

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Firefly Solar PA LLC

)

Docket No. ER25-194-000

PROTEST OF PJM INTERCONNECTION, L.L.C.

Pursuant to Rule 211 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure,¹ and the Commission’s October 24, 2024 Combined Notice of Filings #1, PJM Interconnection, L.L.C. (“PJM”) files this protest (“Protest”) to the October 23, 2024 Waiver Request by Vesper Energy Development LLC (“Vesper”) and Firefly Solar PA LLC (“Firefly,” and together with Vesper, “Firefly”).² As demonstrated herein, the Waiver Request seeks impermissible retroactive relief of Firefly’s failure to meet a deadline under a jurisdictional service agreement, and should be denied. It also fails to satisfy the Commission’s waiver standards, further demonstrating that the Waiver Request should be rejected.

The Waiver Request was submitted in response to PJM’s October 2, 2024 filing to cancel the Interconnection Service Agreement (“ISA”) entered into among PJM, Firefly, and American Transmission Systems, Incorporated (“ATSI”),³ which was being cancelled due to Firefly’s failure to exit suspension in a timely fashion as required by the related

¹ 18 C.F.R. § 385.211.

² *Firefly Solar PA LLC*, Petition of Firefly Solar PA LLC and Vesper Energy Development LLC for Limited Waiver, Prospective Waiver, Docket No. ER25-194-000 (Oct. 23, 2024) (“Waiver Request”). This protest is supported by the Affidavit of Nathan Roberts (Attachment A) (“Roberts Aff.”).

³ *PJM Interconnection, L.L.C.*, Notice of Cancellation of ISA, SA No. 7067; Queue No. AF1-146/AF2-322, Docket No. ER25-14-000 (Oct. 2, 2024) (“October 2 Filing”). Consistent with the Commission’s prior notice requirements, PJM requested an effective date for the filing of December 2, 2024. *Id.* at 2. Capitalized terms not defined herein have the meaning set forth in the PJM Open Access Transmission Tariff (“Tariff”) or the Firefly ISA.

Interconnection Construction Service Agreement (“CSA” or “ICSA”) among the same parties.⁴

The relevant provisions of the Firefly CSA are clear and beyond dispute. Specifically, Appendix 3, section 3.4.2 directs that if Firefly fails to request that PJM and ATSI recommence work on the project at or before the suspension period ends, that the project “*shall be deemed terminated,*” stating as follows:

In the event Interconnection Customer suspends work by Interconnected Transmission Owner required under an Interconnection Service Agreement or Interconnection Construction Service Agreement pursuant to this Section 3.4, and has not requested Transmission Provider and the Interconnected Transmission Owner to recommence the work required under the applicable agreement(s) on or before the expiration of the time period allowed under this Section 3.4 following commencement of such suspension, the Interconnection Construction Service Agreement and the Interconnection Service Agreement for the Interconnection Request for which Interconnection Customer suspended work shall be deemed terminated as of the end of such suspension time period. The suspension time shall begin on the date the suspension is requested, or on the date of Interconnection Customer’s written notice of suspension to Transmission Provider, if no effective date was specified.

In this instance, the suspension period ended August 7, 2024, and therefore the deadline for Firefly to request that PJM and ATSI recommence work also ended August 7, 2024. Firefly did not make this request as of the deadline as required by the Firefly CSA, and its ISA and CSA were thus properly terminated. Accordingly, Firefly’s Waiver Request of

⁴ Interconnection Construction Service Agreement Among PJM Interconnection, L.L.C. and Firefly Solar PA LLC and American Transmission Systems, Incorporated, Service Agreement No. 7068 (Aug. 8, 2023) (“Firefly CSA”). Because the Firefly CSA was conforming, it was not filed with the Commission, but is reported in PJM’s Electric Quarterly Report. A copy of the Firefly CSA is posted on the PJM website at https://www.pjm.com/pub/planning/project-queues/csa/af2_322_csa.pdf. The Firefly ISA and the Firefly CSA were based on the applicable form of agreement set forth set forth in Tariff, Attachments O and P, respectively.

Appendix 3, section 3.4.2 of the Firefly CSA, filed approximately 11 weeks after that deadline expired, is an impermissible request for retroactive relief and should be denied.

I. BACKGROUND

The Firefly project is a proposed 401.62-megawatt solar generating facility proposed to be located in Lawrence County, Pennsylvania.⁵ The Firefly ISA was filed with the Commission and accepted in *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER23-2775-000 (Oct. 19, 2023), effective August 8, 2023. The Firefly CSA also became effective August 8, 2023.

Appendix 2 of the Firefly CSA, section 3.4, permits Firefly “to suspend at any time all work by Interconnected Transmission Owner associated with the construction and installation of the Transmission Owner Interconnection Facilities.” This provision allows a cumulative suspension period of up to three years if PJM determines that such suspension would not be deemed a Material Modification.⁶ If PJM determines that the suspension will result in a Material Modification, the suspension period is limited to one year.

On August 11, 2023, Firefly requested to enter suspension starting on August 8, 2023, the same date as the Firefly ISA and CSA became effective.⁷ On August 24, 2023, PJM notified Firefly that the suspension resulted in a Material Modification impacting the Queue No. AG1-489 project, and that its suspension period would be limited to one year.⁸

⁵ Firefly ISA, Specifications sections 1.0(b)-(d).

⁶ Firefly CSA, Appendix 2, section 3.4. A Material Modification is defined as “any modification to an Interconnection Request that has a material adverse effect on the cost or timing of Interconnection Studies related to, or any Network Upgrades or Local Upgrades needed to accommodate, any Interconnection Request with a later Queue Position.” Firefly CSA, Appendix 1.

⁷ See Exhibit 1 at 7-8 (E-mail from Jason Hastings, Vesper, to Dylan Seeley, PJM (Aug. 11, 2023, 10:44 a.m.)).

⁸ See Exhibit 1 at 4-5 (E-mail from Nathan Roberts, PJM, to Jason Hastings, Vesper (Aug. 24, 2023, 12:49 p.m.)). A Material Modification analysis was performed to measure the impact of suspension of Queue No. AF1-146/AF2-322 on lower-queued projects, which determined that the installation of fiber, relay settings, and drawings for interconnection queue position AG1-489 was influenced by the interconnection of the

Firefly in no way questioned or objected to this determination, and there is no evidence or claim from Firefly that this suspension end date was unknown or not clearly communicated to Firefly.⁹

As filed, the Firefly ISA established the following milestones:¹⁰

- Firefly ISA, section 6.1, site permits: June 30, 2024.
- Firefly ISA, section 6.2, acquisition of major electrical equipment: February 1, 2025.
- Firefly ISA, section 6.3, substantial site work completed: March 1, 2026.
- Firefly ISA, section 6.4, delivery of major equipment: August 1, 2026.
- Firefly ISA, section 6.5, commercial operation date: September 1, 2026.

