



Joseph P. Hebert
jphebert@liskow.com

April 22, 2024

RECEIVED

APR 23 2024

LA Public Service Commission

Via FedEx

Mr. Brandon Frey, Executive Secretary
Louisiana Public Service Commission
602 North Fifth Street, 12th Floor
Baton Rouge, LA 70821

Re: Docket No. _____
Golden Beams Power LLC
In Re: Petition For Jurisdictional Determination

Dear Secretary Frey:

You will find enclosed an original and two (2) copies of the *Petition For Jurisdictional Determination* being filed on behalf of Golden Beams Power LLC. Please file the original and necessary copies into the record and have processed for future handling as may be appropriate. I also enclose another copy and ask that you file stamp same indication your receipt and return it to our office in the self-addressed and stamped envelope.

Please proceed to have notice of the filing of the enclosed petition included in the Commission's April 26, 2024 Official Bulletin, with allowance of fifteen (15) days for interventions.

Should you have any questions, please do not hesitate to contact me.

Thank you for your attention to this request.

Sincerely,

LISKOW & LEWIS

Joseph P. Hebert

JPH/drb

Enclosures

cc: Commissioner Eric Skrmetta (w/encl), via email
Commissioner Craig Greene (w/encl), via email
Commissioner Davante Lewis (w/encl), via email
Commissioner Mike Francis (w/encl), via email
Commissioner Foster L. Campbell (w/encl), via email
Ms. Kathryn Bowman (w/encl), via e-mail
Ms. Lauren Evans (w/encl), via e-mail

ROUTE TO 15 day
DEPT. Bulletin DATE 4/23 ROUTE FROM
DEPT. _____ DATE _____ DEPT. _____
DEPT. _____ DATE _____ DEPT. _____
DEPT. _____ DATE _____ DEPT. _____
DEPT. _____ DATE _____ DEPT. _____

RECEIVED

APR 23 2024

LA Public Service Commission

BEFORE THE
LOUISIANA PUBLIC SERVICE COMMISSION

DOCKET NO. _____, EX PARTE

In re: Petition For Jurisdictional Determination By Golden Beams Power LLC

PETITION FOR JURISDICTIONAL DETERMINATION

NOW BEFORE THE COMMISSION comes **Golden Beams Power LLC** ("**Golden Beams**"), a Texas limited liability company authorized to transact business in the State of Louisiana, Golden Beams hereafter sometimes referred to as "**Petitioner**", who brings this *Petition For Jurisdictional Determination* (the "**Petition**").

1.

Petitioner requests that the Louisiana Public Service Commission (the "**Commission**") declare that the financing, construction, ownership, lease, and operation and maintenance, power transfers, and any and all interests, whether arising from investment, ownership, lease, operations, mortgage or assignment, as described in this Petition, of a proposed solar energy plant that can generate up to three (3) megawatts ("MW") (the "**Project**") to be constructed on property located adjacent to the anticipated data facility of Green Tech QOZB LLC in Bastrop, Louisiana (the "**Bastrop Data Facility**"), will not render the Project, or any of the following listed parties, either individually or collectively, a "public utility" or an "electric public utility," as those terms are used or defined in Section 21 of Article IV of the Louisiana Constitution of 1974, La. R.S. § 45:121, La. R.S. § 45:1161 or La. R.S. § 45:1164, or otherwise subject the Project or any of the following listed parties to regulation as a "public utility" or "electric public utility" by the Commission pursuant to the Louisiana Constitution, or any relevant Louisiana statute, Commission rule, order, regulation or practice:

- (a) Golden Beams, as (1) the developer of the Project and (2) the lender providing funds to the Project Participants for the design and construction of part or all of the Project;
- (b) Green Tech QOZB LLC ("**Green Tech**"), a Texas limited liability company authorized to transact business in the State of Louisiana, as (1) the owner of the land (the "**Underlying Land**") comprising the Project, (2) the ultimate lessee of the Project, (3) the operator of the Bastrop Data Facility and (4) the entity operating, and self-generating all electricity obtained from, the Project;
- (c) The project participants, whether one or more, being individuals or entities (collectively the "**Project Participants**"), who will (1) in connection with the construction of the Project, lease from Green Tech the Underlying Land pursuant to an agreement (the "**Ground Lease**"), (2) enter into a development agreement with Golden Beams for the design and construction of the Project, (3) sublease the completed Project to Green Tech and (4) be responsible, post-construction of the Project, for certain limited maintenance activities for the Project through an agreement with Endless Skies Solar Power LLC; and
- (d) Endless Skies Solar Power LLC ("**Endless Skies**"), a Texas limited liability company authorized to transact business in the State of Louisiana, who will perform maintenance and repair obligations for the Project.

