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FILED

December 11, 2020

DEC 11 2020

Via Email efile.psc@psc.state.ms.us

**MISS. PUBLIC SERVICE
COMMISSION**

Ms. Katherine Collier
Executive Secretary
Mississippi Public Service Commission
501 North West Street, Suite 201A
Jackson, MS 39201

Re: Petition of MS Solar 5, LLC, for a Certificate of Public Convenience and
Necessity Authorizing the Construction and Operation of a Solar Electric
Generating and Storage Facility in Lowndes County, MS

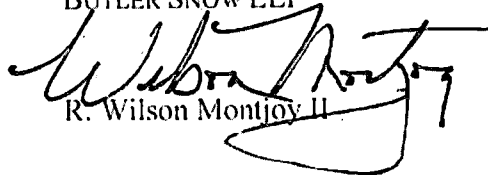
Dear Ms. Collier:

On behalf of MS Solar 5 LLC, please find the attached Petition for filing. Pursuant to the
Commission's Order of March 12, 2020, this filing is only being made electronically. Delivery
of physical copies shall be made only upon further order of the Commission.

Please let me know if you have any questions. Thank you for your assistance in this
matter.

Sincerely,

BUTLER SNOW LLP



R. Wilson Montjoy II

RWM:vgj
Enclosure

cc: All Interested parties listed on Exhibit C to Petition (via U. S. Mail)
Sally Burchfield Doty, Executive Director (via email) – sally.doty@psc.state.ms.us
Frank Farmer, General Counsel (via email) – frank.farmer@psc.state.ms.us
David Tad Campbell, General Counsel (via email) – tad.campbell@mpus.ms.gov
Brandi Myrick, Division Director (via email) – brandi.myrick@psc.state.ms.us
Cora-Lisa Weathersby, Exec. Sec.'s Staff (via email) – cora-lisa.weathersby@psc.state.ms.us

Post Office Box 60111
Birmingham, MS 39253-0111

R. WILSON MONTJOY II
601-985-4576
Wilson.Montjoy@butlersnow.com

Room 1406
1429 Highland • 800 • Pearl
Birmingham, Mississippi 39207

T 601.948.5711 • F 601.285.1504 • www.bulter-snow.com

BUTLER SNOW LLP

DEC 11 2020

BEFORE THE MISSISSIPPI PUBLIC SERVICE COMMISSION
MISS. PUBLIC SERVICE COMMISSION

MS SOLAR 5, LLC

DOCKET NO. **'20-UA-203**

RE: PETITION OF MS SOLAR 5 LLC, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING THE CONSTRUCTION AND OPERATION OF A SOLAR ELECTRIC GENERATING AND STORAGE FACILITY IN LOWNDES COUNTY, MISSISSIPPI

PETITION

COMES NOW, MS Solar 5, LLC ("Petitioner"), by and through its undersigned counsel, and files this petition for a Certificate of Public Convenience and Necessity ("CPCN") pursuant to Miss. Code Ann. § 77-3-14, for the construction and operation of a 200 MWac solar electric power generation facility and a 50 MWac storage facility (jointly, the "Facility") in Lowndes County, Mississippi. In support, Petitioner states:

INTRODUCTION

1. Petitioner is a Delaware limited liability company duly authorized and qualified to do business in the State of Mississippi.
2. Miss. Code Ann. § 77-3-14 provides, among other things, that "no public utility or other person shall begin the construction of any facility for the generation and transmission of electricity to be directly or indirectly used for the furnishing of public utility service in this state...without first obtaining a certificate of public convenience and necessity from the Commission."
3. Petitioner is not and does not intend to become a public utility under the laws of the State of Mississippi. Petitioner is, however, an "other person" within the meaning of Section 77-3-14.

4. Petitioner intends to construct, own, and operate the Facility in Lowndes County, Mississippi. The Facility includes a 200 MWac electric generation facility. The entire electricity output generated by the Facility will be sold to the Tennessee Valley Authority ("TVA") under a power purchase agreement ("PPA") with a term of twenty (20) years. Neither the rates charged by the Petitioner nor the proposed wholesale sale of electricity from the Facility to TVA are subject to this Commission's jurisdiction.

5. The Facility will also include a 50 MWac battery storage facility which will store electricity produced by the Facility for delivery during hours of the day which are not optimal for solar electric generation. All storage services will be provided to TVA under the PPA. Neither the rates charged by Petitioner nor the proposed storage services provided by the Facility to TVA are subject to the Commission's jurisdiction.