On June 27, 2024, Firefly forwarded to PJM a letter requesting an extension of the milestones set forth in the Firefly ISA due to what it claimed were extenuating permitting issues beyond its control.¹¹ The June 26 Letter included a “formal request for PJM Interconnection to grant the maximum allowable suspension to the Project as permitted within the ISA/ICSA, or to accept the updated milestone dates set forth above and to prepare amendments to the ISA and ICSA reflecting the revised dates.”¹² However, the

project, with similar information being provided in the Facilities Study Report for the Queue No. AF1-489 project. Roberts Aff. ¶ 5; *see also* *Generation Interconnection Facilities Study Report For PJM Interconnection Request Project Identifier AG1-489*, PJM Interconnection, L.L.C., 21 (stating that “[i]f AF1-146 does not go in service, Project Developer for AG1-489 will be responsible to do relay terminal upgrade and fiber requirements at Hoytdale and McClelland”), 24 (stating “[i]f AF1-146 does not go in service, [generator owner] for AG1-489 will be responsible to do relay terminal upgrade and fiber requirements at Hoytdale and McClelland”) (Sept. 2024), https://www.pjm.com/pub/planning/project-queues/facilities/ag1489_fac.pdf.

⁹ Roberts Aff. ¶ 5.

¹⁰ Roberts Aff. ¶ 6.

¹¹ Roberts Aff. ¶ 7; *id.*, Exhibit 1 at 3-4 (E-mail from Erin Baker, Vesper, to Nathan Roberts, PJM (June 27, 2024, 4:40 p.m.)) (“June 27 E-mail”) and Exhibit 2 at 1 (“June 26 Letter”). While the letter was dated June 26, 2024, it was included as part of the June 27 E-mail.

¹² June 26 Letter at 3. Firefly indicated that it expected a revised ordinance addressing the permitting issues to be issued by the first quarter of 2025, with permitting to follow shortly thereafter. *Id.*

letter did not include a request to PJM and ATSI to “recommence the work required under the applicable agreement(s),” nor did it even hint at any intent to exit suspension. By e-mail dated July 9, 2024, PJM denied the request for a full three-year suspension period, reiterating such suspension would impact other projects in the queue.¹³ PJM also rejected the requested milestone extension request as premature, on the basis that the underlying issues might be resolved by the time the revised site permit milestone came due.¹⁴ PJM indicated it “would be more than willing to re-evaluate a milestone extension” closer to the June 30, 2025 deadline for compliance with the revised site permit milestone.¹⁵ Once again, at no time did Firefly question or contest PJM’s Material Modification analysis concerning its June 26, 2024 suspension request, did not object to PJM’s denial of the milestone extension request, and did not request PJM and ATSI to recommence work.¹⁶

Firefly’s suspension period ended on August 7, 2024, without Firefly providing the required notice to PJM and ATSI to exit suspension and recommence activities under the ISA and CSA. On September 11, 2024, Mr. Sonny Nguyen of Vesper sent an e-mail to PJM requesting certain invoice information “[s]ince we have been out of suspension since August 7th.”¹⁷ PJM sent Mr. Nguyen two e-mails requesting that he provide a copy of the

¹³ Roberts Aff. ¶ 7; *id.*, Exhibit 1 at 3 (E-mail from Nathan Roberts, PJM, to Erin Baker, Vesper (July 9, 2024, 9:45 a.m.)).

¹⁴ Roberts Aff. ¶ 7; *id.*, Exhibit 1 at 3 (E-mail from Nathan Roberts, PJM, to Erin Baker, Vesper (July 9, 2024, 9:45 a.m.)). As explained above, the first milestone due under the Firefly ISA was the site permit milestone. As set forth in section 6.1 of the Firefly ISA, that milestone was June 30, 2024, but the milestone was extended to June 30, 2025, coincident with the use of the one-year suspension period. Firefly indicated that it expected the permitting issues to be resolved the first quarter of 2025 or shortly thereafter. It was therefore uncertain if the site permit milestone would need further extensions. Roberts Aff. ¶ 7 n.13.

¹⁵ Roberts Aff. ¶ 7; *id.*, Exhibit 1 at 3.

¹⁶ Roberts Aff. ¶ 7. While the Queue No. AG1-489 project withdrew its Interconnection Request September 27, 2024, this date was well after August 7, 2024, the date the suspension period for the Firefly project ended.

¹⁷ Roberts Aff. ¶ 8; *id.*, Exhibit 1 at 2 (E-mail from Sonny Nguyen, Vesper, to Nathan Roberts, PJM (Sept. 11, 2024, 2:49 p.m.)).

notice that Firefly was exiting suspension.¹⁸ Mr. Nguyen did not provide any such documentation, but instead replied on September 17, 2024, “Please disregard, we misinterpreted on our end.”¹⁹

The following timeline outlines the sequence of the events described above:²⁰

- August 8, 2023: Firefly enters suspension.
- August 24, 2023: PJM limits Firefly to a one-year suspension due to material impact on the Queue No. AG1-489 project.
- June 27, 2024: Firefly requests a milestone extension or a three-year suspension.
- July 9, 2024: PJM denies both the milestone extension and the request for extended suspension due to the ongoing impact on the Queue No. AG1-489 project.
- August 7, 2024: Firefly’s suspension period ends with no request to exit suspension and recommence work. Consistent with Appendix 2, section 3.4.2 of the Firefly CSA, Firefly’s project enters termination status.
- September 17, 2024: When asked to provide documentation that it intended to exit suspension, Vesper’s representative replies: “Please disregard, we misinterpreted on our end.”
- September 27, 2024: The Queue No. AG1-489 project withdraws, as requested by the Project Developer. However, Firefly’s suspension has already expired, and the project was terminated as of August 7, 2024, per section 3.4.2 of the CSA.

II. RESPONSE TO WAIVER REQUEST

Firefly asks the Commission to grant it an impermissible retroactive waiver of a limited, one-time waiver, prospective waiver of section 3.4.2 of Appendix 2 of the Firefly CSA. Under the Firefly CSA’s clear terms, Firefly was required to request that PJM and

¹⁸ Roberts Aff. ¶ 8; *id.*, Exhibit 1 at 2 (E-mail from Nathan Roberts, PJM, to Sonny Nguyen, Vesper (Sept. 12, 2024, 9:16 a.m.)) and at 1-2 (E-mail from Nathan Roberts, PJM, to Sonny Nguyen, Vesper (Sept. 17, 2024, 9:47 a.m.)).

¹⁹ Roberts Aff. ¶ 8; *id.*, Exhibit 1 at 1 (E-mail from Sonny Nguyen, Vesper, to Nathan Roberts, PJM (Sept. 17, 2024, 9:20 a.m.)) (“September 17 E-mail”).

²⁰ Roberts Aff. ¶ 9.

ATSI recommence work as of August 7, 2024, and Firefly missed that deadline. Firefly's Waiver Request therefore seeks retroactive relief, and the Commission must deny the Waiver Request.

Even if the Waiver Request was not retroactive, Firefly fails to offer sufficient justification for its Waiver Request. The provisions of section 3.4.2 of Appendix 2 of the Firefly CSA are unequivocal: Firefly was obliged to request that PJM and ATSI recommence the work required under the Firefly ISA and CSA by August 7, 2024, the end of its one-year suspension period. Failure to provide this request on a timely basis meant that Firefly's ISA and CSA were deemed terminated. Firefly had no reasonable basis for thinking it had exited suspension and there are no exceptions in the CSA or the ISA from section 3.4.2's requirements. The Commission should therefore deny the Waiver Request.²¹

A. Firefly's Request for an Unlawful Retroactive Waiver of a Tariff Deadline Must Be Denied.

In its Waiver Request, Firefly seeks waiver of section 3.4.2 of Appendix 2 of the Firefly CSA to allow it to provide notice of its intent to exit suspension.²² Firefly indicates that its Waiver Request is not retroactive because it will make the request to recommence work at some point after the date it submitted its Waiver Request.²³ This claim is nonsensical and should be rejected.

