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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 AND NOTICE OF  
UPSTREAM OWNERSHIP CHANGE**

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Date: August 4, 2015

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STATE OF CALIFORNIA

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**PETITION FOR EXTENSION OF DEADLINE FOR COMMENCEMENT OF  
CONSTRUCTION FOR THE PALEN SOLAR POWER PROJECT AND NOTICE  
OF UPSTREAM OWNERSHIP CHANGE**

Pursuant to Section 1720.3 of the California Energy Commission’s (“Commission”) Rules of Practice and Procedure, Palen SEGS I, LLC (“Project Owner”) requests a short extension of the deadline for the commencement of construction of the Palen Solar Power Project (“PSPP” or “Project”). The Commission Decision for the PSPP was adopted on December 15, 2010, with a deadline for commencement of construction of December 15, 2015. The Project Owner is requesting an extension of the deadline for commencement of construction to December 15, 2016. The Project Owner further provides notice that the upstream owner of Palen SEGS I, LLC, has changed. All ownership interest in Palen SEGS I, LLC is now fully held by Abengoa SP Holdings LLC, through its wholly owned direct subsidiary Palen Solar Holdings, LLC (“PSH”). Abengoa SP Holdings LLC is, in turn, a wholly owned direct subsidiary of Abengoa Solar LLC (Abengoa SP Holdings LLC and Abengoa Solar LLC hereinafter referred to separately and collectively as “Abengoa”). The project entity, Palen SEGS I, LLC, remains unchanged, but is now a wholly owned indirect subsidiary of Abengoa.

**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. As set forth below, good cause supports Commission approval of a short, one-year extension of the deadline for commencement of construction of the PSPP.

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

Previous owners and the Project Owner have acted diligently in seeking the development and construction of the PSPP. The PSPP, which was jointly developed by Solar Millennium, LLC and Chevron Energy Solutions<sup>1</sup>, was approved by the Commission on December 15, 2010. On December 21, 2011, Solar Millennium AG, the parent company of the original project owner, filed for the opening of insolvency proceedings in Germany, despite being “in a very advanced state of negotiations on the sale of its US pipeline.”<sup>2</sup> On April 2, 2012, Solar Millennium petitioned for relief in federal bankruptcy court.<sup>3</sup> The PSPP was acquired on June 21, 2012 by Brightsource Energy, Inc. (“BSE”).<sup>4</sup> Shortly thereafter, a wholly owned, indirect subsidiary of BSE petitioned for Commission approval of a change in ownership of PSPP.<sup>5</sup> The Commission approved the transfer of ownership on July 11, 2012.<sup>6</sup>

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<sup>1</sup> Application for Certification of the Palen Solar Power Project, p. 1-1, available at: <http://www.energy.ca.gov/sitingcases/palen/documents/applicant/afc/1.0%20Executive%20Summary.pdf>.

<sup>2</sup> <http://www.solarmillennium.de/english/press/press-releases/2011-12-21-insolvency-filing.html>

<sup>3</sup> Petition to Amend, p. 1-2. Available at [http://www.energy.ca.gov/sitingcases/palen/compliance/2012-12-18\\_Petition\\_to\\_amend\\_TN-68910.pdf](http://www.energy.ca.gov/sitingcases/palen/compliance/2012-12-18_Petition_to_amend_TN-68910.pdf)

<sup>4</sup> See, Petition to Amend, p. 1-2.

<sup>5</sup> [http://www.energy.ca.gov/sitingcases/palen/compliance/notices/2012-07-23\\_Order\\_Approving\\_Transfer\\_of\\_Ownership\\_to\\_Palen\\_SEGS\\_1\\_LLC\\_TN-66219.pdf](http://www.energy.ca.gov/sitingcases/palen/compliance/notices/2012-07-23_Order_Approving_Transfer_of_Ownership_to_Palen_SEGS_1_LLC_TN-66219.pdf)

<sup>6</sup> [http://www.energy.ca.gov/sitingcases/palen/compliance/notices/2012-07-23\\_Order\\_Approving\\_Transfer\\_of\\_Ownership\\_to\\_Palen\\_SEGS\\_1\\_LLC\\_TN-66219.pdf](http://www.energy.ca.gov/sitingcases/palen/compliance/notices/2012-07-23_Order_Approving_Transfer_of_Ownership_to_Palen_SEGS_1_LLC_TN-66219.pdf)

After the transfer of ownership of the PSPP to Palen SEGS I, LLC was approved by the Commission, Brightsource Energy, Inc. and Caithness Energy, LLC formed a joint venture. On December 17, 2012, these entities submitted a proposed amendment to the PSPP that would change the use of solar parabolic trough technology to a solar power tower technology.<sup>7</sup> Caithness subsequently ceased to be a member of the joint venture, and on March 7, 2013, Abengoa entered into a joint venture with BSE for the permitting and development of the PSPP.

