



California Energy Commission

**DOCKETED**

**11-RPS-01**

**TN # 74239**

**JAN 05 2015**

**TO: Office of the Executive Director, California Energy Commission:**

**RE: Request of NRG Solar Kansas South LLC in Support of Process to Extend and Waive Deadlines for Renewables Portfolio Standard Certification**

**DATE: May 14, 2014**

NRG Solar Kansas South LLC<sup>1</sup> ("Kansas South") requests an extension and waiver of its deadline to file an application for RPS Certification as set forth in Resolution No: 14-022-11 ("Resolution") adopted by the California Energy Commission (CEC or Commission) at its April 22, 2014 Business Meeting. The Resolution establishes a process that allows the Commission's Executive Director to extend and waive application deadlines in the *Renewables Portfolio Standard Eligibility Guidebook, Seventh Edition* ("Guidebook 7") for California's Renewables Portfolio Standard (RPS).<sup>2</sup> Kansas South meets the criteria as established by the Commission's protocols and requests that the CEC deem its RPS eligibility date as of the precertification, November 9, 2010 (CEC-RPS-ID number 61264C) but no later than June 6, 2013, the day before its commercial operation date.

**I. Waiver and extension is necessary to avoid unintended consequences.**

Currently, the Kansas South facility is deemed RPS eligible as of November 26, 2013 (CEC-RPS-ID number 61264A) the date when the final certification application was accepted by the CEC staff. The facility began commercial operations on June 7, 2013. Therefore, a gap of five and one-half months exists between operations and the final certification date although:

1. Precertification from the CEC had been issued.
2. The facility's generation that occurred was eligible under Guidebook 7 criteria.
3. Good cause existed for missing the deadline for filing for final certification.

Consequently, the generation during this period may not be compensated at all or at the same rate as if it had met the deadline for eligibility. The stated purpose of the deadline was to "...ensure the Energy Commission has the most up-to-date information on RPS certified facilities... and to guard against fraud..." for use of fossil fuels or non-renewable resources. Additionally, the CEC wanted to obtain full information about a project which a pre-certification might not contain.

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<sup>1</sup> NRG Solar Kansas South LLC is part of NRG Energy, Inc., the largest independent generator in the United States. In California NRG Energy owns fossil fuel and renewable facilities as well as district heating and eVgo, an electric vehicle charging company. NRG Energy currently owns over 1200 MWs of solar facilities, mostly located in California.

<sup>2</sup> *Notice to Consider Process to Extend and Waive Deadline for Renewables Portfolio Standard Certification*, dated April 8, 2014

For projects that missed this deadline through circumstances that constitute good cause, such as Kansas South, this potential loss of revenue is a disproportionate penalty weighed against the purposes stated above. Large amounts of compensation may be lost for generation that would have clearly qualified for RPS eligibility, but for the deadline requirement. Therefore, it is appropriate and necessary for the Executive Director to find that Kansas South qualifies for an extension and waiver.

**II. Kansas South can demonstrate good cause for missing the original deadline and qualifies for an extension and waiver.**

Attachment A contains the information set forth in the criteria and procedures adopted by the Commission in the Resolution on April 22, 2014. Kansas South was a project acquired by NRG Energy. The developer, Recurrent Energy (Recurrent), was responsible for filing the precertification. Although the CEC staff sent notices to Recurrent, the developer, NRG Solar Kansas South LLC did not receive them following the acquisition. Upon realizing that the Guidebook 7 deadline had passed, NRG Solar Kansas South LLC filed the request for certification as quickly as possible.

The Kansas South facility is a 20 MW solar photovoltaic generating facility. At all times of its operation, all output has complied with the RPS eligibility requirements set forth in Guidebook 7 by being 100% solar. There is no question that all generation from this facility qualifies for the California RPS.

NRG Solar Kansas South LLC recommends that the Commission apply a reasonableness standard in reviewing this application and find that there are grounds to grant this request for an extension and waiver.

**III. Conclusion**

Therefore, NRG Solar Kansas South LLC requests that the CEC Executive Director grant an extension and waiver of the filing deadline and certify the facility as RPS eligible as of November 9, 2010 and no later than June 6, 2013.