²¹ See *Lathrop Irrigation Dist.*, 161 FERC ¶ 61,243, at PP 19-20 (2017) ("*Lathrop Irrigation*") (rejecting waiver request when applicant failed to show an attempt to act in compliance with the applicable tariff); *Meridian Energy USA, Inc. v. Cal. Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,206, at P 25 (2013) (denying waiver request that would relieve applicant of the results of its decisions); see also *Erie Power LLC*, 152 FERC ¶ 61,183, at P 24 (2015) (stating that a regional transmission organization's "regulatory and developmental milestones should not be taken lightly and the Commission has generally denied waiver of these milestones because it is important for parties to meet them").

²² Waiver Request at 8.

²³ Waiver Request at 13. Firefly claims this makes its Waiver Request prospective. *Id.*

Under clear court and Commission precedent, retroactive waiver requests are prohibited by the filed rate doctrine and thus are outside of the Commission’s discretion, irrespective of equitable considerations.²⁴ The Commission has held that a waiver request is retroactive in nature when it requires a retroactive extension of a tariff-prescribed deadline, and has consistently denied such requests.²⁵

Despite Firefly’s claims, the relief it seeks is retroactive and contrary to the filed rate doctrine. The applicable deadline was August 7, 2024, approximately 11 weeks before the current Waiver Request was submitted. Consistent with established precedent, the Commission must reject the Waiver Request on the basis that it seeks retroactive relief.²⁶ Moreover, Firefly’s claim that its request is not retroactive makes no sense. The Firefly CSA required Firefly to request no later than August 7, 2024, that PJM and ATSI recommence the work under the relevant agreements, and stated that any failure to do so meant that the Firefly ISA and CSA shall be terminated. Firefly missed that deadline. Accepting Firefly’s characterization of its Waiver Request as prospective because it seeks to correct its failure to comply with the Firefly’s CSA’s provision on a timely basis would

²⁴ *PJM Power Providers Group*, 96 F.4th 390, 401 (3d Cir. 2024) (emphasizing “equities play no role in our application of the filed rate doctrine” and that “[t]his bright-line rule could potentially produce a harsh result in this case, but it advances a central purpose of the filed rate doctrine: predictability”); *Okla. Gas & Elec. Co. v. FERC*, 11 F.4th 821, 824-25 (D.C. Cir. 2021) (“Once a tariff is filed, the Commission has no statutory authority to provide equitable exceptions or retroactive modifications to the tariff.”); *Old Dominion Elec. Coop. v. FERC*, 892 F.3d 1223, 1230 (D.C. Cir. 2018) (“The filed rate doctrine and the rule against retroactive ratemaking leave the Commission no discretion to waive the operation of a filed rate or to retroactively change or adjust a rate for good cause or for any other equitable considerations.”).

²⁵ *N. States Power Co. v. Midcontinent Indep. Sys. Operator, Inc.*, 188 FERC ¶ 61,095, at P 77 (2024) (“*N. States*”) (rejecting waiver request on the basis that it “is retroactive in nature and is prohibited by the filed rate doctrine”); *Scioto Farms Solar Project, LLC*, 184 FERC ¶ 61,153, at P 25 (2023) (“*Scioto Farms I*”) (denying request for waiver of PJM’s Tariff interconnection procedures on the basis that it “is retroactive in nature and is prohibited by the filed rate doctrine”), *order on reh’g*, 186 FERC ¶ 61,098 (2024) (“*Scioto Farms II*”); *CE-Shady Farm, LLC*, 184 FERC ¶ 61,140, at P 24 (2023) (“*CE-Shady Farm*”) (rejecting similar request for waiver to allow a project to be reinserted in PJM’s interconnection queue as “retroactive in nature and [] prohibited by the filed rate doctrine”); *Ridgeview Solar LLC*, 185 FERC ¶ 61,148, at P 21 (2023) (“*Ridgeview Solar*”).

²⁶ See *supra* notes 24-25.

strip the filed rate doctrine of meaning—parties could seek to characterize any waiver request as prospective regardless of when it should have acted by stating it will act in the future. The Commission should not allow this absurd result, and should reject the Waiver Request.

B. Firefly’s Request for Waiver of Appendix 3, section 3.4.2 of the Firefly CSA Does Not Meet the Commission’s Criteria for Granting Waivers.

1. Overview of the Commission’s Waiver Request Criteria

With respect to waivers that are retroactive in nature, the Commission has denied such requests as prohibited by the filed rate doctrine and, in doing so, has not applied the four-factor test.²⁷ To the extent the Commission entertains the characterization of Firefly’s Waiver Request as “prospective,” then PJM respectfully submits that the Waiver Request does not meet the Commission’s criteria for granting waivers and should be denied.

²⁷ See *N. States* at P 77 (stating “[b]ecause we are denying NSP’s waiver request on the basis that it is prohibited by the filed rate doctrine, we need not address whether NSP’s request would satisfy the criteria used by the Commission to evaluate tariff waiver requests”); *Ridgeview Solar* at P 21 (stating “[b]ecause we are denying Ridgeview Solar’s waiver request on the basis that it is prohibited by the filed rate doctrine, we need not address whether Ridgeview Solar’s request would satisfy the criteria used by the Commission to evaluate waiver requests”); *Scioto Farms I* at P 25 (stating “[b]ecause we are denying Scioto Farms’ waiver request on the basis that it is prohibited by the filed rate doctrine, we need not address whether Scioto Farms’ request would satisfy the criteria used by the Commission to evaluate waiver requests”); *Scioto Farms II* at P 17 (affirming *Scioto Farms I* finding, and stating “the Commission has no discretion to waive, retroactively change, or adjust the June 21, 2023 deadline” and that while the Commission “has, in the past, granted similar retroactive waivers of administrative tariff provisions, the Commission has since [*OG&E*, 11 F.4th 821 (D.C. Cir. 2021)] expressly denied such waiver requests as inconsistent with the filed rate doctrine”); *CE-Shady Farm* at P 24 (similar finding, again stating that “[b]ecause we are denying Shady Farm’s waiver request on the basis that it is prohibited by the filed rate doctrine, we need not address whether Shady Farm’s request would satisfy the criteria used by the Commission to evaluate waiver requests or the precedent cited by Shady Farm applying such criteria.”).

In determining whether to grant or deny a waiver request, the Commission looks at four factors: “(1) [whether] the applicant acted in good faith; (2) [whether] the waiver is of limited scope; (3) [whether] the waiver addresses a concrete problem; and (4) [whether] the waiver does not have undesirable consequences, such as harming third parties.”²⁸ The Commission does not need to find that a waiver request fails to meet all of these criteria—the fact it fails only one or two of these criteria is enough to warrant denial of a waiver request.²⁹ As already demonstrated in this Protest and as discussed further below, the Waiver Request falls short under all four of the Commission’s waiver request criteria.

2. *The Waiver Request Fails the Commission’s Requirements for a Waiver Request*

a. The Waiver Request fails to meet the good faith prong.

