Based on that evaluation, Fuss & O’Neill determined that “only modest changes in peak stormwater discharge result from the development during in the 2-, 25- and 100-year storm events as compared to existing conditions.” See Report at 1.

Since construction of the Project will disturb more than ten (10) acres of land, the Petitioner will register under the DEEP’s General Permit for the Discharge of Stormwater and Dewatering Wastewaters Associated with Construction Activities (“General Permit”) at least thirty (30) days prior to commencing any construction activities. The Petitioner intends to request coverage under the existing Connecticut General Permit, DEEP-PED-GP-015, by submitting a complete and accurate General Permit Registration Form and Transmittal prior to construction activities and in accordance with applicable rules at the time of filing. In connection with that registration, the Petitioner will implement a storm water management plan to minimize any potential adverse environmental effects. These procedures will be outlined in the Storm Water Management Plan with Storm Water Pollution Prevention Plan (“SWMP” with “SWPPP”) for the Project, which will be submitted with the Petitioner’s request for coverage under the General Permit. Upon

receipt, the Letter of Coverage under the General Permit will become part of the SWMP with SWPPP for the Project.

In addition as set forth in Section 4 of the Report, an Erosion and Sediment Control Plan, will be prepared in accordance with Connecticut General Statutes §§ 22a-325 through 22a-329 during the final site design of the Project. During construction, measures will be taken to reduce erosion and manage sedimentation from disturbed surfaces. Minimal grading will be required to construct the solar panels and the following Best Management Practices will be employed:

- Silt fence will be installed at clearing limits and the down-gradient perimeter of the disturbed portion of the site.
- Construction entrances will be installed at the entrance from South Road to prevent tracking of sediment into local roads.

After construction of the Project, disturbed surfaces will be restored with vegetative cover (i.e., turf) to maintain soil stability. The existing and restored vegetation will act as a vegetated buffer between the development and the receiving watercourses. This buffer will improve water quality by promoting infiltration and reducing flow velocity.

7. CONCLUSION

The Project will provide numerous and significant benefits to the Town of Somers, the State of Connecticut and its citizens, and will place the Town of Somers at the forefront of green energy development while producing substantial environmental benefits with minimal environmental impact. Pursuant to CGS §16-50k(a), the Council shall approve by declaratory ruling the construction or location of a grid-side distributed resources project or facility with a capacity of not more than 65 MW, as long as such project meets DEEP air and water quality standards. As amply demonstrated within this petition, the Project meets these criteria.

The Project is a “grid-side distributed resources” facility, as defined in CGS §16-1(a)(43), because the Project involves “the generation of electricity from a unit with a rating of not more than sixty-five megawatts that is connected to the transmission or distribution system...” and, as demonstrated herein, the Project will meet DEEP air and water quality standards. Further, the Project:

- Will not produce air emissions during operations (PM10, PM2.5, VOCs, GHG or Ozone);
- Will not utilize water to produce electricity or be in conflict with any Federal, State, or Local requirements related to water quality and quantity;
- Will not produce noise;
- Was designed to avoid all wetland and biological impacts;
- Will employ a storm water management plan that will result in no net increase in runoff to any surrounding properties;
- Will not have substantial adverse visual, land use, recreational, cultural, human or biological impacts; and
- Will further the State's energy policy by developing and utilizing renewable energy resources.

For all the foregoing reasons, the Petitioner requests that the Siting Council issue a declaratory ruling that the proposed Project will comply with DEEP air and water quality standards, will not have a substantial adverse environmental effect and, therefore, that a CECPN is not required for the construction, operation and maintenance of the Project.

Respectfully submitted,
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By 

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