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October 11, 2016

Via Electronic Filing

Chief Clerk
NC Utilities Commission
430 North Salisbury Street
Raleigh, NC 27603

RE: Docket No. SP-4340, Sub 0
Notice of Sale-Leaseback Transaction
Hardison Farm Solar, LLC

Dear Clerk Mount:

This letter is intended to apprise the North Carolina Utilities Commission (the "**Commission**") of a sale-leaseback transaction involving the new renewable energy facility (the "**Facility**") described and recognized by the Commission in the above referenced docket. Through this docket, Hardison Farm Solar, LLC ("**Applicant**") was issued a Certificate of Public Convenience and Necessity (the "**CPCN**") for the Facility, and obtained registration for the Facility as a new renewable energy facility (the "**Registration**"). Applicant is party to an Agreement for the Sale of Electrical Output and an Interconnection Agreement with Virginia Electric and Power Company (the "**Utility**") that relate to the Facility.

Commission Rule R8-64(d)(3) requires the holder of a certificate of public convenience and necessity, both before and after the completion of construction of the generating facility that is the subject of the certificate, to advise the Commission and the involved Utility of any plans to sell, transfer or assign the certificate or the generating facility or of any significant changes to the information required by Rules R8-64(b)(l) thru (b)(5).

Similarly, Commission Rule R8-66(h) requires the owner of a renewable energy facility that has registered with the Commission to notify the Commission and the tracking system that issues the facility's renewable energy certificates of any material change in status, including an ownership change.

We respectfully submit this letter under and pursuant to the foregoing rules, and request that the Commission accept the instant filing and take no further action in this docket. Our action in this docket is based on precedent of the Commission involving the type of transaction discussed herein that would indicate that this notice filing is the appropriate method to reflect the proposed transaction in this docket.

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In connection with the financing of the Facility and effective as of September 27, 2016, Applicant entered into a sale-leaseback financing arrangement for the Facility (the "**Transaction**").[1] Pursuant to the Transaction, Applicant sold the Facility to RF Cypress Solar Trust ("**Investor**"), a statutory trust established pursuant to the Delaware Statutory Trust Act, with Regions Bank, an Alabama banking corporation, as beneficial owner. Investor and Applicant subsequently entered into an equipment lease (the "**Equipment Lease**") for the Facility. The Equipment Lease is a triple-net lease which, during the lease term, among other matters: (i) gives Applicant the exclusive right to use, operate and maintain the Facility to generate and sell renewable energy and (ii) obligates Applicant to pay all taxes, maintain required insurance, repair, maintain and replace the Facility as needed, and to otherwise assume the full risk of loss with respect to the Facility. Although it holds legal title to the Facility, at no time during the lease term will Investor have operational control of the Facility. Upon the expiration of the lease term, Applicant has the option to purchase the Facility for fair market value or to return it to Investor.[2] Applicant will remain party to the Agreement for the Sale of Electric Output and Interconnection Agreement with the Utility, which agreements have been collaterally assigned to Investor as part of the Transaction.

Applicant represents that all factual information in its certificate application regarding the nature of the Facility, the nameplate capacity of the Facility, the location and description of the Facility, associated costs, Facility plans and required permits will not be affected by the change in legal ownership described above. For informational purposes, the information specified in R8-64(b)(l)(i) concerning Investor is included on ***Exhibit A*** attached to this letter.

Applicant further represents that no public utility will have ownership in any entity holding an interest in the Facility. As the Facility will have a nameplate capacity under twenty-five (25) megawatts (AC), the requirements of R8-64(b)(6) were not included in the application and need not be addressed in further or related notices to the Commission.

In support of Applicant's request, we note that, at all times before and after completion of the Transaction, the existing certificate holder, Applicant, will maintain decision-making and operational control of the Facility.

Investors in a sale-leaseback structure who similarly purchase a renewable energy facility and then lease it back to the operator have been recognized by the Federal Energy Regulatory Commission ("**FERC**") as "*passive investors that do not exercise control or decision-making*

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[1] Sale-leasebacks are a common type of arrangement in the solar industry.

[2] Applicant acknowledges that further filings with the Commission may be necessary at the end of the lease term if Applicant does not exercise its purchase option or upon any other transfer of operational control in the Facility to a third party.

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authority over the leased facilities, and are not otherwise in the business of selling or producing electric energy".[3] FERC has disclaimed jurisdiction over such parties.

We respectfully request that the Commission similarly recognize Investor's status as a passive investor/owner and allow all relevant filings, certificates and registrations, including the CPCN and the Registration (and its associated registration in NC-RETS), and all relevant agreements between Applicant and the Utility, to remain with and in the name of Applicant, until such time as the Equipment Lease terminates, or other circumstances occur that would cause Applicant to no longer retain decision-making and operational control of the Facility. As previously indicated, the Public Staff has supported the approach outlined in this letter with similar financial transactions involving other facilities throughout North Carolina.

[*Signature page follows*]

[3] See *Alta Wind Holdings, LLC*, Docket No. EL 10-85-000 "Order Granting Petition for Declaratory Order Disclaiming Jurisdiction" (Nov. 24, 2010), 133 FERC 61, 177 (2010).

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Please do not hesitate to contact us directly at regulatory@ccrenew.com if you have any questions or require further information.

Sincerely,

HARDISON FARM SOLAR, LLC

Name: Jerome O'Brien
Title: Authorized Person

cc: Virginia Electric and Power Company (Dominion)

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Exhibit A

RF Cypress Solar Trust
c/o Regions Bank
1900 5th Avenue North
24th Floor
Birmingham, AL 35203