2.

Golden Beams and Endless Skies are each owned 100% by Sun Beams Solar Power LLC, a Texas limited liability company. Green Tech is owned 100% by Perfect Land Development LLC, a Texas limited liability company.

INTRODUCTION

3.

Green Tech will own and operate the Bastrop Data Facility in Bastrop, Louisiana. The Bastrop Data Facility will provide data services through its data center facility and high performance computing and Artificial Intelligence. Operation of the Bastrop Data Facility will involve 15 to 20 employees. The total cost of construction of the Bastrop Data Facility, including the related Project, and procurement of equipment will be approximately \$40 million.

4.

The Bastrop Data Facility will use and consume the three (3) megawatts of power generated by the Project. However, Green Tech will obtain most of the electric utility services it requires for the Bastrop Data Facility from Entergy Louisiana, LLC. The Bastrop Data Facility will obtain its supplemental power needs and standby and maintenance power from Entergy Louisiana, LLC.

5.

Under no circumstance will Green Tech furnish electric service within the State of Louisiana and Green Tech is not, and will not be, as a result of the Project, primarily engaged in the generation, transmission, distribution and/or sale of electricity. Green Tech will lease the Project from the Project Participants and, by operation of the Project, self-supply the 3 MW portion of Green Tech's own power needs for the Bastrop Data Facility.

6.

Green Tech owns the Underlying Land and will lease that property to the Project Participants

for purposes of the development and construction of the Project.

7.

Pursuant to a development agreement with the Project Participants, Golden Beams (also referred to as the "***Project Developer***") will act as agent for the Project Participants to construct the Project. Golden Beams will also provide financing to the Project Participants for the design and construction of the Project.

8.

The Project Participants will collectively lease the entirety of the completed Project to Green Tech, but will not operate the Project and will not take title to any electricity that is produced. The Project Participants will be obligated to provide certain limited maintenance services for the Project and probably will satisfy that obligation through a maintenance agreement with Endless Skies. The Project Participants do not, and will not, furnish electric service within the State of Louisiana.

9.

Endless Skies (also referred to as the "***Contract Maintenance Company***") may provide certain maintenance services for the Project pursuant to a contract with the Project Participants. Endless Skies might enter into an agreement with Green Tech to provide certain maintenance services, but as of the date of the filing of this Petition, it has not done so. Endless Skies will not participate in the operation of the Project and will not furnish electric service within the State of Louisiana.

10.

Green Tech (also referred to as the "***Project Sublessee***") will be the sole operator of the Project and will handle certain maintenance issues which will not be the obligation of the Project Participants.

11.

Green Tech does not and will not furnish electric service within the State of Louisiana and will be the sole self-generator and user of electricity from the Project.

RELIEF SOUGHT

12.

This Petition seeks a determination of the non-jurisdictional status of the Project, the Project Developer, the Project Sublessee, the Project Participants and the Contract Maintenance Company. Specifically, Petitioner requests that the Commission determine, based upon the representations of fact and law in this Petition, that the Project, the Project Developer, the Project Sublessee, the Project Participants and the Contract Maintenance Company will not be considered, either separately or together, a "public utility" or an "electric public utility," as such terms are used or defined in Article IV, §21 of the Louisiana Constitution of 1974 or Title 45 of the Louisiana Revised Statutes, including, but not limited to, La. R.S. § 45:121, La. R.S. § 45:1161 or La. R.S. § 45:1164, or otherwise be subject to regulation as an electric public utility by the Commission pursuant to the Commission's regulatory authority under Louisiana statute, Commission rule, order, regulation or practice.

JURISDICTION

13.

The Commission has jurisdiction over the subject matter of this Petition as follows:

- A. Pursuant to Art. IV, §21 of the Louisiana Constitution, the Commission has the duty of regulating public utilities and has the power to perform those actions necessary to discharge its duties;

- B. Louisiana law provides the Commission with the power, authority and duty to regulate all matters and things connected with, concerning and growing out of the service to be rendered by a public utility; and
- C. The Commission is empowered and authorized by the Louisiana Constitution and statutory law to ascertain whether an entity constitutes a public utility or an electric public utility within the Commission's regulatory jurisdiction.

