

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH
DOCKET NO. SP-100, SUB 35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:)	
Request for Declaratory Ruling by)	
Sunstone Energy Development LLC that the Jurisdiction)	AFFIDAVIT OF
of the North Carolina Utilities Commission does not)	DAN SWAYZE
Extend to the Federal Enclave within Fort Bragg)	

NOW COMES the undersigned Dan Swayze, who being duly sworn deposes and says as follows:

1. My name is Dan Swayze. I am over eighteen (18) years of age, suffer from no disability, and am competent to testify as to the matters set forth herein, all of which are based on personal knowledge except where otherwise indicated.

2. I am Manager of Sunstone Energy Development LLC and oversee its development activities.

3. I am aware that Sunstone Energy Development LLC (“Sunstone”) is submitting a Pre-Hearing Brief in the above-referenced docket, and provide this affidavit in connection with that filing.

4. Bragg Communities, LLC (“BCL”) has a Ground Lease with the United States, subject to an initial term running to 2053, that includes areas on which it will operate, improve, and maintain military housing. The solar energy and energy efficiency services Sunstone would afford to BCL under the Proposed Project would be generated and provided wholly within areas subject to BCL’s Ground Lease with the United States.

5. BCL would be the sole offtaker of the energy generated by the Proposed Project, and its facilities and activities are located within the bounds of the Ground Lease.

6. The Proposed Project is part of a broader, Army-approved alternative energy portfolio under which solar-generated electricity is to be provided to the privatized owners and operators of on-base housing for Service Members and their families at Aberdeen Proving Grounds (MD), Fort Meade (MD), Fort Bragg (NC), Fort Polk (LA), Fort Rucker (AL), Fort Sill (OK), and Fort Riley (KS).

7. To develop solar energy projects for the on-base housing areas at individual military bases, Sunstone enters a contract to provide solar energy and energy efficiency services to the privatized entity that owns and operates on-base housing under the Army's Residential Communities Initiative ("RCI Program"). The RCI Program is the Army's implementation of the Military Housing Privatization Initiative ("MHPI") contained in the National Defense Authorization Act for Fiscal Year 1996.

8. Sunstone has entered ten (10) similar agreements with the private entities that own and control housing on military bases across the country.

9. I understand that Sunstone previously has provided to the Commission, in a confidential filing, a copy of a recently entered Energy Services Agreement between Sunstone and the private military housing owner and operator at Fort Riley. Sunstone plans to enter a contract of similar form and substance with BCL for the Proposed Project.

10. The authorized representative who will sign the Energy Services Agreement on behalf of BCL, as well as BCL's external counsel, have reviewed the Riley contract and anticipate that BCL will execute a contract of similar terms and structure with appropriate changes and additions that reflect considerations of North Carolina law and project-specific

facts. Indeed, Sunstone and BCL have a Letter of Intent in place under which they will enter an agreement in substantially the same form as the Riley contract upon positive resolution of the issues before the Commission in this docket. *See* CONFIDENTIAL Exhibit 1.

11. BCL's Managing Member, Bragg-Picerne Partners, LLC, is appraised of the development, construction, and operation of solar-generation facilities at the other bases in the Army's portfolio, and its representatives are aware of and monitor the proceedings in this docket.

12. Sunstone has worked under the auspices of the Army's alternative energy portfolio to install solar energy capability at Aberdeen Proving Ground (7.1 MW of rooftop and ground mount), Fort Meade (8.7 MW, rooftop), and Fort Riley (10.5 MW, rooftop). An additional development phase at Fort Riley (1.7 MW, rooftop) is expected to be energized in December 2021. Moreover, a System Impact Study (similar to that which would be conducted for the Proposed Project by Sandhills Utility Services, LLC) is currently being performed for the on-base solar project at Fort Polk with an expected completion in early 2022.

13. In an effort to explain, and secure cooperation in, the Proposed Project from Duke Energy Progress, LLC ("DEP"), principals and counsel for Sunstone and DEP met in Raleigh on October 8, 2019 regarding the Proposed Project, with a constructive discussion ending with DEP's indication that it wished to pursue review of how the Federal Enclave Doctrine applied to the situation.

14. As a result of the meeting, Sunstone shared with DEP a draft version of the Request for Declaratory Ruling. Sunstone and DEP also executed a Confidentiality Agreement under which Sunstone provided further information about the Proposed Project to DEP in response to follow-up questions.

15. Ultimately, on or about October 31, 2019 DEP's regulatory counsel informed Sunstone that because DEP believed there was no affirmative authority that a private power generator in a federal enclave is not subject to State utilities law, DEP would oppose Sunstone's request for a declaratory ruling from the Commission.

16. DEP affirmed that position in a November 20, 2019 meeting to discuss the Proposed Project that included representatives from Sunstone, DEP, and the Public Staff. Finally, DEP's regulatory counsel confirmed on or about December 9, 2019 that additional information provided by Sunstone had not changed DEP's views about the federal enclave issues involved with the Proposed Project.

17. Further your affiant sayeth not.

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This the 15th day of November, 2021.

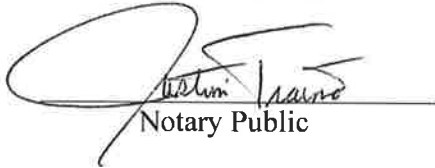


DAN SWAYZE

STATE OF New York

COUNTY OF New York

Before me this 15th day of November, 2021 appeared Daniel Swayze, known to me to be the person identified in the foregoing affidavit, who, being duly sworn deposes and says that the matters stated therein are true of her personal knowledge except where stated to be based on information and belief, and as to those matters, he believes them to be true.



Notary Public

(SEAL)

My Commission Expires: 4/6/2023