Firefly asserts that it had a good faith understanding that it exited suspension.³⁰ However, Firefly fails to demonstrate it has a reasoned basis for this understanding. Instead, the fact is there was no communication whatsoever provided to PJM, and certainly not to ATSI, directing PJM and ATSI to recommence work or otherwise exit suspension on a timely basis, and thus, no basis for Firefly’s claimed understanding that it has exited suspension. In fact, *when specifically asked by PJM to provide evidence that it provided*

²⁸ See *Lathrop Irrigation* at P 18; *Midcontinent Indep. Sys. Operator, Inc.*, 156 FERC ¶ 61,229, at P 15 (2016) (“*MISO*”); *MDU Res. Grp., Inc.*, 155 FERC ¶ 61,081, at P 11 (2016) (“*MDU*”). With respect to the third prong—whether the waiver request addresses a concrete problem—the Commission has made it clear that its consideration is whether the waiver addresses a concrete problem that must be remedied. See *NRG Curtailment Sols., Inc.*, 160 FERC ¶ 61,006, at P 16 (2017); *MISO* at P 16; *MDU* at P 18.

²⁹ See *Middletown Energy Storage LLC*, 182 FERC ¶ 61,092, at P 35 (2023); see also *Cleco Cajun LLC*, 183 FERC ¶ 61,211, at P 35 (2023) (stating that having found that the waiver request would result in undesirable consequences made it unnecessary to respond to the applicant’s claims regarding the other three waiver request criteria); *CPV Shore, LLC*, 168 FERC ¶ 61,048, at P 22 (2019) (stating that “[t]he Commission uses the satisfaction of all four criteria as a guide to when it may be appropriate to grant waiver” and that if it “identifies a criterion that by itself makes waiver inappropriate, it need not continue to analyze other criteria before it denies waiver”).

³⁰ Waiver Request at 9-10.

notice to PJM of its intent to exit suspension, Mr. Nguyen, in the September 17 E-mail, replied “Please disregard, we misinterpreted on our end.” This shows that not only did Firefly fail to provide the required notice, but that it later admitted it did not provide such notice. Accordingly, Firefly has not acted in good faith, and its Waiver Request should be denied.

- b. The Waiver Request is not limited in scope, further showing that it should be rejected.

Second, and despite Firefly’s claims, the Waiver Request is not limited in scope.³¹ Firefly failed to comply with its clear obligation under the Firefly CSA. Granting the Waiver Request would provide Firefly with an unfair advantage over other Interconnection Customers or Project Developers that have complied with the provisions of the Tariff and their service agreement or that have been terminated for failure to do so. Moreover, granting this Waiver Request likely would encourage future non-compliance with this and other Tariff deadlines, and for Interconnection Customers or Project Developers to seek after-the-fact waivers instead of meeting the requirements and deadlines clearly stated in the Tariff.³² Accordingly, Firefly’s Waiver Request is not limited in scope and should be denied.

- c. The Waiver Request does not address a concrete problem, further showing that it should be denied.

Third, despite its claims to the contrary,³³ Firefly fails to demonstrate that the Waiver Request addresses a concrete problem that needs to be resolved. Firefly claims

³¹ Waiver Request at 10.

³² PJM has begun implementing the reforms to its interconnection procedures as set forth in Tariff, Parts VII and VIII. Especially as those reforms are just recently underway, the Commission should not grant relief that could encourage Project Developers to try to circumvent those procedures.

³³ Waiver Request at 11.

that granting the Waiver Request will protect its project from being cancelled.³⁴ However, the requirement that an Interconnection Customer provide a timely request to exit suspension is intended to facilitate planning, avoid harm to other projects, and remove uncertainty as to a project's status, rather than having a project remain in limbo for an indefinite period of time.³⁵ Accordingly, Firefly's Waiver Request does not address a concrete problem that must be remedied,³⁶ and should be denied.

- d. Despite Firefly's claims, the Waiver Request will have undesirable consequences and result in harm to third parties.

Firefly's claims that the Waiver Request would not have undesirable consequences³⁷ are unfounded and should be rejected. As an initial matter, PJM is entitled to enforce its clear Tariff and service agreement requirements, and allowing an Interconnection Customer to circumvent the applied rules would be contrary to efficient queue administration.³⁸ In addition, it is fundamentally unfair to other Interconnection Customers and Project Developers that follow the requirements of their agreements to excuse Firefly's failures, or to allow Firefly to revive its project through a retroactive waiver request. It would also be disruptive to planning, and one outcome of not enforcing the "notice to exit suspension/recommence work" requirement is that PJM and relevant Transmission Owner would be left to assume the Interconnection Customer or Project

³⁴ Waiver Request at 11.

³⁵ As PJM explains below, the requirement that a project timely request to exit suspension is necessary to avoid disruption to planning, which can arise if PJM and relevant Transmission Owner are uncertain or are left to assume the Interconnection Customer or Project Developer intends to resume work.

³⁶ See *supra* note 28.

³⁷ Waiver Request at 11-13.

³⁸ The Commission has recognized that efficient queue administration is in the public interest. See *PJM Interconnection, L.L.C.*, 174 FERC ¶ 61,075, at P 38 (2021) ("2021 PJM Order") (denying request for waiver and finding notices of cancellation is in the public interest); *Midcontinent Indep. Sys. Operator, Inc.*, 176 FERC ¶ 61,161, at P 24 (2021) (granting waiver in part on the basis that no other projects in the interconnection queue will be affected or require restudy as a result).

Developer intends to resume work.

Firefly's arguments that granting the waiver request is in the public interest because of the claimed benefits of the Firefly project³⁹ should also be denied. PJM is simply acting to enforce provisions in the CSA and Tariff, Attachment P that have been found to be just and reasonable. There is no exemption from these requirements for projects of a certain size, that claim owner commitment, or that fail to comply with the clear Tariff language for certain reasons. The Commission has accepted other notice of cancellation filings where the Interconnection Customer failed to meet mandatory Tariff deadlines,⁴⁰ and should do the same here.

Moreover, despite its claims that it would add value to the PJM system, the project entered suspension immediately upon the effective date of its ISA and seeks to re-enter suspension for another two years. It did not add anything of value for the 2025/2026 Delivery Years referenced in its Waiver Request, and with a three-year extension, the project would not begin operation until September 1, 2029. This presumes the project does not seek other extensions to its commercial operation date or other milestones.⁴¹ Firefly

³⁹ Waiver Request at 12-13.

⁴⁰ See *Scioto Farms I* at P 27 (accepting notice of cancellation when Interconnection Customer failed to provide the deferred Security within the time required, stating that the relevant Tariff provision authorizes PJM to terminate and withdraw an Interconnection Request in such instances, and finding that cancellation of the subject ISA is permitted under the ISA and Tariff's terms); *CE-Shady Farm* at P 27 (order making similar finding as *Scioto Farms I*, where deferred Security was provided one day late); 2021 PJM Order at P 38 (order making similar finding that the failure to provide deferred Security justified acceptance of a notice of cancellation filing, and stating that "[c]onsistent with this determination, we also find that the public interest is served in this case by accepting PJM's notices of cancellation."); see also *Kumquat & Citron Cleantech, LLC*, 175 FERC ¶ 61,263, at P 34 (2021) (rejecting waiver request of similar "'shall be deemed terminated and withdrawn'" provisions related to failure to provide study deposit on time). In the 2021 PJM Order, the Commission made a specific finding "that the public interest is served in this case by accepting PJM's notices of cancellation." 2021 PJM Order at P 38.