THE PROJECT

14.

The Project will be a solar energy project capable of generating up to 3 MW. The Project will include supporting equipment, buildings and improvements to be constructed and operated at or near the Bastrop Data Facility.

PROPOSED PROJECT STRUCTURE

15.

By virtue of the Ground Lease, Green Tech will lease the Underlying Land to the Project Participants.

16.

Pursuant to a development agreement, the Project Developer, on behalf of the Project Participants after appropriate permitting is obtained, will act as agent for the Project Participants to construct the Project on land adjacent to the Bastrop Data Facility.

17.

The Project Developer will finance the construction costs of the Project by one or more loans to the Project Participants.

18.

Upon completion of the Project and pursuant to an agreement (the "*Sublease Agreement*"), the Project Participants will lease the Project, including the Underlying Land and all other movables and immovables, to Green Tech for a term of twenty-five (25) years. At the end of the 25 year term of the Sublease Agreement, Green Tech's rights, title and interest in the Project itself will revert to the Project Participants, and ultimately to Green Tech as the owner of the Underlying Land.

19.

During the term of the Sublease Agreement, Green Tech, as the owner/operator of the Bastrop Data Facility and the Project Sublessee, will own and have rights to, and will consume, all of the electric energy generated from the Project.

20.

Under the Sublease Agreement, Green Tech will pay to the Project Participants fixed monthly sublease payments, plus all applicable taxes. The contractual sublease payments will be based on (a) the underlying payments being made by the Project Participants to Green Tech under the Ground Lease, (b) the costs of equipment and other materials comprising the Project, (c) the costs of the construction, installation and commissioning of the Project, (d) certain costs for the maintenance of the Project over the term of the Sublease Agreement and (e) the costs of financing obtained by the Project Participants.

21.

The sublease payments to be made by Green Tech will not be tied to the quantity or value of the electric energy produced from the Project. Green Tech will make the fixed sublease payments to the Project Participants under the Sublease Agreement (a) whether or not electric energy is produced from the Project and (b) without regard to the amount or value of the electric energy produced from the Project.

22.

The Project will add additional reliable and economical generation capacity for the Bastrop Data Facility.

23.

All of the financial and business risks associated with the Project's financing, construction, ownership, lease and operation and maintenance will be borne by the Project Developer, the Project Sublessee, the Project Participants and the Contract Maintenance Company. No Louisiana utility, ratepayer or group of ratepayers will become obligated for any costs of the financing, construction, ownership, lease, operation or maintenance of the Project.

CONSUMPTION OF ELECTRICITY FROM THE PROJECT

24.

During the term of the Sublease Agreement, Green Tech will consume all of the electricity generated from the Project at the Bastrop Data Facility. The Project will be engineered such that no electricity from the Project will be able to flow beyond the Bastrop Data Facility's internal distribution system or to any other system, person or entity located near the Bastrop Data Facility. The Project will not generate all electricity required by Green Tech for the Bastrop Data Facility. Green Tech will not dispose of any electricity generated from the Project through wholesale transactions.

**JURISDICTIONAL STATUS UNDER
LOUISIANA CONSTITUTION AND STATUTES**

25.

The Project, the Project Developer, the Project Sublessee, the Project Participants and the Contract Maintenance Company do not fall with the definition of a "public utility" or an "electric public utility" under Louisiana law. The Project, the Project Developer, the Project Sublessee, the Project Participants and the Contract Maintenance Company will not be "furnishing electric service" as an "electric public utility", or a "public utility" within the State of Louisiana, as those terms are defined, used or covered by Article IV, Section 21, of the Louisiana Constitution of 1974 or Title 45 of the Louisiana Revised Statutes, including particularly La. R.S. § 45:121, La. R.S. § 45:1161 and La. R.S. § 45:1164 or any other Louisiana statute or Commission rule, regulation order or practice.

26.

The Project Developer will be only the developer of, and the party providing financing for, the Project, and will not have rights or title to any of the power produced; therefore, the Project Developer will not be "primarily engaged" in the generation, transmission, distribution and/or sale of electricity within the meaning of Louisiana law.

27.

The Project Sublessee will sublease and operate the Project and generate electric power for its own use at the Bastrop Data Facility. The Project is intended exclusively for the self-generation of electric power to be consumed at the Bastrop Data Facility. The Project Sublessee will not furnish retail electric service to any person. The Project Sublessee will not be "primarily engaged" in the generation, transmission, distribution and/or sale of electricity within the meaning of Louisiana law.

