

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1325 G STREET, N.W., SUITE 800  
WASHINGTON, D.C. 20005**

**ORDER**

**July 22, 2016**

**FORMAL CASE NO. 1131, IN THE MATTER OF THE INVESTIGATION INTO SOLAR SOLUTION, LLC'S POSSIBLE VIOLATIONS OF COMMISSION REGULATIONS AND THE TERMS OF USE OF PJM-ENVIRONMENTAL INFORMATION SERVICES' GENERATION ATTRIBUTE TRACKING SYSTEM, Order No. 18284**

**I. INTRODUCTION**

1. On July 24, 2015, the Public Service Commission of the District of Columbia ("Commission") opened an investigation into the business practices of Solar Solution, LLC ("Solar Solution" or "Company") for the purpose of ascertaining whether and to what extent the Company has violated the DC Official Code, Commission Regulations, and the terms of use of the PJM-Environmental Information Services' Generation Attribute Tracking System ("GATS").<sup>1</sup> Following the investigation, Commission staff determined that Solar Solution had violations associated with two solar facilities in the District of Columbia. To address these violations, the Commission's Office of Compliance and Enforcement ("OCE") and Solar Solution agreed to certain terms that are presented to the Commission for approval in the form of a settlement agreement ("Settlement Agreement"). By this Order, the Commission approves these terms and incorporates them into this Order by reference. Any violation(s) of the terms approved by this Order shall be considered violation(s) of a final Commission Order.

**II. JURISDICTION AND BACKGROUND**

2. The Commission is the duly constituted agency of the District of Columbia ("or District") empowered to implement a Renewable Energy Portfolio Standard ("REPS") for the District of Columbia, pursuant to D.C. Code § 34-1432 (a). Under D.C. Code § 34-1439 (c), the Commission has adopted rules and regulations that govern the District's REPS and are codified in Chapter 29 of Title 15 of the District of Columbia Municipal Regulations ("15 D.C.M.R"). The Commission has designated the PJM-Environmental Information Services' Generation Attribute Tracking System ("GATS") to serve as the District's renewable energy tracking system for the purpose of facilitating the creation, tracking and transfer of renewable energy credits, as required by D.C. Code § 34-1437 (a).

3. Solar Solution installs, operates and owns solar facilities in the District for the purpose of selling renewable energy to customers and creating and selling renewable energy credits in the District, as defined in D.C. Code § 34-1431 (10). Solar Solution certified the two solar facilities that are the subjects of the Commission investigation as renewable electricity

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<sup>1</sup> *Formal Case No. 1131, In the Matter of the Investigation into Solar Solution, LLC's Possible Violations of Commission Regulations and the Terms of Use of PJM-Environmental Information Services' Generation Attribute Tracking System, Order No. 17929, rel. July 24, 2015.*

generators. The two facilities were registered as being located in the District at 1200 First Street, NE, Washington, D.C. ("First Street Facility"), and at 2034 Allen Place, NW ("Allen Facility") and were certified as renewable energy generating systems within the meaning of D.C. Code §34-1431 (15)(A). As such, the two facilities became subject to the Commission's jurisdiction pursuant to 15 D.C.M.R. § 2902.

4. Solar Solution is an applicant, which submitted applications and affidavits of general compliance with the Commission for the purpose of certifying the two solar facilities at issue as renewable energy generating systems. As the applicant and affiant, Solar Solution is subject to the Commission's jurisdiction pursuant to 15 D.C.M.R. §2902. Pursuant to the applicable provisions of the D.C. Code and Commission regulations, the Commission has jurisdiction over the subject matter of the investigation.

5. OCE conducted an investigation at the direction of the Commission to determine if any actions taken by Solar Solution violated District statutes and/or Commission regulations. The investigation was triggered by the following events. In 2011 and 2012, Solar Solution sought to certify many solar facilities as eligible District of Columbia renewable energy standards generating facilities pursuant to D.C. Code §34-1324. Based on the information presented by Solar Solution in the applications for certification, the Commission certified the facilities.<sup>2</sup> In May, 2015 the Commission discovered that two of the facilities that had been certified, i.e. the First Street and the Allen facilities, were never installed. Nevertheless, Solar Solution has entered generation data for these solar facilities into GATS for the purpose of creating Solar Renewable Energy Credits ("SRECs") certificates. Solar Solution sold the SRECs from the two facilities, which were used for compliance with the District's REPS requirements.

6. Following the investigation, OCE determined that Solar Solution's actions violated D.C. Code § 34-1433 (a) because the two certified solar systems were not placed into service and therefore did not produce eligible energy for SRECs to be used in meeting the District's REPS. In addition, Solar Solution violated 15 D.C.M.R. §2902.5 and §2902.6 by submitting inaccurate information in the two pertinent applications for certification and submitting affidavits of general compliance without verifying that the information provided in the applications is true, correct and complete. Solar Solution also violated PJM's GATS Operating Rules Section 6.2, Subsection 5(e) by submitting an inaccurate "affidavit declaration" stating that the information being provided as part of the GATS registration of the two generating units is true and correct.

7. To resolve the violations in an efficient manner and avoid prolonged litigation, Solar Solution agreed to certain terms, which are presented for Commission approval in the form of the Settlement Agreement. Solar Solution agrees to pay \$20,000 in civil penalties and \$116,210 in restitution, plus interest of \$3,776. In addition, Solar Solution has taken voluntary actions to prevent the same or similar violations in the future.