⁴¹ Despite Firefly's claimed dedication to the project, it managed to miss a clear deadline that it had discussed with PJM approximately six weeks before that deadline. It is frankly astounding that Firefly did not take a few simple steps, such as setting a few calendar reminders, to ensure that it complied with this requirement so that its project could move forward.

alone is responsible for performing the obligations of the Interconnection Customer under the Firefly ISA and CSA, and it should not be excused for failing to exercise due diligence in meeting those obligations. Accordingly, Firefly's Waiver Request will have undesirable consequences and result in harm to third parties and should be denied.

III. CONCLUSION

For the reasons set forth above, PJM requests that the Commission reject the Waiver Request, and accept the October 2 Filing, to be effective December 2, 2024.

Respectfully submitted,

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November 13, 2024

Attachment A

Affidavit of Nathan Roberts on Behalf of PJM Interconnection, L.L.C.

**UNITED STATES OF AMERICA
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**AFFIDAVIT OF NATHAN ROBERTS ON
BEHALF OF PJM INTERCONNECTION, L.L.C.**

1. My name is Nathan Roberts. I am a Senior Engineer, Interconnection Planning Projects, at PJM Interconnection, L.L.C. (“PJM”) and have been in that position since August 2022. My duties and responsibilities include the coordination and facilitation of interconnection for new generation and other Interconnection Process projects to the PJM system, and the installation of network upgrades to ensure the long-term reliability and adequacy of the PJM system. This includes coordination of engineering and construction activities with Transmission Owners and Interconnection Customers, and facilitation of outage planning, model coordination and markets activities required to integrate generation and merchant transmission interconnections, and new transmission infrastructure improvements, into PJM Operations and Markets. Prior to working at PJM, I was a General Engineer at PECO Energy Company and have held other engineering positions.
2. The purpose of my affidavit is to respond to certain arguments raised in the October 23, 2024 Waiver Request by Vesper Energy Development LLC (“Vesper”) and Firefly Solar PA LLC (“Firefly,” and together with Vesper, “Firefly”).¹ This proceeding arises from PJM’s October 2, 2024 filing to cancel the Interconnection

¹ *Firefly Solar PA LLC*, Petition of Firefly Solar PA LLC and Vesper Energy Development LLC for Limited Waiver, Prospective Waiver, Docket No. ER25-194-000 (Oct. 23, 2024) (“Waiver Request”).

Service Agreement (“ISA”) entered into among PJM, Firefly, and American Transmission Systems, Incorporated (“ATSI”)² due to Firefly’s failure to exit suspension in a timely fashion as required by the related Interconnection Construction Service Agreement (“CSA” or “ICSA”) between the same parties.³ I was the PJM Construction Engineer assigned to that project when it went into suspension and remain responsible for the project today.

3. The Firefly project is a proposed 401.62-megawatt solar generating facility proposed to be located in Lawrence County, Pennsylvania.⁴ The Firefly ISA was filed with the Commission and accepted in *PJM Interconnection, L.L.C.*, Letter Order, Docket No. ER23-2775-000 (Oct. 19, 2023), effective August 8, 2023. The Firefly CSA also became effective August 8, 2023.
4. Appendix 2 of the Firefly CSA, section 3.4, permits Firefly “to suspend at any time all work by Interconnected Transmission Owner associated with the construction and installation of the Transmission Owner Interconnection Facilities.” This provision allows a cumulative suspension period of up to three years if PJM determines that such suspension would not be deemed a Material Modification.⁵ If PJM determines that the suspension will result in a Material Modification, the suspension period is limited to one year.

² *PJM Interconnection, L.L.C.*, Notice of Cancellation of ISA, SA No. 7067; Queue No. AF1-146/AF2-322, Docket No. ER25-14-000 (Oct. 2, 2024).

³ Interconnection Construction Service Agreement Among PJM Interconnection, L.L.C. and Firefly Solar PA LLC and American Transmission Systems, Incorporated, Service Agreement No. 7068 (Aug. 8, 2023) (“Firefly CSA”).

⁴ Firefly ISA, Specifications sections 1.0(b)-(d).

⁵ Firefly CSA, Appendix 2, section 3.4. A Material Modification is defined as “any modification to an Interconnection Request that has a material adverse effect on the cost or timing of Interconnection Studies related to, or any Network Upgrades or Local Upgrades needed to accommodate, any Interconnection Request with a later Queue Position.” Firefly CSA, Appendix 1.

5. On August 11, 2023, Firefly requested to enter suspension starting on August 8, 2023, the same date as the Firefly ISA and CSA became effective.⁶ PJM performed the required Material Modification analysis. On August 24, 2023, PJM notified Firefly that the suspension resulted in a Material Modification impacting the Queue No. AG1-489 project, and that its suspension period would be limited to one year.⁷ This analysis determined that the installation of fiber, relay settings, and drawings for interconnection queue position AG1-489 was influenced by the interconnection of the project. Similar information also appears in the Facilities Study report for the Queue No. AG1-489 project.⁸ Firefly in no way questioned or objected to this determination, and there is no evidence or claim from Firefly that this end date was unknown or not clearly communicated to Firefly.
6. As filed, the Firefly ISA established the following milestones:
- Firefly ISA, section 6.1, site permits: June 30, 2024.
 - Firefly ISA, section 6.2, acquisition of major electrical equipment: February 1, 2025.
 - Firefly ISA, section 6.3, substantial site work completed: March 1, 2026.
 - Firefly ISA, section 6.4, delivery of major equipment: August 1, 2026.
 - Firefly ISA, section 6.5, commercial operation date: September 1, 2026.

The Firefly ISA also provides that the ISA milestone dates “shall be deemed to be

⁶ Exhibit 1 at 7-8 (E-mail from Jason Hastings, Vesper, to Dylan Seeley, PJM (Aug. 11, 2023, 10:44 a.m.)).

⁷ Exhibit 1 at 4-5 (E-mail from Nathan Roberts, PJM, to Jason Hastings, Vesper (Aug. 24, 2023, 12:49 p.m.)).

⁸ Similar information also appears in the Facilities Study report for the Queue No. AG1-489 project. *Generation Interconnection Facilities Study Report For PJM Interconnection Request Project Identifier AG1-489*, PJM Interconnection, L.L.C., 21 (stating that “[i]f AF1-146 does not go in service, Project Developer for AG1-489 will be responsible to do relay terminal upgrade and fiber requirements at Hoytdale and McClelland”), 24 (stating “[i]f AF1-146 does not go in service, [generator owner] for AG1-489 will be responsible to do relay terminal upgrade and fiber requirements at Hoytdale and McClelland”) (Sept. 2024), https://www.pjm.com/pub/planning/project-queues/facilities/ag1489_fac.pdf.

extended coextensively with any suspension of work initiated by Interconnection Customer.”⁹ Thus, each of these milestone dates was deemed extended by one year.

7. On June 27, 2024, Firefly forwarded to PJM a letter requesting an extension of the milestones set forth in the Firefly ISA due to what it claimed were extenuating permitting issues beyond its control.¹⁰ The June 26 Letter included a “formal request for PJM Interconnection to grant the maximum allowable suspension to the Project as permitted within the ISA/ICSA, or to accept the updated milestone dates set forth above and to prepare amendments to the ISA and ICSA reflecting the revised dates.”¹¹ However, the letter did not include a request to PJM and ATSI to “recommence the work required under the applicable agreement(s).” By e-mail dated July 9, 2024, PJM denied the request for a full three-year suspension period, reiterating such suspension would impact other projects in the queue.¹² PJM also rejected the requested milestone extension request as premature, on the basis that the underlying issues might be resolved by the time the revised site permit milestone came due.¹³ My e-mail to Firefly indicated the PJM “would be more than willing to re-evaluate a milestone extension,” at a later point-in-time closer to

⁹ Firefly ISA, section 6.6.