The Commission reviewed the amendment petition over the course of almost a year, culminating in the release of the Presiding Members' Proposed Decision ("PMPD") in December 2013. Further evidentiary hearings were held in July 2014, and a Revised Presiding Member's Proposed Decision ("Revised PMPD") was issued on September 15, 2014.<sup>8</sup>

Throughout this period, each project owner has worked diligently and actively to develop and move the PSPP forward to construction. Such development efforts included the reduction of the project footprint, evaluation of a single power tower, and consideration of a second phase of a power tower project that would incorporate thermal energy storage.<sup>9</sup> However, due to the bankruptcy of a prior owner and the efforts of the subsequent 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.

The effort to address such concerns continues, and the Project Owner anticipates submitting a proposed amendment to the license in the near future that will address the issues and policy considerations discussed in the Revised PMPD. Therefore, the Project Owner is requesting a brief, one-year extension of the deadline for commencement of construction to allow consideration of the project improvements it intends to propose.

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<sup>7</sup> See, Petition to Amend, pp. 1-1 to 1-2.

<sup>8</sup> [http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-07C/TN203061\\_20140915T094029\\_Revised\\_Presiding\\_Member%27s\\_Proposed\\_Decision\\_PMPD.pdf](http://docketpublic.energy.ca.gov/PublicDocuments/09-AFC-07C/TN203061_20140915T094029_Revised_Presiding_Member%27s_Proposed_Decision_PMPD.pdf)

<sup>9</sup> See, Revised Presiding Member's Proposed Decision, p. 1-19.

Further, the Project Owner has acted diligently in seeking an extension now, well in advance of the expiration of the construction deadline. Thus, consideration of this factor supports granting of the extension.

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

Factors causing its parent company to open insolvency proceedings and enter into bankruptcy were well beyond the original project owner’s control, and prevented final development and construction of the PSPP. Moreover, as demonstrated above, subsequent efforts to amend the Final Decision for the PSPP to utilize more beneficial technology spanned nearly two of the five year construction period provided for the Project. Together with the bankruptcy of a prior owner, these diligent efforts to improve the project and address stakeholder concerns are in the public interest, but have resulted in delays beyond the Project Owner’s control. Since acquiring upstream ownership of the project entity, Abengoa has diligently worked to develop the PSPP, particularly to incorporate the use of thermal energy storage, and requires only a brief extension of the construction deadline to move this project forward. Given that factors outside of the Project Owner’s control prevented successful commencement of construction, this factor supports granting of the requested extension.

**3. Efficient use of the record developed for the PSPP supports granting an extension of the construction deadline.**

The Project Owner is considering improvements to the PSPP, including integration of storage consistent with the Revised PMPD. In the Revised PMPD, the Committee stated that “petitions to amend to add thermal energy storage”, are welcomed.<sup>10</sup> As recognized in the amendment proceedings, projects that integrate thermal storage with renewable energy generating technologies have significant benefits to California.<sup>11</sup> Such benefits include “shifting generation to periods of higher demand more cost effectively”, and extension of time during which renewable power can be delivered to the grid.<sup>12</sup> The Project Owner is working on project improvements to achieve these

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<sup>10</sup> See, Revised Presiding Member’s Proposed Decision, p. 1-20.

<sup>11</sup> 1/7/14 RT 13:11-24; Revised PMPD, p. 1-20.

<sup>12</sup> Revised PMPD, p. 2-6.

benefits; however, filing and processing of an amendment to effectuate these improvements make it unlikely that construction will commence by the December 15<sup>th</sup> deadline.

As the new owner of the PSPP, Abengoa wishes to incorporate the benefits recognized in the project analyzed in the Revised PMPD in its development of the PSPP,<sup>13</sup> in addition to taking advantage of portions of the robust and well-developed evidentiary record supporting the Revised PMPD. The amount of time and resources that will be saved in processing an amendment through use of the previously established evidentiary records weighs in favor of granting an extension.

**4. Granting a brief, one-year extension of the construction deadline is in the public interest.**

Extension of the deadline for commencement of construction to December 15, 2016 is in the public interest as the increased time allows the Project Owner to develop and incorporate improvements to the Project, including energy storage, which will benefit grid reliability and aid achievement of California’s renewable energy and greenhouse gas emission reduction goals.

**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 PSPP benefits both the project and the State by allowing additional time to develop and construct that accomplishes California’s ambitious renewable energy and greenhouse gas emissions reductions goals.

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<sup>13</sup> For example, the record developed relating to the benefits of thermal energy storage.

Therefore, for good cause shown, the Project Owner requests that the Commission extend the deadline for commencement of construction of the PSPP from December 15, 2015 to December 15, 2016.

Dated: August 4, 2015

Respectfully submitted,

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