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November 7, 2023

Rhode Island Public Utilities Commission
9 Jefferson Boulevard
Warwick, RI 02888
Attn: Luly Massaro, Clerk

RE: Front Street Solar Farm, LLC; Docket No. RES-23-18

Dear Ms. Massaro:

I am a member of the Bar of the State of Rhode Island (RI Bar Number 3839) and counsel to Front Street Solar Farm, LLC (“Front Street”). I write regarding Front Street’s Application for Eligibility as a Renewable Energy Resource (“Application”) under Rhode Island’s Renewable Energy Standard filed with the Rhode Island Public Utilities Commission (“PUC”) on September 1, 2023.

As more particularly described in the Application, Front Street is a 3.88 MW DC solar generation facility located at 369 West Front Street, Skowhegan, Maine 04976 (“Facility”). The Facility is a community solar project participating in Maine’s Net Energy Billing Program. Based on its interpretation/harmonization of the slightly different definitions of self-generator in the applicable Rhode Island Net Metering and Renewable Energy Standard (“RES”) statutes, the PUC reviews grid connected remote net metering facilities like the Facility as if the generator is on-site (i.e., customer sited) regardless of whether it is in fact on-site.¹

Rhode Island’s RES is set forth at R.I. Gen. Laws § 39-26-1 to 10. In 2022, the Rhode Island General Assembly eliminated the requirement that customer-sited generation facilities must be located in Rhode Island to be certified by the PUC as an eligible resource (“Certification”).² As a result, the fact that the Facility is located outside of Rhode Island does not preclude the Facility from obtaining Certification.

The PUC’s Rules governing implementation of the RES (“RES Rules”)³ have not yet been amended to reflect this statutory change. Specifically, 810-RICR-40-05-2.6(H)1 still states

¹ See *Kearsarge GB LLC and Kearsarge Uxbridge LLC*, Docket Nos 4858 and 4891, Final Order dated November 12, 2019.

² See S.B. 2274, *An Act Relating to Public Utilities and Carriers-Renewable Energy*.

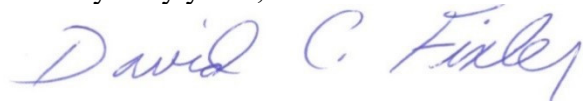
³ 810-RICR-40-05-2.

that a “Customer-Sited and Off-grid Generation Facilit[y]” may only be eligible for Certification if the facility “is physically located in Rhode Island.” As a matter of law, such requirement technically has no force or effect since it is now inconsistent with the RES Rules’ enabling statute. However, given that this portion of the Rule has not yet been repealed by the PUC, Front Street has been informed by the Rhode Island RES Administrator that Front Street should submit a letter signed by local counsel requesting a “*Waiver from Section of 2.6(H)(1) of Renewable Energy Standard Rules (810-RICR-40-05-2) to allow a NM facility physically located outside of Rhode Island to qualify for eligibility as a New Renewable Energy Resource.*”

Accordingly, since R.I. Gen. Laws § 39-26-4(d) no longer contains a requirement that the subject facility be physically located in Rhode Island, Front Street respectfully requests that in considering Front Street’s Application, the PUC waive or otherwise determine inapplicable the requirement in 810-RICR-40-05-2.6(H)1 that eligible facilities must be physically located in Rhode Island.

Thank you for your consideration, and please let me know if you have any questions.

Very truly yours,



David C. Fixler

Counsel for Front Street Solar Farm, LLC

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