¹⁰ See Exhibit 1 at 3-4 (E-mail from Erin Baker, Vesper, to Nathan Roberts, PJM (June 27, 2024, 4:40 p.m.)) and Exhibit 2 at 1 (“June 26 Letter”).

¹¹ June 26 Letter at 3. Firefly indicated that it expected that a revised ordinance addressing the permitting issues would be issued by the first quarter of 2025, with permitting to follow shortly thereafter. *Id.*

¹² See Exhibit 1 at 3 (E-mail from Nathan Roberts, PJM, to Erin Baker, Vesper (July 9, 2024, 9:45 a.m.)).

¹³ See *id.* As explained above, the first milestone due under the Firefly ISA was the site permit milestone. As set forth in section 6.1 of the Firefly ISA, that milestone was June 30, 2024, but the milestone was extended to June 30, 2025, coincident with the use of the one-year suspension period. Firefly indicated that it expected the permitting issues to be resolved the first quarter of 2025 or shortly thereafter. It was therefore uncertain if the site permit milestone would need further extensions.

the June 30, 2025 deadline for compliance with the revised site permit milestone.¹⁴ Once again, at no time did Firefly question or contest PJM’s Material Modification analysis concerning its June 26, 2024 suspension request, did not object to PJM’s denial of the milestone extension request, and did not request PJM and ATSI to recommence work. While the Queue No. AG1-489 project withdrew its Interconnection Request September 27, 2024, this date was well after August 7, 2024, the date the suspension period for the Firefly project ended.

8. Firefly’s suspension period ended on August 7, 2024, without Firefly providing the required notice to PJM and ATSI to exit suspension and recommence activities under the ISA and CSA. On September 11, 2024, Mr. Sonny Nguyen of Vesper sent an e-mail to PJM requesting certain invoice information “[s]ince we have been out of suspension since August 7th.”¹⁵ I sent Mr. Nguyen two e-mails requesting that he provide a copy of the notice that Firefly exited suspension.¹⁶ Mr. Nguyen did not provide any such documentation, but instead replied on September 17, 2024, “Please disregard, we misinterpreted on our end.”¹⁷
9. The following timeline outlines the sequence of the events described above:
 - August 8, 2023: Firefly enters suspension.
 - August 24, 2023: PJM limits Firefly to a one-year suspension due to material impact on the Queue No. AG1-489 project.
 - June 27, 2024: Firefly requests a milestone extension or a three-year suspension.

¹⁴ *Id.*

¹⁵ Exhibit 1 at 2 (E-mail from Sonny Nguyen, Vesper, to Nathan Roberts, PJM (Sept. 11, 2024, 2:49 p.m.)).

¹⁶ See Exhibit 1 at 2 (E-mail from Nathan Roberts, PJM, to Sonny Nguyen, Vesper (Sept. 12, 2024, 9:16 a.m.)) and at 1-2 (E-mail from Nathan Roberts, PJM, to Sonny Nguyen, Vesper (Sept. 17, 2024, 9:47 a.m.)).

¹⁷ Exhibit 1 at 1 (E-mail from Sonny Nguyen, Vesper, to Nathan Roberts, PJM (Sept. 17, 2024, 9:20 a.m.)).

- July 9, 2024: PJM denies both the milestone extension and the request for extended suspension due to the ongoing impact on the Queue No. AG1-489 project.
- August 7, 2024: Firefly's suspension period ends with no request to exit suspension and recommence work. Consistent with Appendix 2, section 3.4.2 of the Firefly CSA, Firefly's project enters termination status.
- September 17, 2024: When asked to provide documentation that it intended to exit suspension, Vesper's representative replies: "Please disregard, we misinterpreted on our end."
- September 27, 2024: The Queue No. AG1-489 project withdraws, as requested by the Project Developer. However, Firefly's suspension has already expired, and the project was terminated as of August 7, 2024, per section 3.4.2 of the CSA.

10. This concludes my affidavit.

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Firefly Solar PA LLC

)

Docket No. ER25-194-000

VERIFICATION

I, Nathan Roberts, pursuant to 28 U.S.C. § 1746, state, under penalty of perjury, that I am the Nathan Roberts referred to in the foregoing “Affidavit of Nathan Roberts on Behalf of PJM Interconnection, L.L.C.,” that I have read the same and am familiar with the contents thereof, and that the facts set forth therein are true and correct to the best of my knowledge, information, and belief.

DocuSigned by:
Nathan Roberts
AD2196A2F6A54CB...

Nathan Roberts

Executed on: 11/12/2024

Exhibit 1

From: [Sonny Nguyen](#)
To: [Roberts, Nathan](#); [Erin Baker](#); [Bielak, Natalie](#)
Cc: [Joe Torkelson](#)
Subject: RE: AF1-146/AF2-322 - Firefly Solar - Milestone Extension Request
Date: Tuesday, September 17, 2024 11:20:32 AM
Attachments: [image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image016.png](#)
[image017.png](#)
[image018.png](#)
[image019.png](#)
[image020.png](#)
[image021.png](#)
[image022.png](#)

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Hi Nate,

Please disregard, we misinterpreted on our end.

Thank you,



Sonny Nguyen, PE
DIRECTOR, TRANSMISSION AND
INTERCONNECTION

C: 682-478-8999

Vesper Energy
125 E. John Carpenter FWY
Suite 525
Irving, Texas 75062

From: Roberts, Nathan <Nathan.Roberts@pjm.com>
Sent: Tuesday, September 17, 2024 9:47 AM
To: Sonny Nguyen <sonny.nguyen@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Bielak, Natalie <Natalie.Bielak@pjm.com>
Cc: Joe Torkelson <joe.torkelson@vesperenergy.com>
Subject: RE: AF1-146/AF2-322 - Firefly Solar - Milestone Extension Request

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Sonny,

Just following up on the request I sent Thursday.

Nate

From: Roberts, Nathan
Sent: Thursday, September 12, 2024 9:16 AM
To: 'Sonny Nguyen' <sonny.nguyen@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Bielak, Natalie <Natalie.Bielak@pjm.com>
Cc: Joe Torkelson <joe.torkelson@vesperenergy.com>
Subject: RE: AF1-146/AF2-322 - Firefly Solar - Milestone Extension Request

Sonny,

I did not see a notice from you stating you would be exiting suspension, please provide a copy of the notice you provided to PJM to exit suspension.

Nate

From: Sonny Nguyen <sonny.nguyen@vesperenergy.com>
Sent: Wednesday, September 11, 2024 2:49 PM
To: Roberts, Nathan <Nathan.Roberts@pjm.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Bielak, Natalie <Natalie.Bielak@pjm.com>
Cc: Joe Torkelson <joe.torkelson@vesperenergy.com>
Subject: RE: AF1-146/AF2-322 - Firefly Solar - Milestone Extension Request

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Hi Nate,

Hope all is well. Since we have been out of suspension since August 7th, can you please let us know what are the invoice costs we should expect for the next 6 or so months? We're trying to forecast and budget our spend for this project and any help on expected spend from PJM/ATSI would be greatly appreciated.

