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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the matter of the Application by)
Noble Americas Energy Solutions LLC) Case No. 11-2384-EL-ACP
for a waiver from 2010 Ohio Sited)
Solar Energy Resource Benchmarks)

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**APPLICATION FOR A WAIVER FOR THE PURCHASE OF OHIO SITED
RENEWABLE ENERGY CREDITS FOR CALENDAR YEAR 2010**

Now comes Noble Americas Energy Solutions LLC (Noble Solutions), a competitive retail electric service provider (CRES).¹ Noble Solutions has been active in the Ohio retail electric market² during both the years governed by the Commission's rules requiring retail suppliers to obtain renewable energy credits (RECs).³ Noble Solutions filed a Renewable Energy Report for calendar year 2009. Pursuant to Section 4928.64, Revised Code, Noble Solutions will be obligated to secure regular RECs in an amount equal to one half of one percent of its base line sales for 2010 - at a rate of one REC per megawatt hour of sales. Further, at least half of these RECs must come from renewable energy facilities in Ohio. When Noble Solutions files its Renewable Energy Report with the Commission on April 15, 2011 for calendar year 2010, it will verify that it has fulfilled its REC requirements including the portion of the RECs from facilities sited in Ohio.

¹ Noble Americas Energy Solutions LLC was originally certificated as Semptra Energy Solutions LLC and was issued State of Ohio certificate no. 01-052E(5). On November 2, 2010, Noble Solutions filed, pursuant to Rule 4901:1-24-10, a change of ownership and provider name. The application by Noble Solutions to take over the certificate was granted on November 18, 2010. Since the operation remained the same, the Commission awarded Noble Solutions the Semptra certificate (No. 01-052E(5) and kept the then current renewal date of July 2011.

² On a certificate basis.

³ Calendar years 2009 and 2010.

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In addition to regular RECs, Section 4928.64, Revised Code, for calendar year 2010 requires a CRES to secure solar renewable energy credits (S-RECs) in an amount equal to one tenth of one percent of the CRES' base line sales. Similar to the rules governing regular RECs, at least one half of all S-RECs must come from facilities that are sited in Ohio. The S-REC market has not developed in Ohio at the same pace as the regular REC market. Thus, in 2009 CRES providers and electric distribution utilities alike filed for waivers or *force majeure* determinations from the 2009 S-REC requirements. This included Noble Solutions (then doing business as Sempra Energy Solutions LLC – "Sempra Solutions") who as a member of the Retail Energy Supply Association (RESA) filed a pleading demonstrating that there were simply not enough S-REC facilities to meet the demand for S-RECs. The Commission, in Case No. 10-428-EL-ACP, exercised its authority under Section 4928.64(C)(4) and determined that an insufficient number of S-RECs existed and thus granted an S-REC waiver for those suppliers who petitioned the Commission. The Commission though, in its Finding and Order of April 28, 2010, indicated that the S-REC requirements for 2009 rather than being forgiven should be tolled. Suppliers such as Noble Solutions were asked to use their best efforts to not only meet the S-REC requirements for 2010 during calendar year 2010, but also to secure a makeup volume of S-RECs to fulfill the missed S-RECs for 2009. The waiver covered both Ohio and non Ohio sited S-RECs and for the 2009 compliance year, applied to Sempra Solutions. On November 1, 2010 the Noble Group purchased Sempra Solutions and since that date has transacted business in Ohio as a CRES as Noble Solutions.

Noble Solutions has contacted brokers and producers in search of 2010 S-RECs. Noble Solutions' diligent efforts have paid off in terms of securing S-RECs located in adjacent states. When Noble Solutions files its 2010 REC Report on April 15th it will report that it has not only

fulfilled the maximum requirement for non Ohio S-RECs for 2010, but it also has made up the tolled volume of non Ohio S-RECs for 2009.

From a practical perspective, Ohio sited S-RECs remain unobtainable. Noble Solutions up until very recently could not locate any Ohio sited S-RECs for 2010 for sale, let alone a catch up number for 2009. In the past month, one broker and one broker alone did offer some Ohio sited S-RECs, but the demand so far outstripped the supply that the asking price was above the penalty price.

Thus, Noble Solutions requests the Commission to find that as to just the Ohio sited S-RECs, the supply is insufficient to meet the demand and that once again CRES and electric distribution companies who have been unable to secure Ohio sited S-RECs for 2009 and 2010 be able to toll the requirement for Ohio sited S-RECs from 2009 and 2010 to calendar year 2011.

Tolling the 2009 and 2010 Ohio sited S-RECs is in the public's interest as opposed to just having suppliers pay the penalty price. Tolling the Ohio sited S-RECs keeps the demand for Ohio solar facilities in the market. Paying the fines merely extinguishes the demand. Thus, tolling is more in line with the goals of Amended Substitute Senate Bill No. 221 which was to foster development of both local and regional solar generation.

Two arguments can be raised for not tolling the 2009 and 2010 Ohio sited S-RECs and going to penalty payments. Either of these two arguments, independent of each other, justifies a grant of this waiver application and a finding that Noble Solutions should not be subject to the penalty applicable to the Ohio-sited S-REC provision. First, is that the CRES has not made a sufficient effort to find RECs and S-RECs. Here Noble Solutions can show that it has made its REC requirements on time both years, and while not able to secure the S-RECs in 2009, made an effort sufficient to find non Ohio S-RECs in quantities sufficient to meet both 2009 and 2010.

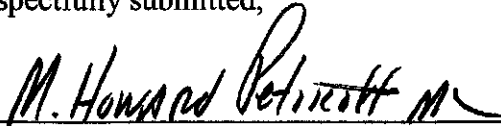
The fact that Noble Solutions has achieved all its renewable energy requirements save for one category, demonstrates that it was actively out in the market and trying to fulfill the statutory goals.

The second argument for not granting a tolling of the Ohio sited S-RECs is if it appeared that catching up was impossible. Noble Solutions can report that such is not the case. While there is only one broker offering Ohio sited RECs and then only at above penalty rates, Noble Solutions has found a vendor willing to sell it 2011 RECs in a quantity that would meet Noble Solutions' 2009 through 2011 anticipated Ohio sited S-REC requirement. Thus, tolling the Ohio sited S-RECs would not only last but one more year, it could be instrumental in helping to fund future Ohio solar facilities, which is the purpose of the Ohio sited S-REC requirement.

WHEREFORE, Noble Solutions respectfully requests that the Commission approve this application and issue a Finding and Order, pursuant to Section 4928.64(C)(4), Revised Code, and Rule 4901:1-40-06 of the Ohio Administrative Code, waiving the S-RECs requirement for Noble Solutions just as to Ohio sited S-RECs. Further, that the Order and Finding not forgive, but merely toll the number of Ohio sited S-RECs from 2009 through 2011. Noble Solutions would

then have to account in its calendar year 2011 report for all Ohio sited S-RECs for the 36 month period.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "M. Howard Petricoff", is written over a horizontal line.

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