

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**In re:** : **Chapter 11**  
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: **SUNEDISON, INC., et al.,** : **Case No. 16-10992 (SMB)**  
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: **Debtors.<sup>1</sup>** : **(Jointly Administered)**  
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**DECLARATION OF EMIL GILIOTTI JR. IN SUPPORT OF DEBTORS' MOTION FOR  
(I) AN ORDER (A) APPROVING BIDDING PROCEDURES FOR THE SALE OF  
EQUITY INTERESTS IN CERTAIN PROJECT COMPANIES, (B) ESTABLISHING  
NOTICE PROCEDURES AND APPROVING THE FORM AND MANNER OF NOTICE  
THEREOF, (C) SCHEDULING A SALE HEARING, AND (D) GRANTING RELATED  
RELIEF AND (II) AN ORDER (A) APPROVING THE SALE OF THE EQUITY  
INTERESTS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND  
OTHER INTERESTS, (B) APPROVING THE PSA RELEASES AND ECOPLEXUS  
SETTLEMENT, AND (C) GRANTING RELATED RELIEF**

I, Emil Giliotti Jr., being duly sworn, deposes, and says:

1. I am a Vice President, at Rothschild, Inc. ("Rothschild"), a financial advisory services and investment banking firm, which has its principal office at 1251 Avenue of the

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's tax identification number are as follows: SunEdison, Inc. (5767); SunEdison DG, LLC (N/A); SUNE Wind Holdings, Inc. (2144); SUNE Hawaii Solar Holdings, LLC (0994); First Wind Solar Portfolio, LLC (5014); First Wind California Holdings, LLC (7697); SunEdison Holdings Corporation (8669); SunEdison Utility Holdings, Inc. (6443); SunEdison International, Inc. (4551); SUNE ML 1, LLC (3132); MEMC Pasadena, Inc. (5238); Solaicx (1969); SunEdison Contracting, LLC (3819); NVT, LLC (5370); NVT Licenses, LLC (5445); Team-Solar, Inc. (7782); SunEdison Canada, LLC (6287); Enflex Corporation (5515); Fotowatio Renewable Ventures, Inc. (1788); Silver Ridge Power Holdings, LLC (5886); SunEdison International, LLC (1567); Sun Edison LLC (1450); SunEdison Products Singapore Pte. Ltd. (7373); SunEdison Residential Services, LLC (5787); PVT Solar, Inc. (3308); SEV Merger Sub Inc. (N/A); Sunflower Renewable Holdings 1, LLC (6273); Blue Sky West Capital, LLC (7962); First Wind Oakfield Portfolio, LLC (3711); First Wind Panhandle Holdings III, LLC (4238); DSP Renewables, LLC (5513); Hancock Renewables Holdings, LLC (N/A); EverStream HoldCo Fund I, LLC (9564); Buckthorn Renewables Holdings, LLC (7616); Greenmountain Wind Holdings, LLC (N/A); Rattlesnake Flat Holdings, LLC (N/A); Somerset Wind Holdings, LLC (N/A); SunE Waiawa Holdings, LLC (9757); SunE MN Development, LLC (8669); SunE MN Development Holdings, LLC (5388); and SunE Minnesota Holdings, LLC (8926). The address of the Debtors' corporate headquarters is 13736 Riverport Dr., Maryland Heights, Missouri 63043.

Americas, 33rd Floor, New York, New York 10020. Rothschild has been retained by the Debtors as their investment banker in these Chapter 11 Cases.

2. I submit this declaration (the "Declaration") in support of the Debtors' Motion For (I) An Order (A) Approving Bidding Procedures For The Sale Of Equity Interests In Certain Project Companies, (B) Establishing Notice Procedures And Approving The Form And Manner Of Notice Thereof, (C) Scheduling A Sale Hearing, And (D) Granting Related Relief And (II) An Order (A) Approving The Sale Of The Equity Interests Free And Clear Of All Liens, Claims, Encumbrances, And Other Interests, (B) Approving The PSA Releases And Ecoplexus Settlement, And (C) Granting Related Relief (Docket No. 961) (the "Motion").<sup>2</sup> Except as otherwise indicated, all facts set forth herein are based upon my personal knowledge or my discussions with other representatives of the Company. If called as a witness, I would testify competently thereto.