Thank you,



Sonny Nguyen, PE
DIRECTOR, TRANSMISSION AND INTERCONNECTION

C: 682-478-8999

Vesper Energy
125 E. John Carpenter FWY
Suite 525
Irving, Texas 75062

From: Roberts, Nathan <Nathan.Roberts@pjm.com>
Sent: Tuesday, July 9, 2024 9:45 AM
To: Erin Baker <Erin.Baker@vesperenergy.com>
Cc: Joe Torkelson <joe.torkelson@vesperenergy.com>; Sonny Nguyen <sonny.nguyen@vesperenergy.com>
Subject: RE: AF1-146/AF2-322 - Firefly Solar - Milestone Extension Request

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Erin,

PJM has reviewed your request for suspension and AF1-146/AF2-322 is still limited to one year of suspension due to its impact on another Queue. For the Milestone Extension, at this time we will not be granting the extension due to the unforeseen future of the permitting with the township, You stated that by Q1 2025 you would be expecting an answer as to the fate of the project. If you are to remain in suspension for the full duration of the 1-year granted (August 7th, 2024) your earliest milestone would be June 30, 2025 which is Q2 of 2025. By then you should have a concrete answer and we would be more than willing to re-evaluate a milestone extension at that time.

Nate

From: Erin Baker <Erin.Baker@vesperenergy.com>
Sent: Thursday, June 27, 2024 4:40 PM
To: Roberts, Nathan <Nathan.Roberts@pjm.com>
Cc: Joe Torkelson <joe.torkelson@vesperenergy.com>; Sonny Nguyen <sonny.nguyen@vesperenergy.com>
Subject: RE: AF1-146/AF2-322 - Firefly Solar - Milestone Extension Request

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Hi, Nate.

Attached is a letter that provides a status update on the Firefly project and, accordingly, a formal request for milestone extension due to extenuating circumstances beyond the project's control and pursuant to Section 3.3 of Appendix 2 of the ICSA. Can you please review with your team and get back to us? We're happy to discuss if you have any questions.

Best regards,
Erin



Erin Baker

Vice President, Development East

C: 979.492.9547

Vesper Energy
125 E. John Carpenter Fwy
Suite 525
Irving, Texas 75062

From: Roberts, Nathan <Nathan.Roberts@pjm.com>

Sent: Thursday, August 24, 2023 12:49 PM

To: Jason Hastings <jason.hastings@vesperenergy.com>

Cc: Sonny Nguyen <sonny.nguyen@vesperenergy.com>; Joe Torkelson <joe.torkelson@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Franklin Wambold <franklin.wambold@vesperenergy.com>; Culp, Louis <Louis.Culp@pjm.com>; Amoling, Leo A <Leo.Amoling@pjm.com>; Krizenoskas, Lisa <Lisa.Krizenoskas@pjm.com>; Seeley, Dylan <Dylan.Seeley@pjm.com>

Subject: RE: AF1-146/AFT-322 - Firefly Solar

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Jason,

The suspension of the Interconnection Facilities for AF1-146/AF2-322 is Material and limited to 1 year from the date of your original suspension request. Subsequent queue project AG1-489 is

dependent on the Interconnection Facilities. Therefore, an extended suspension period for the construction of the Interconnection Facilities beyond 1 year will not be allowed. If the IC Customer would like to revisit suspension at the end of their suspension period you may elect to have a re-evaluation done at IC Customers Request.

Best Regards,

Nate

From: Jason Hastings <jason.hastings@vesperenergy.com>
Sent: Wednesday, August 16, 2023 9:23 AM
To: Roberts, Nathan <Nathan.Roberts@pjm.com>; Seeley, Dylan <Dylan.Seeley@pjm.com>
Cc: Sonny Nguyen <sonny.nguyen@vesperenergy.com>; Joe Torkelson <joe.torkelson@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Franklin Wambold <franklin.wambold@vesperenergy.com>; Culp, Louis <Louis.Culp@pjm.com>
Subject: RE: AF1-146/AFT-322 - Firefly Solar

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Nathan,

Thanks!



Jason Hastings
MANAGER, INTERCONNECTION STRATEGY

C: 765.438.9637

Vesper Energy
125 E. John Carpenter Fwy
Suite 525
Irving, Texas 75062

From: Roberts, Nathan <Nathan.Roberts@pjm.com>

Sent: Tuesday, August 15, 2023 9:26 AM

To: Jason Hastings <jason.hastings@vesperenergy.com>; Seeley, Dylan <Dylan.Seeley@pjm.com>

Cc: Sonny Nguyen <sonny.nguyen@vesperenergy.com>; Joe Torkelson <joe.torkelson@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Franklin Wambold <franklin.wambold@vesperenergy.com>; Culp, Louis <Louis.Culp@pjm.com>

Subject: RE: AF1-146/AFT-322 - Firefly Solar

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Hey Jason,

Will place you in suspension as of 8/8/24. Will get back to you on the suspension evaluation. Welcome Back.

Nate

From: Jason Hastings <jason.hastings@vesperenergy.com>

Sent: Monday, August 14, 2023 11:39 AM

To: Seeley, Dylan <Dylan.Seeley@pjm.com>; Roberts, Nathan <Nathan.Roberts@pjm.com>

Cc: Sonny Nguyen <sonny.nguyen@vesperenergy.com>; Joe Torkelson <joe.torkelson@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Franklin Wambold <franklin.wambold@vesperenergy.com>; Culp, Louis <Louis.Culp@pjm.com>

Subject: RE: AF1-146/AFT-322 - Firefly Solar

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Good morning Dylan,

Thank you for the information.

[@Roberts, Nathan](#) It's good to reconnect, you and I collaborated on a couple of Ohio projects while I was with NG Renewables. Please let me know if you need anything further from me on this.



Jason Hastings

MANAGER, INTERCONNECTION STRATEGY

C: 765.438.9637

Vesper Energy
125 E. John Carpenter Fwy
Suite 525
Irving, Texas 75062

From: Seeley, Dylan <Dylan.Seeley@pjm.com>
Sent: Monday, August 14, 2023 9:33 AM
To: Jason Hastings <jason.hastings@vesperenergy.com>
Cc: Sonny Nguyen <sonny.nguyen@vesperenergy.com>; Joe Torkelson <joe.torkelson@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Franklin Wambold <franklin.wambold@vesperenergy.com>; Roberts, Nathan <Nathan.Roberts@pjm.com>; Culp, Louis <Louis.Culp@pjm.com>
Subject: RE: AF1-146/AFT-322 - Firefly Solar

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Hi Jason,

As is outlined in the ISA cover letter, the PJM construction PM for this project is Nate Roberts. Please work with him on this request. I have copied Nate here.

Thanks,
Dylan Seeley
Sr. Engineer II, Interconnection Projects
C: (610)592-6183 | Dylan.Seeley@pjm.com
PJM Interconnection | 2750 Monroe Blvd. | Audubon, PA 19403

From: Jason Hastings <jason.hastings@vesperenergy.com>
Sent: Friday, August 11, 2023 10:44 AM
To: Seeley, Dylan <Dylan.Seeley@pjm.com>
Cc: Sonny Nguyen <sonny.nguyen@vesperenergy.com>; Joe Torkelson <joe.torkelson@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Franklin Wambold <franklin.wambold@vesperenergy.com>
Subject: RE: AF1-146/AFT-322 - Firefly Solar

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Good morning Dylan,

We request that Firefly Solar (AF1-146 and AFT-322) be placed into suspension starting on 8/8/2023. Please confirm that these projects have been placed into suspension at your earliest convenience. Thank You.



