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July 27, 2015

**Via Email to B.Hunter@bpu.state.nj.us**

B. Scott Hunter  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
P.O. Box 350  
Trenton, New Jersey 08625-0350

**Re: REQUEST FOR EXTENSION OF MILESTONE DATES**

North Hanover Solar W2-082, LLC (Docket #EO12121117V)  
Pemberton Solar W1-119, LLC (Docket #EO12121119V)  
Pemberton Solar W1-120, LLC (Docket #EO12121118V)

Dear Mr. Hunter,

This letter is submitted pursuant to instructions contained in the February 11, 2015 BPU Board Order (Agenda Item 8F; Docket Nos. EO12090832V & EO12090880V) for the above referenced projects respectfully requesting an extension to the proposed construction milestone dates identified therein.

**A. Background**

North Hanover Solar W2-082, LLC (Docket #EO12121117V, hereafter "**North Hanover W2-082**"), Pemberton Solar W1-119, LLC (Docket #EO12121119V, hereafter "**Pemberton W1-119**"), and Pemberton Solar W1-120, LLC (Docket #EO12121118V, hereafter "**Pemberton W1-120**") each began their project development process in 2010. Each subsequently obtained required site control, PJM/EDC interconnection agreements/contracts and all un-appealable local/county/state planning and zoning approvals (including consents, reports, studies, plans, designs, specifications, surveys and other contracts) required to construct their proposed projects. Pursuant to Subsection S of the July 2012 Solar Act, each of these proposed projects submitted a Subsection S Application in December 2012. The approval decision concerning their Subsection S Applications was deferred by the Board in its April 2013 Order.<sup>1</sup>

At its regularly scheduled meeting in October 2014, the Board ordered projects with deferred Subsection S Application decisions to submit supplemental information by December 10, 2014 for assessment according to nine (9) additional evaluation criteria. As described therein, BPU Staff had recommended supplemental evaluation criteria including (a) the impact of the SRECs forecasted to be created by a facility on both the SREC market and on solar development in the State, and (b) the impact on preservation of open space with special attention to farmland preservation programs.

With particular attention to Staff's supplemental criteria concerning project impact on the SREC market and on open space – *and for the purpose of proposing a significant concession to bring finality to the multi-year Subsection S process, including any pending litigation therefrom* – the proposed system sizes in the December 2014 Supplemental Subsection S filings for the above referenced projects were **voluntarily reduced** by more than 52% from their original development size.

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<sup>1</sup> EffiSolar Development, LLC ("**EffiSolar**") was the listed Applicant for the December 2012 Subsection S applications submitted for the projects referred to herein as North Hanover W2-082, Pemberton W1-119 and Pemberton W1-120.  
NJ 229196897v1

The table below shows: (a) the system size of each proposed facility as originally developed and submitted for approval pursuant to Subsection S; and (b) the voluntarily reduced size and percentage reduction for each project pursuant to the December 2014 Supplemental Subsection S filings.

	Dec 2012 Original Size (MWdc)	December 2014 Subsection S Supplemental Filing		
		Voluntarily Reduced Size (MWdc)	Amount Decrease	Percentage (%) Decrease
North Hanover W2-082	20.0	10.0	-10.0	-50%
Pemberton W1-119	20.2	10.0	-10.2	-51%
Pemberton W1-120	<u>22.4</u>	<u>10.0</u>	<u>-12.4</u>	<u>-55%</u>
<b>Total:</b>	<b><u>62.6</u></b>	<b><u>30.0</u></b>	<b><u>-32.6</u></b>	<b><u>-52%</u></b>

In February 2015, the Board approved each of the above projects pursuant to Subsection S (at their voluntarily reduced system sizes) “...subject to satisfaction of the milestones identified in each supplemental filing and subject to submission of evidence of current local support as noted in Staff’s recommendations.”<sup>2</sup>

Each project filed a timely SRP Registration Form and received an SREC Registration Program Acceptance Letter dated March 30, 2015. The table below shows each project’s SRP Registration Number, SREC registration length and the corresponding required completion date specified by the SREC registration length.

	3/30/15 SRP Registration #	Registration Length	Corresponding Required Completion Date
North Hanover W2-082	37269	24 Months	3/30/17
Pemberton W1-119	37268	12 Months	3/30/16
Pemberton W1-120	37267	12 Months	3/30/16

## B. Discussion

A typical grid-connected solar facility construction and interconnection process takes ~12 months to achieve commercial operation, not including the scheduling impact from items **outside of the developer’s control** including adverse weather (as many projects experienced first-hand this past winter) or the EDC’s own interconnection timeline (which can easily get delayed, sometimes adding as much as 12 months or more to an original timeline).

A substantial project size reduction (in this case, 50% or more) is not part of the typical construction cycle, and requires time consuming amendments and modifications to previously obtained engineering designs, site control contracts, local/county/state zoning approvals and PJM/EDC interconnection contract. None of these amendments or modifications affects the validity of the un-appealable approvals previously submitted with the December 2012 Subsection S Applications, however, the downsizing process is nonetheless time consuming and involves some of the following process steps:

- A re-negotiation of site control contracts to accurately reflect (a) the amount of land required for the reduced facility size including how much will remain as open space, and (b) the required lease and or purchase price to economically support the significant reduction of revenue from the reduced system size;
- Creation of amended engineering drawings for the project’s significantly altered civil, structural and electrical parameters;

<sup>2</sup> North Hanover W2-082, Pemberton W1-119 and Pemberton W1-120 represented three (3) of the five (5) projects approved in the February 2015 Board Order, and the only projects (to date) approved by the Board pursuant to Subsection S that voluntarily downsized their originally developed system size.

