

## DOCKETED

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<b>Project Title:</b>	Palen Solar Power Project - Compliance
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<b>Document Title:</b>	Petition for Extension of Deadline for Commencement of Construction
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STATE OF CALIFORNIA

Energy Resources Conservation  
and Development Commission

In the Matter of: )  
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Application for Certification of the Palen Solar ) Docket No. 09-AFC-7C  
Power Project. )  
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**PETITION FOR EXTENSION OF DEADLINE FOR COMMENCEMENT OF  
CONSTRUCTION FOR THE PALEN SOLAR POWER PROJECT**

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**PETITION FOR EXTENSION OF DEADLINE FOR COMMENCEMENT OF  
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Pursuant to Section 1720.3 of the California Energy Commission’s (“Commission”) Rules of Practice and Procedure, Palen SEGS I, LLC (“Project Owner”) hereby requests an extension of the deadline for the commencement of construction of the Palen Solar Power Project (“Project”). The Commission Decision for the Project adopted on December 15, 2010 included a deadline for commencement of construction of December 15, 2015. On September 16, 2015, the Commission issued a conditional Order Granting Extension of Time to Construct (“Extension Order”) by one year. However, owing to changed circumstances beyond the Project Owner’s control, the Project Owner respectfully requests an extension. The Project Owner requests an extension of the deadline for commencement of construction to twelve months following the date of submission of a petition for amendment by the Project’s new owner. The Project Owner suggests the Commission set the deadline for submission of a petition for amendment by the new owner to June 15, 2016.

**BASIS FOR PETITION**

Section 1720.3 provides that the Commission may grant an extension of the deadline to commence construction of a facility upon a showing of good cause. The Commission has held that the determination of good cause to grant an extension of the construction deadline requires consideration of three factors: (1) whether the Project owner was diligent in seeking to begin construction, and in seeking the extension; (2) whether factors beyond the Project owner’s control prevented success; and (3) a comparison of (a) the amount of time and resources that would have to be spent by the Project owner, the Commission, and interested persons in processing any amendments to the license if the extension is granted; with (b) the amount of time and resources

that would have to be spent in processing a new AFC, if the extension is denied. Good cause supports the granting of a modified extension of the deadline for commencement of construction of the Project.

**1. The Project Owner has acted diligently in seeking the development and construction of the Project and in seeking extension of the construction deadline.**

Over the course of the past year, the Project Owner worked diligently to evaluate economically and technologically feasible options for constructing the Project in light of the concerns raised by the Commission and interested stakeholders during the solar tower amendment process that ended on September 29, 2014. By September 2015, the Project Owner had developed a feasible plan for updating the Project's original parabolic trough design and augmenting the Project with storage capabilities.<sup>1</sup> On September 16, 2015, the Commission granted a one-year extension to commence construction by December 15, 2016, provided the Project Owner filed a petition to amend the Project description to include solar trough technology with energy storage no later than December 22, 2015.<sup>2</sup> But on November 25, 2015, Abengoa, S.A., the Project Owner's ultimate parent company, commenced pre-insolvency proceedings in Spain.<sup>3</sup>

In order to provide a return on the time and money invested to date by the Project Owner and the people and State of California in the development of the Project, the Project Owner engaged in efforts to transfer the Project as quickly as possible to a new owner. On December 15, 2015, the Project Owner agreed to transfer ownership of the Project's license to Maverick Solar, LLC ("Maverick") and filed a Petition for Ownership Transfer with the Commission on the same day.

At all stages in the Project's lifetime, each Project owner has worked diligently and actively to develop and move the Project forward to construction. Such development efforts have included reconfiguration of the Project disturbance area to avoid sand transport corridors and sand dune habitat, reduction of the Project footprint, evaluation of a single solar tower design, and

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<sup>1</sup> See Response Letter to Comments on Petition, *available at* [http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-07C/TN205854\\_20150827T114833\\_Response\\_Letter\\_to\\_Comments\\_on\\_Petition.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-07C/TN205854_20150827T114833_Response_Letter_to_Comments_on_Petition.pdf).

<sup>2</sup> Order Granting Extension of Time to Construct, *available at* [http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-07C/TN206118\\_20150916T095341\\_Order\\_Granteeing\\_Extension\\_of\\_Time\\_to\\_Construct.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-07C/TN206118_20150916T095341_Order_Granteeing_Extension_of_Time_to_Construct.pdf).

<sup>3</sup> See, e.g., <http://www.reuters.com/article/abengoa-gonvarri-idUSL8N13K16B20151125>.

development of plans to incorporate thermal energy storage. Yet due to the bankruptcy of a prior owner and the efforts of all owners to amend the Project to better address concerns identified by the Commission's staff and other stakeholders, the Project was unable to proceed along the original construction timeline. Since the Commission issued its Extension Order in September 2015, the Project Owner has continued to work diligently to develop a modified Project description that would satisfy the Commission's conditions by the Extension Order's deadline of December 22, 2015. However, given the pre-insolvency proceedings begun by Abengoa—a company over which the Project Owner has no control—filing of a Project amendment reliant on Abengoa's solar trough technology by December 22, 2015 is no longer feasible.

