ORIGINAL

OPEN MEETING AGENDA ITEM

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BEFORE THE ARIZONA CORPORATION CO

COMMISSIONERS
Lea Márquez-Peterson, Chairwoman
Jim O'Connor
Justin Olson
Sandra D. Kennedy
Anna Tovar

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AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT, IN CONFORMANCE WITH THE REQUIREMENTS OF ARIZONA REVISED STATUTES, SECTIONS 40-360, et. seq., FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING THE EXPANSION OF THE COOLIDGE GENERATING STATION, ALL WITHIN THE CITY OF COOLIDGE, PINAL COUNTY, ARIZONA.	Docket No. L-00000B-21-0393-00197 Case No. 197 **NOTICE OF FILING**

Arizona Corporation Commission
DOCKETED
APR 12 2022
DOCKETED BY

Enclosed please find a Notice of Force Majeure Event SRP received yesterday evening concerning the CO Bar Solar Project. In its letter dated April 11, 2022, CO Bar Solar LLC provided "notice of the occurrence (or expected occurrence) of a Force Majeure Event." The asserted Force Majeure event is the U.S Department of Commerce investigation into circumvention of anti-dumping and countervailing duties by manufacturers of solar cells and panels located in Cambodia, Malaysia, Thailand, and Vietnam.

CO Bar Solar LLC asserts: "The cumulative effects of the [Commerce Department] Investigation have resulted in an apparent standstill of the supply market and an inability on the part of project developers to contract for, import, and finance the procurement of [solar] modules."

SRP expects many other utilities are receiving similar force majeure letters for other solar projects, as stories regarding the investigation have proliferated in the trade press. *See, e.g.,* https://www.utilitydive.com/news/seia-reports-rapid-degeneration-of-solar-sector-following-federal-anti-du/621654/?utm_source=Sailthru&utm_medium=email&utm_campaign=Newsletter%20Weekly%20Roundup:%20Utility%20Dive:%20Daily%20Dive%2004-09-2022&utm_term=Utility%20Dive%20Weekender and https://pv-magazine-usa.com/2022/03/28/breaking-dept-of-commerce-to-move-forward-with-solar-anticircumvention-investigation/.

RESPECTFULLY submitted this 12th day April, 2022.

JENNINGS STROUSS & SALMON, P.L.C

By: */s/ Albert H. Acken*

Albert H. Acken
One East Washington Street, Suite 1900
Phoenix, Arizona 85004
aacken@jsslaw.com

and

Karilee S. Ramaley
Senior Principal Attorney
Salt River Project Agricultural Improvement and Power District
P.O. Box 52025, PAB381
Phoenix, AZ 85072-2025

Original + 13 copies filed on April 12, 2022, with:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

I hereby certify that I have this 12th day of April, 2022, served the foregoing document(s) on all parties of record in this proceeding, as listed below or on the attached service list by email.

Paul A. Katz
Chairman
Arizona Power Plant and Transmission
Line Siting Committee
Office of the Attorney General
15 South 15th Avenue
Phoenix, Arizona 85004
Attention: Tod Brewer
Tod.Brewer@azag.gov

Robin Mitchell
Director & Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
Legaldiv@azcc.gov

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By */s/ Celia Flippin*
Celia Flippin

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CO Bar Solar LLC

April 11, 2022

VIA EMAIL AND CERTIFIED MAIL
P.O. Box 52025, ISB250
Phoenix, Arizona 85072-2025
Attention: Power Marketing, Supply and Trading
Email: srpm@srpnet.com

P.O. Box 52025 PAB315
Phoenix, Arizona 85072-2025
Attention: Corporate Secretary

Re: CO Bar Solar Project – Notice of Force Majeure Event Relating to AD/CVD Investigation

To Whom It May Concern:

Reference is hereby made to that certain Power Purchase Agreement dated as of September 20, 2021 (the "***Agreement***") by and between CO Bar Solar LLC ("***Seller***" or "***us***") and Salt River Project Agricultural Improvement and Power District ("***Buyer***" or "***you***"). Capitalized term(s) used herein and not otherwise defined shall have the meanings ascribed to such term(s) in the Agreement.

As you may already be aware, the U.S. Department of Commerce (the "***DOC***") recently announced the commencement of an investigation (the "***Investigation***") into circumvention of anti-dumping (AD) and countervailing duties (CVD) by manufacturers of solar cells and panels located in Cambodia, Malaysia, Thailand, and Vietnam (collectively, the "***Targeted Countries***"). The query underlying the Investigation is essentially whether import duties should be assessed against cells and panels imported from the Targeted Countries at AD/CVD rates currently assessed against cells and panels imported from China, which (when combined) can range from approximately 10% to more than 500%. If an affirmative determination is made by the DOC, it could impose duties with both forward-looking and retroactive application.

The DOC is expected to present its preliminary findings of the Investigation in August or September of this year, but a final determination is not expected to be handed down until January 2023 (which deadline can be extended by the DOC to April 1, 2023). As a result, the final duty rates to be imposed on cells and panels imported from Targeted Countries will remain indeterminate and unknowable until at least January 2023.

As we've further evaluated the procurement situation relating to the Investigation this week, we have come to understand that the vast majority of suppliers of cells and panels who are located in, or source components from, Targeted Countries will cease or greatly restrict engagement in

negotiations and production until there is more certainty around the final duty rates that may be imposed on such suppliers by the DOC.[1] This will cause exponentially increased demand for cells and panels produced by suppliers who are not located in a Targeted Country (and do not also source components from a Targeted Country), who simply do not have the capacity to accommodate the entire developer market.[2] The cumulative effects of the Investigation have resulted in an apparent standstill of the supply market and an inability on the part of project developers to contract for, import, and finance the procurement of modules.

As of April 8, we have made the determination that there is currently no feasible path to procurement of modules for buyers and suppliers outside the scope of the Investigation. Accordingly, we hereby provide notice of the occurrence (or expected occurrence) of a Force Majeure Event as provided in Article X of the Agreement. We are working diligently to identify acceptable mitigation measures to help alleviate the impacts of the Investigation. However, as outlined above, the expected duration of the industry-wide manufacturing standstill is unknown. We will continue to update you on these developments or in the event of a change in circumstances.

If you have any questions regarding this notice, please direct them to Jared McKee at (208) 639-3232 ext. 140, or by email to jared.mckee@clenera.com.

Thank you in advance for your attention to this matter.

[Signatures on the following page]

[1] By way of example, a recent communication from one of our module suppliers provides as follows: "…the supply of solar PV modules, in both the near and longer term future are now placed into a position of uncertainty and potential commercial unviability…".

[2] Our information indicates that 84% of all U.S. solar module imports come from the Targeted Countries. Of the remaining 16%, many source components from Targeted Countries and will be similarly affected

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Sincerely,

DocuSigned by:
Brian T Hansen
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Brian T. Hansen
General Counsel of Clenera, LLC, on behalf of CO Bar Solar LLC