- Submission of amended engineering drawings to the township’s engineers and planners for compliance review prior to a formal submission to the township’s planning and/or zoning board to confirm that the new plans continue to conform to the criteria set forth in the township's original approval resolutions (followed by a submission of these amended plans to the New Jersey Department of Consumer affairs and the local permit offices);
- A negotiation of a township developer’s agreement reflecting the amended project size and its impact on bonding and other construction guarantees; and
- A re-study of the interconnection estimates by the EDC (JCP&L for these projects) for changes in point-of-interconnection design, equipment and costs (including documentation and approvals for the amended interconnection scope).

The above downsizing amendments and modifications are expected to add between 4-8 months (and possibly more) to the schedule of the projects that required -down-sizing. These amendments and modifications only became fully understood following the December 2014 Supplemental Subsection S filings for the projects. It should be noted that, following the Board’s regularly scheduled meeting in October 2014, applicants had less than two months to develop materials with respect to the nine (9) additional Subsection S evaluation criteria, and to make their Supplemental Subsection S filings.

**C. Request to Staff**

Page 19 of the February 2015 Board Order states:

The Board HEREBY DIRECTS the applicants to adhere to the milestones described in their supplemental filings and supply consistent data in quarterly Milestone Reporting Forms required of all grid supply projects in the SREC Registration Program. ***If an applicant foresees an inability to meet any of these milestones, the applicant must notify Staff in writing at least 14 days prior to the date of the milestone, provide an explanation of the reason that it will not be able to adhere to that milestone, and request an extension for a specific period of time. The Board HEREBY AUTHORIZES Staff to grant a reasonable extension of a milestone. If Staff denies this request, the applicant may petition the Board for a waiver of the time frame.*** [emphasis added]

For the reasons set forth above, in light of the additional work (and resulting delays) resulting from the voluntary reduction in the size of the projects, EffiSolar respectfully submits this request to Staff seeking (a) an extension of the required milestone dates for reaching commercial operation for Pemberton W1-119 and Pemberton W1-120 to December 31, 2016 and (b) a confirmation/approval of the required completion date for North Hanover W2-082 of March 30, 2017. (All proposed changes are designated by \*\*):

	<b>3/30/15 SRP Registration #</b>	<b>Registration Length</b>	<b>Corresponding Required Completion Date</b>
North Hanover W2-082	37269	24 Months	3/30/17
Pemberton W1-119	37268	<b>21 Months**</b>	<b>12/31/16**</b>
Pemberton W1-120	37267	<b>21 Months**</b>	<b>12/31/16**</b>

In support of this milestone modification request, EffiSolar also notes the following:

- 1) Extending the required completion date for the above referenced projects would not be prejudicial against the other approved Subsection S projects. The above referenced projects are the only Subsection S projects approved by the Board requiring significant downsizing (and the time consuming modifications therefrom).

- 2) There is precedent permitting an extension beyond 12 calendar months in the grid-supply SRP Registration program by way of request to the market manager for an extension of time. For those projects approved pursuant to Subsection Q, the SRP registrations provide for 24 months from the date of SREC eligibility to construct and energize. Granting an extended energization date for Pemberton W1-119 and Pemberton W1-120 would amount to a total timeline of 21 months from the (un-appealable) date of the Board's February 2015 Order.
- 3) As for the impact of the SRECs forecasted to be created by a facility on both the SREC market and on solar development in the State (which was among the primary supplemental criteria identified by Staff), an extension of the proposed in-service date to December 2016 will mark the middle of the 2017 Energy Year and can only be view as a benefit to the SREC market since the SREC's created by the facility will occur at a later point in time. If, as requested, the in-service date of the projects (and the creation of additional SRECs) are deferred until after Energy Year 2016, this is likely to be a further benefit to the SREC markets, since in the Energy Year 2016 the markets will still, in all likelihood, be absorbing the impact of projects coming on-line under Subsection Q of the Solar Act.
- 4) The requested extension of the Completion Date milestones of the Pemberton W1-119 and Pemberton W1-120 projects is for only nine (9) months. Such a short extension of this milestone cannot possibly cause the projects to be viewed as "speculative" or uncertain of completion. As already indicated, there is nothing speculative about the Pemberton projects, each having obtained required site control, PJM/EDC interconnection agreements/contracts and all un-appealable local/county/state planning and zoning approvals. None of this will be changed by the requested nine (9) month extension for completion of these projects.
- 5) We wish to extend our appreciation to the Board for the foresight to allow reasonable extensions of the milestones when circumstances warrant.

In summary, the time request described herein is the result of the steps taken by EffiSolar to comply with the Board's stated goals concerning the implementation of the goals of the Solar Act. Accordingly, we respectfully request that the requested extensions be granted regarding the projects discussed herein.

Please confirm your receipt of this request and whether you require additional information to support your review. Thank you for your prompt consideration.

Sincerely,



**Lawrence D. Neuman**

President – EffiSolar Development, LLC on behalf of  
North Hanover Solar W2-082, LLC  
Pemberton solar W1-119, LLC  
Pemberton Solar W1-120, LLC

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