6. Because the Petitioner is not and will not be a public utility in the State of Mississippi and its rates are not subject to the jurisdiction of the Commission, the Commission's jurisdiction over Petitioner and the Facility is limited to the issuance of a CPCN for the construction of the Facility. All other requirements of Section 77-3-14, such as the requirement to report on the costs of construction, the progress of construction, and any revisions of cost estimates for construction do not apply to Petitioner and Petitioner respectfully requests waiver of such requirements.

7. The construction of the Facility is in the public interest of the State of Mississippi and residents thereof. Facility construction will create up to 350 construction jobs at its peak. After completion, there will be 3-5 permanent jobs. The capital investment in Mississippi necessary to develop and construct the Facility is estimated to be approximately Two Hundred Million Dollars (\$200,000,000), and the taxable value will result in significant ad valorem tax

revenue to Lowndes County and the local school district. The Facility will be a reliable source of clean energy for TVA and those ratepayers in the State of Mississippi served by TVA and its distributors. As a renewable resource, the Facility will produce electricity without greenhouse gas or other emissions, has no fuel costs, and is free of any risk of volatility in fuel prices. Electric storage provided by the Facility will permit the delivery of renewable energy during hours of the day which are not optimal for solar electric generation. Petitioner was selected by TVA in a competitive process, assuring that the Facility will meet TVA's objectives of providing low-cost, reliable and clean power.

8. TVA is currently evaluating the Facility under the National Environmental Policy Act ("NEPA"), which is expected to conclude with a Finding of No Significant Impact. Petitioner will obtain all necessary environmental permits for the construction and operation of the Facility and will make the same available once available.

9. As evidenced herein, the public convenience and necessity require the construction of the Facility. The issuance of a CPCN is in the public interest and is consistent with the relief granted by the Commission with respect to similar petitions for other non-utility solar generating facilities in Mississippi.

10. In accordance with the requirement of Appendix "A," Schedule 1, of the Commission's Procedural Rules Petition submits and/or requests specific disposition of each of the individual items as follows:

- a. Appendix "A," Schedule 1, Item 1 – A copy of Petitioner's Certificate of formation (Delaware) is provided in **Exhibit A**.

- b. Appendix "A," Schedule 1, Item 2 – A copy of Petitioner's Certificate of Authority to do business in the State of Mississippi is provided in **Exhibit A**.
- c. Appendix "A," Schedule 1, Item 4 – The name and address of the sole owner of the membership interests of Petitioner are provided in the pre-filed direct testimony of Daniel L. Ferrell, Director of Project Development, which will be relied upon at hearing, and is attached as **Exhibit B**.
- d. Appendix "A," Schedule 1, Item 6 – Neither Petitioner nor the Facility will have a "service area" because Petitioner will not directly serve retail ratepayers. The Facility is a non-utility generating facility that intends to sell power and storage services solely to TVA which will resell the same to its ratepayers and distributors.
- e. Appendix "A," Schedule 1, Item 8 – A general description of the Facility is included in the pre-filed direct testimony of Daniel L. Ferrell, Director of Project Development, which will be relied upon at hearing, and is attached as **Exhibit B**.
- f. Appendix "A," Schedule 1, Item 13 – At this stage of project development, detailed engineering plans and specifications are currently under development but have not been completed. Petitioner will make available its initial civil design and solar layout drawings when available.

- g. Appendix "A," Schedule 1, Item 14 – Copies of required approvals from Health or Environmental Quality authorities will be made available once the same have been received.
- h. Appendix "A," Schedule 1, Item 15 – A list of the names and addresses of all interested persons, as defined in RP 2.115, is attached as **Exhibit C**, together with a certificate of service with respect to each.
- i. Appendix "A", "Schedule 1, Item 16 – The pre-filed direct testimony of Daniel L. Ferrell, Director of Project Development, will be relied upon at the hearing and is attached as **Exhibit B**.

11. As reflected in numerous prior Orders issued by the Commission, items 3, 5, 7, 9, 10, 11, 12, and 17 of Appendix "A," Schedule 1, to the Procedural Rules are not applicable, as Petitioner is not a public utility under the laws of the State of Mississippi and does not intend to operate as a public utility in the State of Mississippi.

12. Petitioner has provided herewith all the information relevant to its petition and, therefore, requests a waiver of each and every other filing requirement that may be prescribed by the Commission's Procedural Rules.

