BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF WILD SPRINGS SOLAR, LLC FOR AN ENERGY FACILITY PERMIT FOR THE WILD SPRINGS SOLAR PROJECT

SD PUC DOCKET EL 20-018

SUPPLEMENTAL REBUTTAL TESTIMONY OF CHRISTOPHER MORGAN
ON BEHALF OF WILD SPRINGS SOLAR, LLC

November 11, 2020

I. INTRODUCTION AND QUALIFICATIONS

Q. Please state your name and position.

A. My name is Christopher Morgan and I am the Controller at National Grid Renewables (formerly known as Geronimo Energy, LLC) ("NG Renewables").

Q. Did you provide Rebuttal Testimony on behalf of Wild Springs Solar Project, LLC ("Wild Springs") on November 4, 2020?

A. Yes.

II. PURPOSE OF TESTIMONY

Q. What is the purpose of your Supplemental Rebuttal Testimony?

A. At the time my Rebuttal Testimony was filed, Wild Springs was coordinating with a surety company to obtain a draft surety bond for the Wild Springs Solar Project ("Project"). Wild Springs now has a draft surety bond, and I am providing this supplemental testimony to present the draft surety bond to the Commission and Commission Staff.

Q. What exhibits are attached to your Direct Testimony?

A. The following exhibits are attached to my Direct Testimony:

- Exhibit A11-1: Draft Surety Bond

III. DRAFT SURETY BOND

Q. Please discuss the draft surety bond.

A. A copy of the draft surety bond is provided as **Exhibit A11-1**. Some of the key terms of the draft surety bond are as follows:

  - Wild Springs Solar, LLC is the named Principal.

- Ohio Casualty Insurance Company is the named Surety, and is licensed to do business in South Dakota. Ohio Casualty Insurance Company is a Liberty Mutual Insurance company.
- The Commission is named as Obligee, and the bond is for the benefit of both the Commission and the Pennington County Planning Commission.
- The amount of the surety bond would be based on the updated decommissioning cost estimate prepared for the final Project design. Currently, a placeholder of $4,480,000 is included, which is based on the Project's most recent decommissioning cost estimate (*see* Exhibit A10-1 to my Rebuttal Testimony).
- Wild Springs' decommissioning obligations to the Commission and Pennington County under the Energy Facility Permit and the Conditional Use Permit, respectively, are identified.
- The surety bond states that if the Principal completes all of the decommissioning obligations set forth under the permits, then the bond is void; otherwise, the bond remains in full force and effect.
- The Surety can only cancel the bond if it provides the Commission with advance written notice **<u>and</u>** Wild Springs provides the Commission with replacement security acceptable under the terms of the permits issued for the Project.
- If Wild Springs does not provide replacement security, then the Surety shall do one of three things: (1) rescind the bond cancellation; (2) arrange for decommissioning of the Project as required per the decommissioning obligations; or (3) pay the Commission and/or the Pennington County Planning Commission for any out of pocket costs incurred to decommission the Project, minus salvage.

Q. Is it accurate to say that the draft surety bond will ensure funds are available to decommission the Project at whatever point in time decommissioning needs to occur?

A. Yes. As drafted, the surety bond will not terminate unless and until Wild Springs completes all decommissioning obligations set forth under the Energy Facility Permit and the Conditional Use Permit. Further, unless the surety bond is cancelled **<u>and</u>** replaced by Wild Springs with security acceptable under the terms of the Energy Facility Permit and the Conditional Use Permit, the Surety will remain obligated to cover decommissioning costs for the Project.

Q. What are the benefits of the proposed surety bond over an escrow fund?

A. There are several benefits:

- First, as proposed, the surety bond will provide full decommissioning throughout the life of the Project without the need for renewal, whereas an escrow account funded over time would not provide full funding until year 20 or 30, depending on the funding period. Also, because the bond would be fully funded up front, there wouldn't be a risk that escrow deposits would stop short of full funding.

- Second, a surety bond is not an asset of Wild Springs, so it would not be affected in the event Wild Springs were to file for bankruptcy.

- Third, the surety bond is provided by a surety company. To issue surety bonds in South Dakota, a company must be licensed by the Director of the South Dakota Division of Insurance.[1] Both The Ohio Casualty Insurance Company and Liberty Mutual Insurance Company hold surety licenses in the State of South Dakota (*see* the U.S. Bureau of the Fiscal Service List of Certified Surety Companies, listing state licensures for both companies: https://www.fiscal.treasury.gov/surety-bonds/list-certified-companies.html). At the federal level, The Ohio Casualty Insurance Company has a Treasury Rating (underwriting limit per bond) of approximately $188 million (*see* https://www.fiscal.treasury.gov/surety-bonds/list-certified-companies.html#o), while Liberty Mutual Insurance Company has a Treasury Rating of over $1.3 billion (see https://www.fiscal.treasury.gov/surety-bonds/list-certified-companies.html#l). Thus, a surety bond is provided by a regulated,

[1] Documentation of licensure as a surety must be accepted as evidence of the surety's financial qualifications to issue surety bonds without further proof. SDCL 58-21-2.

licensed entity that has demonstrated the financial wherewithal to act as a surety in the state.

IV. CONCLUSION

Q. Does this conclude your Rebuttal Testimony?

A. Yes.

Dated this 11th day of November, 2020.

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Christopher Morgan