North Carolina Department of Revenue

Pat McCrory
Governor

Lyons Gray
Secretary

August 19, 2014

[redacted]

Re: [redacted]
Request for a Private letter Ruling Regarding the Qualification of Taxpayer's Investment in Solar Photovoltaic Electricity Generating Projects for the North Carolina Renewable Energy Property Credits Pursuant to G.S. 105-129.16A

Dear [redacted]:

This letter is in response to your letter dated [redacted], wherein you requested a written determination for [redacted] ("Taxpayer") by the North Carolina Department of Revenue ("Department") regarding the qualification of Taxpayer's investment in solar photovoltaic electricity generating projects for the credit for investing in renewable energy property available pursuant to N.C. Gen. Stat. §105-129.16A.

The statement of facts submitted for the Department's consideration is summarized as follows:

Taxpayer is in the business of providing electric services to [redacted] residential, general service, and industrial customers over its [redacted] service area.

Taxpayer intends to invest in four solar photovoltaic electricity generating projects in North Carolina. The facilities are:

- [redacted]: a [redacted] megawatt (“MW”) (alternating current AC (“AC”))/[redacted] MW (direct current ("DC")) facility located in [redacted];
- [redacted]: a [redacted] MW (AC) / [redacted] MW (DC) facility located in [redacted];
- [redacted]: a [redacted] MW (AC) / [redacted] MW (DC) facility located [redacted]; and
- [redacted]: a [redacted] MW (AC) / [redacted] MW (DC) facility located in [redacted].

Each project or facility ("Facility") will consist of several installations of solar photovoltaic electricity generation equipment (each individually an "Installation"). Each Installation will function independently to produce electricity according to the rated output of each such Installation. Each Installation will consist of a number of solar photovoltaic modules or panels, one or two electrical power inverters, connectors, conduits, combiner boxes, disconnect switches, a medium voltage transformer, wiring and other related equipment. Each inverter will convert the DC electricity produced by the solar panels to AC electricity. The capacity and size of each inverter will depend on the projected production output of the Installation's solar panels.

Installation at Facility will have [redacted] inverters rather than [redacted] inverter. Whether there are [redacted] inverters, each Installation will be, upon completion of its construction, able to function independently of any other Installation forming a part of the Facility and will be able to produce usable energy on its own. If any one or more of the Installations is disconnected from the Facility's switchgear (i.e., turned off), then any one of the remaining connected Installations, standing alone, will be able to produce usable energy on its own.

The AC electricity produced by the Facility's Installations will be transferred to Taxpayer's power grid through switchgear which combines the electricity from several Installations, additional transmission equipment and a separate wiring system that incorporates metering and monitoring equipment to record the AC power output. Taxpayer will sell the electricity generated from the Installations to Taxpayer's customers from its power grid along with its other electrical power.

Taxpayer will invest in the Facilities by acquiring the site of each Facility and hiring an [redacted] firm to build the Facility to be located at that site for Taxpayer to Taxpayer's specifications.

The process of commissioning an inverter will involve three parties: Taxpayer, the inverter manufacturer, and the [redacted] firm hired to build the Facility. During the commissioning process, when each party is present, the process will measure (i) the voltage produced by the Installation, (ii) the current produced by the Installation and (iii) the AC power output of the Installation. Upon completion of the commissioning process, the parties will certify that the Installation is producing electricity.

Each Facility will have a revenue meter that will be able to measure the amount of electricity being produced for sale. The revenue meter will be affixed to the Facility at or near the point of interconnection with the power grid. The point of interconnection is the point at which the electricity produced by the Facility is co-mingled with electricity flowing on the power grid. Since each Installation will be able to operate independently, it will be possible for the Facility's revenue meter to measure the electricity produced and sold by each Installation of a Facility.

RULING REQUESTED:

Each Installation will be placed in service for purposes of N.C. Gen. Stat. §105-129.16A(a) (concerning allowance of the Tax Credit if a taxpayer constructs, purchases or leases renewable energy property and places it in service in North Carolina during the taxable year) once (a) all necessary permits, approvals, certificates of compliance and licenses with respect to the Installation have been obtained, and the Installation conforms to all applicable federal, state and

local codes and the requirements of all inspecting jurisdictions; (b) all critical tests of the Installation have been completed; (c) the Installation is fully installed, functional and operational; (d) the Installation has been placed under the control of Taxpayer with Taxpayer possessing all legal attributes of ownership; (e) the Facility has been synchronized into Taxpayer's power grid for generating electricity to produce income; (f) regular daily operation of the Installation begun; the Installation is generating usable renewable energy to Taxpayer at the point of interconnection in such a manner that the electricity generated is routinely available and consistent with Installation's design; and (h) has produced and sold more than a de minimis amount of electricity generated by the Installation. Taxpayer will be deemed to have produced and sold more than a de minimis amount of electricity generated by the Installation once each inverter of the Installation has been commissioned and the electricity generated by the Installation has passed through the Facility's revenue meter. It will not be necessary for an entire Facility to be placed in service in order for an Installation of the Facility to be placed service.

RULING REQUESTED:

Each Installation will be a separate "installation of renewable energy property" within the meaning of N.C.G.S. §§ 105-129.15(4b) and 105-129.16(c)(1) (concerning the $2,500,000 ceiling on the Tax Credit applicable to each installation of renewable energy property placed in service for a business purpose). For purposes of computing the amount of the credit, (a) the expenditures made for the first Installation of each Facility, including the expenditures for the Facility's equipment necessary for the first Installation's interconnection to the power grid, will be considered as part of the cost of the first Installation and (b) for the Facility's other Installations the expenditures made for the Installation and any additional expenditures for the Facility's equipment necessary for the Installation's inter connection with the power grid will be considered as part of the cost of the Installation.

Department's Response:

For purposes of computing the credit, expenditures made for "related devices" necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy will be considered as part of the cost of the Installation. Importantly, N.C. Gen. Stat. §105-129.15(7) defines "Solar Energy Equipment" as:

> "Solar energy equipment that uses solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, daylighting, generating electricity, distillation, desalination, detoxification, or the production of industrial or commercial process heat. **The term also includes related devices necessary for collecting, storing, exchanging, conditioning, or converting solar energy to other useful forms of energy.**" **[Emphasis added.]**

Since each separate Installation described above qualifies as an "Installation of renewable energy property" pursuant to N.C. Gen. Stat. §105-129.15(4b), any expenditure made for solar energy equipment that is determined to be necessary for the first Installation's interconnection to the power grid will be considered as part of the cost of the first Installation. Similarly, expenditures made for each additional Installation and for other ancillary solar energy equipment that is determined to be necessary for that Installation's inter connection with the power grid will be considered as part of the cost of the Installation. Please note, however, that the Facility's (site-

wide project) costs allocated to each Installation and the cost of related devices, such as ground mounting systems, wiring, and disconnect switches, must be necessary and integral to collecting, storing, exchanging and converting solar energy to electrical power in order to qualify for the credit. Upon audit, the taxpayer must furnish records for inspection that provide the costs and purpose of any equipment included in the costs of the renewable property for which the credit is claimed.

This ruling is based solely on the facts submitted to the Department of Revenue for consideration of the transactions described. If the facts and circumstances given are not accurate, or if there are other facts that were not disclosed that might cause the Department to reach a different conclusion, then the taxpayer requesting this ruling may not rely on it. A letter ruling is not equivalent to a Technical Advice Directive that generally affects a large number of taxpayers. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material aspect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that this document is not to be cited as precedent and that a change in statute, a regulation, or case law could void this ruling.

Sincerely,

[redacted]