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<sup>2</sup> See RPS 11-1692, *In the Matter of the Application of Solar Solution, LLC for Certification of the Sachs-Ellenbogen Residence Facility as a Renewable Energy Portfolio Standards Generating Facility*, Order No. 16512, rel. Aug. 18, 2011; See also RPS 12-23, *In the Matter of the Application of Solar Solution, LLC for Certification of Its 1200 1st Street, NE, Washington, D.C. Solar Energy Facility as a Renewable Energy Standards Generating Facility*, Order No. 16750, rel. April 3, 2012.

### **III. DISCUSSION**

8. Section 130 of the Commission's rules governs settlement agreements. Section 130.10 requires, in pertinent part,<sup>3</sup> that settlement agreements should be: in writing, contain all of the terms and conditions agreed upon by the signatories, be labeled partial or full, and indicate whether the provisions of the agreement are severable. The written Settlement Agreement states that it "represents the entire agreement"<sup>4</sup> and further explains that "unless the Commission issues an order approving the Agreement in its entirety, and without material modifications, the Agreement shall be null and void and of no effect."<sup>5</sup> Therefore, the presented Settlement Agreement complies with the applicable provisions of Section 130.10.

9. We note that 15 D.C.M.R. Section 130.11 requires a public interest hearing but that is only where the settlement "would have an impact on a utility's customers, competitors, or the public." The settlement in this particular case has no impact on any entity other than Solar Solution so, in our view, no hearing is required or useful in these unique circumstances.

10. The Commission believes that the terms presented for approval resolve the matter efficiently through fair, adequate, and reasonable terms designed to address Solar Solution's violations and ensure that Solar Solution is not unjustly enriched from the sale of SRECs from the two non-existing solar facilities. Solar Solution agreed to pay a total of \$119,986 for the SRECs sold from the First Street and Allen facilities. These SRECs were either retired for compliance with the District's REPS pursuant to D.C. Code § 34-1438 (c) or could not be replaced despite Solar Solution's reasonable efforts. In addition, Solar Solution already replaced the First Street Facility SRECs that were not retired for compliance with valid SRECs.

11. Solar Solution also agreed to pay \$20,000 in civil penalty, which is in addition to the voluntary actions the Company has taken to avoid same or similar violations in the future.<sup>6</sup> In assessing the penalty amount, OCE considered a number of mitigating and aggravating factors, which are outlined in the Settlement Agreement.

12. Solar Solution also agreed that the Commission Order approving the Settlement Agreement without material modifications shall be a final and unappealable order.<sup>7</sup> In that regard, Solar Solution waives any right to challenge, either through a petition for reconsideration or judicial review, the terms of the Settlement Agreement.

### **IV. CONFIDENTIAL INFORMATION**

13. Pursuant to 15 D.C.M.R. § 150.1 and § 150.2, any materials submitted by a party which it claims are confidential or proprietary shall be filed under seal, and all submissions under

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<sup>3</sup> 15 D.C.M.R. § 130.10 (a), (b), (d), and (f).

<sup>4</sup> Settlement Agreement ¶ 66.

<sup>5</sup> Settlement Agreement ¶ 63.

<sup>6</sup> Settlement Agreement, Section VI (Solar Solution's Voluntary Actions to Ensure Future Compliance).

<sup>7</sup> Settlement Agreement ¶ 64.

seal shall include a request for confidential and proprietary treatment, including justification for such request. Such requests shall state with specificity the grounds upon which the request is based. Under 15 D.C.M.R. Section 150.3, all requests for confidential or proprietary treatment shall be presumed granted unless the Commission on its own, or in response to a Confidential/Proprietary Information Determination, determines that confidential or proprietary treatment is not justified.

14. Solar Solution has requested that certain very limited language of the Settlement Agreement that contains financial and proprietary information remain confidential. The Commission agrees that the redacted language contains confidential information and therefore grants Solar Solution's request.

**THEREFORE, IT IS ORDERED THAT:**

15. The Settlement Agreement is hereby **APPROVED**. The terms of the Settlement Agreement are incorporated into this Order by reference. Any violation(s) of the terms approved by this Order shall be considered violation(s) of a final Commission Order; and

16. Solar Solution's request for confidential treatment of certain terms is **GRANTED**.

**A TRUE COPY:**

**BY DIRECTION OF THE COMMISSION:**



**CHIEF CLERK:**

**BRINDA WESTBROOK-SEDGWICK  
COMMISSION SECRETARY**

**DISSENTING OPINION OF COMMISSIONER JOANNE DODDY FORT  
TO FC1131- ORDER APPROVING THE TERMS OF A SETTLEMENT AGREEMENT**

The Commission encourages settlements like the one that has been reached by Solar Solutions and our Office of Compliance and Enforcement in response to the investigation that we opened in this proceeding. As the Order notes, the Commission reviews settlements pursuant to Rule 130. That rule says “[a] full settlement presented in. . . a base rate case or other contested case which would have an impact on a utility’s customers, competitors or the public shall only be accepted after a hearing on whether the settlement is in the public interest.” The majority concludes that “this particular case has no impact on any entity other than Solar Solutions so in our view, no hearing is required or useful in these unique circumstances.” That finding contains a factual conclusion that the facts of the case do not fully support. Solar Solutions sold SRECs that it did not generate to the public by registering them in GATS. Solar Solutions was not able to track all of the affected SRECs but as part of the proposed settlement, has offered to substitute SRECs that it owns for the SRECs that it could not track. While the proposed Settlement Agreement appears to be reasonable, I believe the facts of this case have a sufficient nexus to the public to warrant a public interest hearing and therefore I dissent from the order as written.

That said, I note that the Commission’s rule on settlements was crafted before the Commission instituted its current Office of Compliance and Enforcement. If changes to Rule 130 are needed to facilitate the compliance work of this new Commission office, then the Commission should consider instituting a new rulemaking for that purpose.