3. I have approximately 12 years of investment banking and finance experience. I joined Rothschild in 2013. I have experience in restructuring, refinancing, recapitalization and mergers and acquisition engagements across a variety of industries. My company-side experience includes representing Automotores Gildemeister, Allen Systems Group, Inc., Atlantic Express Transportation Group, Mood Media Corporation, Mirabella Nickel Ltd. and Urbi Desarrollos Urbanos, S.A.B. de C.V. I also have represented creditor constituencies in various restructuring and chapter 11 cases including Energy Future Intermediate Holdings, Momentive Performance Materials and Genco Shipping & Trading Ltd. I received a Bachelor of Arts from

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion or in the Purchase and Sale Agreement by and between SunE MN Development, LLC (the "Seller") and SoCore MN Acquisition LLC (the "Stalking Horse Buyer" or the "Buyer"), dated as of August 10, 2016 (the "Stalking Horse Agreement" or the "PSA").

the State University at Albany and an MBA in Applied Finance from the International University of Monaco.

### **The Minnesota Projects**

4. Through its large commercial and industrial segment (commonly referred to as “C&I”) – SunEdison has 22 C&I projects under development in the State of Minnesota (the “Minnesota Projects”). These projects include 15 self-developed projects and 7 additional projects that have been co-developed with Ecoplexus, Inc. (“Ecoplexus”) under the terms of a prior agreement (the “Ecoplexus PSA”).

### **Sales and Marketing Efforts and Adequate Notice**

5. On May 20, 2016, this Court entered an Order authorizing the Debtors to retain Rothschild, Inc. (“Rothschild”) as their financial advisor and investment banker to the Debtors effective nunc pro tunc to the Petition Date to provide general financial advisory services and to assist SunEdison in a restructuring, sale transaction, or financing transaction to the extent pursued.

6. Prior to Rothschild’s engagement, SunEdison had been engaged in an extensive marketing process for the sale of the Equity Interests since October 2015. However, negotiations with interested parties, including the Stalking Horse Buyer, stalled as SunEdison experienced financial distress and approached Chapter 11. After the Debtors filed the Initial Chapter 11 Cases, in May 2016, the Seller restarted negotiations with the Stalking Horse Buyer regarding the Equity Interests whose offer had increased post-petition. Accordingly, the Debtors moved for and the Bankruptcy Court entered an order, approving, among other things, the Bidding Procedures at Docket No. 1033 (the “Bidding Procedures Order”).

7. Through their noticing agent, Prime Clerk, the Debtors served notice of the Sale Motion (Docket No. 961) on more than 275 parties, including those parties that had previously expressed interest in the Minnesota Projects, which was reflected on the affidavits of service of Hassan Alli-Balogun at docket nos. 998 and 1010. The Bidding Procedures Order (Docket No. 961) was served on more than 275 parties, including those parties that had previously expressed interest in the Minnesota Projects as set forth on the affidavit of service of Kadeem Champagnie at docket no. 1045. In addition, the Debtors themselves directly contacted more than 50 parties that had previously expressed interest in the Minnesota Projects. Accordingly, it is my opinion the notice of the contemplated sale of the Equity Interests as set forth in the affidavits of service filed at docket nos. 998, 1010, and 1045 was adequate.

8. In accordance with the Bidding Procedures Order, Rothschild and/or the Company identified and contacted a list of potentially interested parties and solicited such parties' interest in the Equity Interests. Approximately 51 of these parties entered into non-disclosure agreements ("NDAs") with the Debtors to further explore the potential purchase of the Equity Interests. Among other things, a virtual data room was established containing extensive information about the Equity Interests. Rothschild and/or the Company reached out to every participant on multiple occasions specifically about the Equity Interests.

9. After discussions with certain of the parties that entered into an NDA, with the exception of the Stalking Horse Buyer, no parties submitted Qualified Bids by the Bid Deadline. Accordingly, the Debtors determined that the offer from the Stalking Horse Buyer was the highest and/or best offer available for the Equity Interests. Thus the Sale Transaction will provide the greatest recovery for the Debtor Seller's estates. As such, in my view, the Debtor

Seller's determination that the PSA constitutes the highest and/or best offer constitutes a valid and sound exercise of the Debtor Seller's business judgment.