Jason Hastings

MANAGER, INTERCONNECTION STRATEGY

C: 765.438.9637

Vesper Energy
125 E. John Carpenter Fwy
Suite 525
Irving, Texas 75062

From: Seeley, Dylan <Dylan.Seeley@pjm.com>

Sent: Wednesday, August 2, 2023 8:30 AM

To: Jason Hastings <jason.hastings@vesperenergy.com>

Cc: Sonny Nguyen <sonny.nguyen@vesperenergy.com>; Joe Torkelson <joe.torkelson@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Franklin Wambold <franklin.wambold@vesperenergy.com>

Subject: RE: AF1-146 - Firefly Solar

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Hi Jason,

Yes, we have received the executed ISA/ICSA and LC. The agreements are now with FirstEnergy for execution.

Thanks,

Dylan Seeley

Sr. Engineer II, Interconnection Projects

C: (610)592-6183 | Dylan.Seeley@pjm.com

From: Jason Hastings <jason.hastings@vesperenergy.com>
Sent: Wednesday, August 2, 2023 9:18 AM
To: Seeley, Dylan <Dylan.Seeley@pjm.com>
Cc: Sonny Nguyen <sonny.nguyen@vesperenergy.com>; Joe Torkelson <joe.torkelson@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Franklin Wambold <franklin.wambold@vesperenergy.com>
Subject: RE: AF1-146 - Firefly Solar

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Good morning Dylan,

Just following up to get confirmation that PJM received the ISA executed by Vesper Energy for Firefly Solar? Thanks!



Jason Hastings
MANAGER, INTERCONNECTION STRATEGY

C: 765.438.9637

Vesper Energy
125 E. John Carpenter Fwy
Suite 525
Irving, Texas 75062

From: Jason Hastings
Sent: Friday, July 28, 2023 8:48 AM
To: Seeley, Dylan <Dylan.Seeley@pjm.com>
Cc: Sonny Nguyen <sonny.nguyen@vesperenergy.com>; Joe Torkelson <joe.torkelson@vesperenergy.com>; Erin Baker <Erin.Baker@vesperenergy.com>; Franklin Wambold <franklin.wambold@vesperenergy.com>
Subject: AF1-146 - Firefly Solar

Good morning Dylan,

Attached is an electronic copy of the LC for Firefly Solar, the hard copy should arrive today. When you get the chance can you please confirm that PJM received the ISA for Firefly that was executed by Vesper Energy?

Thank You!



Jason Hastings

MANAGER, INTERCONNECTION STRATEGY

C: 765.438.9637

Vesper Energy
125 E. John Carpenter Fwy
Suite 525
Irving, Texas 75062

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Exhibit 2



June 26, 2024

PJM Interconnection
2750 Monroe Boulevard
Audubon, PA 19403

Subject: AF1-146/ AF2-322 – Firefly Solar PA ISA/ICSA Milestone Schedule

To Whom It May Concern,

Firefly Solar PA LLC ("Firefly Solar") is a 401.62 MW solar PV project in Lawrence County, Pennsylvania, with queue numbers AF1-146/ AF2-322 (the "Project"). Firefly Solar, PJM Interconnection, L.L.C., and American Transmission Systems, Incorporated are parties to (i) an Interconnection Service Agreement, dated August 8, 2023 (the "ISA") and (ii) an Interconnection Construction Service Agreement, dated August 8, 2023 (the "ICSA"), which includes both of the above-referenced queue numbers. Firefly Solar is requesting an adjustment to the milestone schedule within the ISA and ICSA due to extenuating circumstances beyond the Project's control and pursuant to Section 3.3 of Appendix 2 of the ICSA.

In the Commonwealth of Pennsylvania, utility-scale solar project permitting is governed by the relevant local jurisdiction ordinance(s). Firefly Solar is located within North Beaver Township (the "Township") in Lawrence County. In 2021, Firefly Solar personnel worked collaboratively with the Township Planning Commission to draft a solar ordinance outlining the requirements to construct and operate a utility-scale solar project. After ten months of research and drafting, the Planning Commission unanimously recommended the ordinance for approval to the Township Supervisors for a vote. Instead of approving the ordinance as drafted, the Supervisors added ad hoc language restricting utility-scale solar placement to only industrial zoned parcels, which are limited, non-contiguous, and largely already developed within the Township. By making this change, the Supervisors effectively issued a moratorium on utility-scale solar projects and undermined the 2,800 acres of agriculturally zoned land Firefly Solar had under site control. We believe this ordinance legally conflicts with existing state rights surrounding agricultural operations, and as such, in November 2022, a landowner participating in the Project filed an "ACRE" (Agriculture, Communities and Rural Environment) claim with the Pennsylvania Attorney General's office. This process was created to ensure that ordinances adopted by local governments to regulate normal

agricultural operations are not violating state law. In June 2023, this claim was denied by the Attorney General's office, declining to bring a case against the North Beaver Township.

To mitigate the timeline uncertainty, Firefly Solar entered suspension on August 8, 2023, intending to exit suspension once there was a viable path to zoning.

Since then, largely in response to our strong engagement with the community as a whole, the Township Supervisors have agreed to consider an amendment to the existing solar ordinance by adopting a solar overlay district, paving a path for new siting opportunities for this Project. The timeline is still unclear, but based on preliminary indications from the Supervisors and their counsel, we anticipate an ordinance amendment by Q1 2025 with Project permitting following shortly thereafter.

Based on this, the suspension period afforded to Firefly Solar is not sufficient to achieve all requisite site permits.

Firefly Solar proposes the following schedule to achieve Commercial Operations at the Project, which is driven by the expected Township permitting timeline. If granted, the amended Commercial Operations Date would be December 31, 2027.

MILESTONE	Milestone Category	Current ICESA Schedule	Expected Completion Date
North Beaver Township Amend Solar Ordinance	Development		3/1/2025
Firefly Zoning Application Submittal	Development		8/1/2025
Firefly Zoning Application Acceptance	Development		2/1/2026
Acquisition of major electrical equipment	Interconnection	2/1/2025	5/1/2026
Site permits	Interconnection	6/30/2024	6/30/2026
Delivery of major electrical equipment	Interconnection	8/1/2026	10/1/2027
Substantial site work completed	Interconnection	3/1/2026	5/1/2027
Commercial Operation	Interconnection	9/1/2026	12/31/2027

This letter shall serve as Firefly Solar's formal request for PJM Interconnection to grant the maximum allowable suspension to the Project as permitted within the ISA/ICSA, or to accept the updated milestone dates set forth above and to prepare amendments to the ISA and ICESA reflecting the revised dates. Please contact me at the email or phone number below to confirm PJM Interconnections' agreement to the updated dates or with any questions or concerns.

Best Regards,



Erin Baker
Vice President, Development East
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(979) 492-9547

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 13th day of November 2024.

/s/ David S. Berman

***Attorney for PJM Interconnection,
L.L.C.***