An extension of the deadline for commencement of construction will afford time for Maverick to prepare and submit its own engineering and site design documents. Maverick intends to file with the Commission a petition to convert the Project from solar parabolic trough technology to solar photovoltaic ("PV") technology under Section 25502.3 of the Warren-Alquist Act. Section 25502.3 allows the proponent of a PV electrical generating facility to voluntarily submit to the Commission's exclusive certification jurisdiction.<sup>4</sup>

The Project Owner therefore requests an extension of the deadline for commencement of construction to twelve months following Maverick's submission of a petition to amend the Project description, subject to the condition that Maverick submits the petition no later than June 15, 2016. Thus, the latest possible date for commencement of construction would be June 15, 2017. This request seeks a reasonable and realistic amount of time to prepare, accept and process Maverick's petition to amend. Section 25534(j) of the Warren-Alquist Act supports this petition for extension by requiring the Commission to allow a new certificate holder up to twelve (12) months to start to meet applicable Project deadlines or milestones.

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<sup>4</sup> See [Proposed] Commission Decision Affirming that Warren-Alquist Act Section 25502.3 Applies to Photovoltaic Electrical Generating Facilities, *available at* <http://docketpublic.energy.ca.gov/PublicDocuments/Regulatory/09-AFC9%20Ridgecrest%20Solar/2011/December/TN%2063046%2012-05-11%20Proposed%20Commission%20Decision%20RE%20Warren%20Alquist%20Act%20Applies%20to%20Photovoltaic%20Generating%20Facilities.pdf>; and Letter from Charles Warren to Chairman Weisenmiller Re Jurisdictional Issues, *available at* <http://docketpublic.energy.ca.gov/PublicDocuments/Regulatory/09-AFC-9%20Ridgecrest%20Solar/2012/Jan/TN%2063311%2001-09-11%20Letter%20from%20Charles%20Warren%20to%20Chairman%20Weisenmiller%20Re%20Jurisdictional%20Issues.pdf>.

The Project Owner diligently seeks this extension shortly after initiation of Abengoa's pre-insolvency proceedings and in advance of the Extension Order's deadline for submission of a petition for amendment.

## **2. Factors beyond the Project Owner's control prevented success.**

The factors causing the original Project owner's parent company to enter into bankruptcy were well beyond the original owner's control and prevented construction of the Project as approved by the Commission in 2010. Subsequent efforts to amend the Final Decision by altering the solar technology to accommodate a change in Project ownership and address associated stakeholder concerns resulted in additional delays beyond the Project Owner's control. The Project Owner has continued to work to develop the Project, including by formulating an updated solar trough design that would avoid many of the most significant concerns surrounding solar tower technology and by augmenting the Project with thermal energy storage. However, given the pre-insolvency proceedings begun in November 2015 by Abengoa—a company that employs 24,000 people world-wide and the finances of which the Project Owner has no control over—filing of a Project amendment reliant on Abengoa's solar trough technology by December 22, 2015 is no longer feasible for the Project Owner.

## **3. Efficient use of the record already developed for the Project supports granting extension of the construction deadline.**

The administrative records for the Project are robust. The amount of time and resources that will be saved in processing Maverick's amendment through the use of previously established evidentiary records weighs in favor of granting a limited extension. This concept is embedded in the California Environmental Quality Act's insistence against unnecessary duplication.<sup>5</sup> Each Project should be subject to one environmental review document unless changes result in new or more intense significant impacts requiring supplemental review.<sup>6</sup>

## **4. Granting an extension of the construction deadline is in the public interest.**

It is in the public interest to extend the deadline for commencement of construction to allow for the prompt submission and assessment of Maverick's plans. The increased time will

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<sup>5</sup> See, e.g., Pub. Res. Code § 21006; 14 C.C.R. § 15006.

<sup>6</sup> See, Pub. Res. Code § 21126; 14 C.C.R. § 15162.

allow Maverick to develop and submit its own engineering and site design documents founded upon the Commission's environmental and engineering evaluation of all previous Project proposals and alternatives. Upon completion, the Project will further benefit the public by siting a utility-scale solar facility in an approved Solar Energy Zone and contributing significantly to the achievement of the renewable energy and greenhouse gas emission reduction goals of the State of California and the President's Climate Action Plan.

### **CONCLUSION**

Given the critical importance of developing new energy supplies in California, particularly facilities that generate renewable, environmentally responsible electricity, an extension of the deadline to commence construction of the Project benefits both the public and the State by allowing time for a new owner to see the Project through to construction.

The Commission should extend the deadline for commencement of construction of the Project to twelve months following the submission of a petition to amend the Project description by Maverick, subject to the condition that Maverick submits such petition no later than 5:00 p.m. on June 15, 2016.

Dated: December 22, 2015

Respectfully submitted,

By:  \_\_\_\_\_

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