CONCLUSION

WHEREFORE, Petitioner further prays that, following a hearing on this Petition pursuant to the requirements of the Procedural Rules and applicable law, the Commission enter an Order as follows:

- 1. Finding that Petitioner is not a public utility and the Facility is not utility property under the laws of the State of Mississippi.

2. Finding that Petitioner is not subject to the Commission's jurisdiction except for the requirement of obtaining a Certificate of Public Convenience and Necessity as set forth in Section 77-3-14.

3. Finding that, in submitting the Petition, Petitioner has complied with all of the rules and regulations of the Commission concerning the issuance of such Certificate; and

4. Finding that Petitioner should be and is hereby granted a Certificate of Public Convenience and Necessity for the construction, ownership, and operation of the Facility for the generation, transmission, storage, and wholesale sale of electricity in the State of Mississippi.

MS SOLAR 5, LLC

BY: BUTLER SNOW, LLP

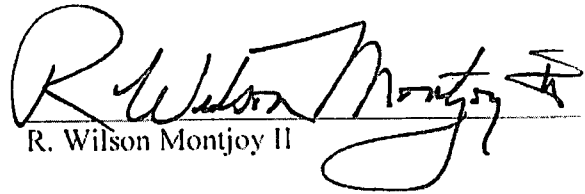
BY: 
R. Wilson Montjoy II

R. Wilson Montjoy II, MB# 3428
BUTLER SNOW LLP
1020 Highland Colony Parkway
Post Office Box 6010
Ridgeland, Mississippi 39158-6010
(P) (601) 948-5711
(F) (601) 985-4500
wilson.montjoy@butlersnow.com

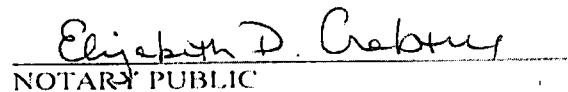
STATE OF MISSISSIPPI

COUNTY OF MADISON

PERSONALLY, appeared before me, the undersigned authority in and for the said County and State, within my jurisdiction, the within named R. Wilson Montjoy II, who after being duly sworn on oath acknowledged that he is Attorney for MS SOLAR 5, LLC and that for and on behalf of the said MS SOLAR 5, LLC and as its act and deed, he signed and delivered the above and foregoing filing for the purposes mentioned on the day and year therein mentioned, after first having been duly authorized by said MS SOLAR 5, LLC so to do, and that the statements contained in the foregoing instrument are true and correct to the best of his knowledge, information and belief.

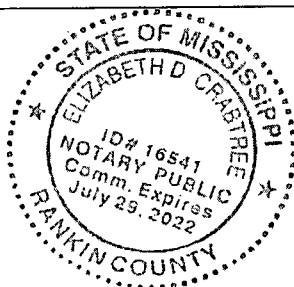

R. Wilson Montjoy II

SWORN TO AND SUBSCRIBED BEFORE ME, this the 11th day of December, 2020.


NOTARY PUBLIC

My Commission Expires:

7-29-2022



CERTIFICATE OF SERVICE

I, R. WILSON MONTJOY II, counsel for MS Solar 5, LLC in the foregoing filing on even date herewith do hereby certify that in compliance with Rule 6.112 of the Mississippi Public Service Commission's Public Utilities Rules of Practice and Procedure:

(1) An original and twelve (12) copies of the filing have been filed with the Commission by U.S. Mail to:

Katherine Collier, Esq.
Executive Secretary
Mississippi Public Service Commission
501 North West Street
Suite 201A
Jackson, MS 39201

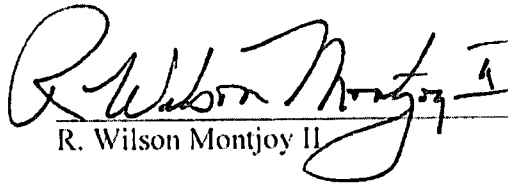
(2) An electronic copy of the filing has been filed with the Commission via e-mail to the following address:

efile.psc@psc.state.ms.us

(3) MS Solar 5, LLC has served via U.S. Mail, postage prepaid, a copy of the filing upon each "interested person" as defined in Rule 2.115 and as listed in Exhibit "C" to this filing.

(4) MS Solar 5, LLC has complied with or requested a waiver of all other requirements of this Commission's Rules.

This the 11th day of December, 2020.


R. Wilson Montjoy II