Respectfully submitted, May 15<sup>th</sup>, 2014 by



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**ATTACHMENT A**

**INFORMATION REQUIRED BY RESOLUTION NO: 14-0422-11  
FOR EXTENSION OF TIME TO  
COMPLETE AN APPLICATION FOR RPS CERTIFICATION**

**Name and address of the facility in the application**

NRG Solar Kansas South LLC,  
17031 21st Avenue  
Lemoore, CA 93245

**Name and address of applicant:**

Paul Zavesoff  
Director, Asset Management  
NRG Solar LLC  
5790 Fleet Street  
Suite 200  
Carlsbad, CA 92008  
Attn.: Kansas South

Paul.Zavesoff@nrgenergy.com  
(760)710-2139

**Precertification number: 61264C  
Final Certification number: 61264A  
WREGIS registration number: W3109**

**A) Amount of additional time requested**

Extend the deadline for filing the application for certification from September 5, 2013 (90 days from COD on June 7, 2013) to November 26, 2013 with an eligibility date as of the date of precertification. November 9, 2010 but no later than June 6, 2013. Note: The RPS application was filed on November 20, 2013, it was accepted by CEC as of November 26, 2013. As we have already filed and received certification, the Kansas South facility has unique circumstances. The request is to extend the filing date so that all output from the date of commercial operations is deemed eligible. NRG Solar Kansas South LLC needs the extension to certify RPS eligibility for output between the commencement of commercial operations and the date the final certification was filed to comply with Guidebook 7.

**B) Explanation of the circumstances why the application is or was unable to submit a timely application for certification and/or supporting documentation by the deadline specified in the RPS Guidebook, and whether these circumstances were beyond the applicant's control.**

Per Mark Koostra, CEC Staff via email on January 2, 2014 (Attachment B):

While the Kansas South facility (61264A) was precertified with an eligibility date of November 9, 2010, changes to the *RPS Guidebook* made in the sixth edition and retained in the seventh edition require applicants to apply for certification within 90 days of commencing commercial operations to retain the eligibility date assigned with the precertification. Since the facility began commercial operations on June 7, 2013, but no application was received until November 26, 2013, the eligibility date was set at November 26, 2013, consistent with the requirements of the *RPS Guidebook, Seventh Edition*. See Section IV.B.3 beginning on page 76....

Staff sent notifications of this change to Sheldon Kimber, the applicant for the RE Kansas South facility for the precertification, on February 4, 2013, and again on May 21, 2013, via the email address specified in the precertification application. Additionally, the proposed changes were set out to the renewable listserv prior to the adoption of the sixth edition *RPS Guidebook* in June and July 2012, and again in association with the adoption of the seventh edition of the guidebook on April 19, 2013.

During the time that the notices were sent to Mr. Kimber, the Kansas South facility ownership was in the process of being transferred from Recurrent Energy to NRG Energy. The acquisition was legally closed on May 13, 2013 (NRG officially announced it on July 12, 2014 following commercial operation (see link in documentation below)), but Recurrent continued to manage the project, pursuant to an agreement with NRG, through completion of construction. Notices of filing requirements were not forwarded by Recurrent when received. NRG Solar Kansas South LLC filed for final RPS certification as quickly as possible after it realized that the deadline had been both imposed in Guidebook 7 and missed.

Additionally, in the same email, Mr. Kostra advised NRG that other projects were in similar circumstances and that the CEC staff intended to establish protocols to address such cases. NRG attended and participated in the January 28, 2014 workshop and the April 22, 2014 business meeting where these protocols were adopted. At those events, NRG supported CEC's staff's recommendation for a protocol.

**C) An explanation of the financial consequences or other consequences to the applicant and/or facility owner or operation if an extension of time is not granted**

The generation during the period between commercial operation (June 7, 2013) and final RPS eligibility certification (November 26, 2013) may not be compensated at all or at the same rate as if it had met the deadline for eligibility. For Kansas South, this potential loss of revenue is a disproportionate penalty. Large amounts of compensation may be lost for generation that would have clearly qualified for RPS eligibility, but for the deadline requirement.

**D) An explanation of any other good cause that exists for granting the request for an extension of time.**

See above.

**E) Documentation, if available, to support the information provided in items (A) through (E)**

Mark Koostra's email (Attachment B)

Press Release dated July 12, 2013:

<http://recurrentenergy.com/press-release/nrg-solar-achieves-commercial-operation-of-two-solar-pv-projects-in-california-developed-by-recurrent-energy/>

