

February 28, 2024

By Electronic Submission

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

RE: Tower Solar Partners LLC and Overlook Solar Partners LLC

Dear Ms. Massaro:

I am a member of the Bar of the State of Rhode Island (RI Bar Number 3839) and local counsel to Tower Solar Partners, LLC (“Tower Solar”) and Overlook Solar Partners, LLC (“Overlook Solar”) (collectively, “Applicants”). Each of these entities filed an Application for Eligibility as a Renewable Energy Resource (individually an “Application” and collectively the “Applications”) under Rhode Island’s Renewable Energy Standard filed with the Rhode Island Public Utilities Commission (“PUC”) on February 28, 2024.

As described in the Applications, Tower Solar is a 4.999 MW AC solar generation facility located at 960 Kennebec River Road, Embden, Maine, and Overlook Solar is a 4.999 MW AC solar generation facility located at 46 Christian Hill Road, Bristol, Maine (individually a “Facility” and collectively the “Facilities”). Each 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 Facilities as if the generator is on-site (i.e., customer sited) regardless of whether it is in fact on-site.¹

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

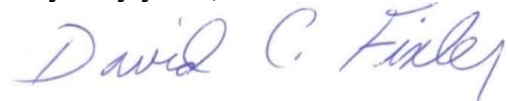
Rhode Island's RES is set forth at R.I. Gen. Laws § 39-26-1 to 10. In 2022, the Rhode Island General Assembly eliminated the requirement that customer-sited generation facilities must be located in Rhode Island to be certified by the PUC as an eligible resource ("Certification").² As a result, the fact that the Facilities are located outside of Rhode Island does not preclude each 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 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, the Applicants have been informed by the Rhode Island RES Administrator that they 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 net metering 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 Facilities be physically located in Rhode Island, the Applicants respectfully request that in considering each 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.⁴

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

Very truly yours,



David C. Fixler
Counsel for Tower Solar Partners, LLC and
Overlook Solar Partners, LLC

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

³ 810-RICR-40-05-2.

⁴ The Rhode Island PUC has approved waivers for similar net metering facilities located outside of Rhode Island. See *Luminace Rec Operating SB, LLC*, Docket No. RES-23-18 (December 21, 2023), *Green Mile Solar LLC*, Docket No. RES-23-48 (February 2, 2024), *MSD Wiscasset LLC*, Docket No. RES-23-49 (February 2, 2024), *MEV's Waterville LLC*, Docket No. RES-23-50 (February 2, 2024), and *MEVS Richards LLC*, Docket No. RES-23-51 (February 2, 2024).