10. Based on my professional experience, I believe that the timeline set forth in the Bidding Procedures Order was fair and reasonable. As a result of the robust marketing and sales process that has transpired, and the extensive arm's-length negotiations among the parties, I believe that a competitive sales process has been conducted and did not result in any better offers for the Equity Interests, and, thus, the sale of the Equity Interests to the Buyer will maximize the value of the Debtors' estates for the benefit of all their creditors, their stakeholders, and other parties in interest.

#### **Fair Price**

11. I believe that the consideration to be provided by the Buyer pursuant to the PSA is fair and adequate and constitutes reasonably equivalent value and fair consideration. Under the PSA, the Debtor Seller, SunE MN Development, LLC, which owns all the equity interests in the companies that own the Minnesota Projects (the "Equity Interests"), would transfer such Equity Interests to the Buyer for a total of \$79,804,159, subject to certain adjustments, and is comprised of a \$57,972,159 development fee (the "Base Development Fee"), reimbursement of \$9,500,000 of deposits under the State of Minnesota's Community Solar Garden Program ("CSG Deposit Fees"), and reimbursement of \$12,332,300 in interconnection costs (the "Interconnection Costs") previously paid for by the Debtors (collectively, the "Purchase Price"). The Debtor had been marketing the Equity Interests for nearly one year, and the Purchase Price represents the best deal that the Debtor Seller could achieve.

### **Arm's-Length Negotiations and Good Faith of Buyer**

12. To my knowledge, the parties have entered into the PSA after lengthy negotiations without collusion, in good faith, and from arm's-length bargaining positions. To my knowledge, the PSA was not entered into, and none of the Debtor Sellers or the Buyer has entered into the PSA or proposes to consummate the Sale Transaction, for the purposes of hindering, delaying or defrauding the Debtor Seller's present or future creditors. Further, I am not aware of any indication of fraud, collusion between the Buyer and other potential bidders, an attempt to take unfair advantage of other potential bidders, or any similar conduct that would taint the sale process.

13. It is my opinion that the marketing process has been fair to all parties who wanted to participate and that the Buyer is purchasing the Debtor Seller's Equity Interests in good faith.

14. Based on my experience, I view the Buyer's requirement that the Debtor Seller obtains an order granting the Motion, approving the Sale Transaction free and clear of all liens, claims, and encumbrances on the Debtor Seller's Equity Interests and finding that the Buyer is a good faith purchaser afforded the protections under Bankruptcy Code 363(m), is customary in sales conducted under Bankruptcy Code section 363.

### **Compelling Circumstances for an Immediate Sale**

15. To maximize the value of the Equity Interests, it is essential that the Sale Transaction occur within the time constraints set forth in the PSA. Time is of the essence in consummating the Sale Transaction. The realities of winter construction in Minnesota limit the amount of site work that can be accomplished after November. The result is: extended construction timelines; increased costs; and inability to complete certain tasks (*e.g.*, underground work) during that time span. In short, the Debtors have a limited window to maximize the full

value of the Minnesota Projects. Indeed, the Buyer has no obligation to accept certain Minnesota Projects if a Sale Order is not entered by September 30, 2016.

16. Given all of the circumstances of these Chapter 11 Cases, the extensive marketing process for the Equity Interests, and the adequacy and fair value of the purchase price under the PSA, the proposed Sale Transaction to the Buyer on the terms and subject to the conditions set forth in the PSA constitutes a reasonable and sound exercise of the Debtor Seller's business judgment and should be approved.

**Best Interest of the Debtors**

17. In my opinion, the Debtors have sound business justifications for selling or causing the sale of the Equity Interests as contemplated by the Sale Motion. The purchase price offered by the Buyer—approximately \$79 million Purchase Price, as set forth in more detail in the PSA—will provide the Debtors with liquidity, and the proposed transaction structure will increase the net proceeds received by the Debtors from the sale. Moreover, the transaction will maximize recoveries for creditors from these assets.

I declare under penalty of perjury under the laws of the United States of America that, to the best of my knowledge, information, and belief, and after reasonable inquiry, the foregoing is true and correct.

Dated: September 19, 2016

/s/ Emil Giliotti Jr.  
By: Emil Giliotti Jr.  
Vice President  
Rothschild, Inc.