28.

While the Project Participants will own the Project, they will not operate the Project and will sublease all rights to operate the Project to the Project Sublessee. The Project Participants will take no electricity from the Project nor will they furnish retail electric service to any person. Therefore, the Project Participants will not be "primarily engaged" in the generation, transmission, distribution and/or sale of electricity within the meaning of Louisiana law.

29.

The Contract Maintenance Company (a) will not take or own any electricity from the Project, (b) will not be compensated based on the quantity or value of the electricity generated by the Project and (c) will not operate the Project. The Contract Maintenance Company will not furnish retail electric service to any person. The Contract Maintenance Company will not be "primarily engaged" in the generation, transmission, distribution and/or sale of electricity within the meaning of Louisiana law.

30.

With respect to the jurisdiction of the Commission, the Project, the Project Developer, the Project Sublessee, and the Project Participants will not have captive customers, jurisdictional assets, or a rate base subject to regulation. Project risks, including those arising from the financing, construction, ownership, operation and maintenance of the Project will be borne exclusively by the Project, the Project Developer, the Project Sublessee, the Project Participants and the Contract Maintenance Company, and not by any Louisiana utility or its ratepayers. Therefore, the Project Developer, the Project Sublessee, the Project Participants and the Contract Maintenance Company will not hold themselves out as providing electric public utility service in Louisiana subject to the jurisdiction of the Commission.

31.

Exempted from Commission jurisdiction is any person owning, leasing, or operating an electric generation facility if such person (1) is not primarily engaged in the generation, transmission, distribution and/or sale of electricity; and (2) consumes all of the electric power and energy generated by the facility for its own use at the site of generation, as set forth in La. R.S. § 45:1161 and La. R.S. § 45:1164.

32.

The Project Developer, the Project Sublessee, the Project Participants and the Contract Maintenance Company each clearly fit within the exemption from regulation as an electric public utility found in La. R.S. § 45:121, La. R.S. § 45:1161 and La. R.S. § 45:1164.

33.

Consequently, Petitioner relies on the exception expressed as to the definition of "public utility" in La. R.S. § 45:1161 and La. R.S. § 45:1164 to obtain an order of this Commission that precludes any characterization of the Project, the Project Developer, the Project Sublessee, the Project Participants and the Contract Maintenance Company as an "electric public utility" or a "public utility" under Louisiana law.

REQUEST FOR ORDER AND EXPEDITED TREATMENT

34.

Petitioner requests that the Commission issue an order on an expedited basis that the Project, the Project Developer, the Project Sublessee, the Project Participants and the Contract Maintenance Company, as to all aspects, facets and operation of the Project, as described in this Petition, are not "electric public utilities" or "public utilities" subject to the jurisdiction of the Commission under either the Louisiana Constitution or the Louisiana Revised Statutes. An expedited decision is

sought in order to allow Petitioner to secure and order long lead time equipment for the Project, and to arrange for and undertake construction of the Project without suffering anticipated inflated costs and the loss of potential Project Participants. Therefore, time is of the essence in obtaining the Commission's determination in this matter.

WHEREFORE, Golden Beams Power LLC, Petitioner herein, respectfully requests that:

I.

Notice of filing of this Petition be published in the April 26, 2024 Official Bulletin of the Commission with a 15-day intervention period;

II.

The Commission issue an order, on an expedited basis, declaring that the financing, construction, ownership, lease, and operation and maintenance and any and all interests in the Project, as described in this Petition, whether arising from investment, ownership, lease, operations, mortgage, encumbrance or assignment, under the terms and conditions detailed above, will not render the Project, the Project Developer, the Project Sublessee, the Project Participants and/or the Contract Maintenance Company, individually or together, "electric public utilities" or "public utilities" as those terms are defined, used or mentioned in Article 4, Section 21, of the Louisiana Constitution of 1974 or in any Louisiana Revised Statute, including without limitation La. R.S. § 45:121, La. R.S. § 45:1161 and La. R.S. § 45:1164 or otherwise subject the Project, the Project Developer, the Project Sublessee, the Project Participants and/or the Contract Maintenance Company, individually or together, to regulation as "electric public utilities" or "public utilities" by the Commission pursuant to the Louisiana Constitution or any relevant Louisiana statute, or Commission rule, regulation order or practice; and

III.

Petitioner be granted all general for and equitable relief, as appropriate.

SIGNED this 22nd day of April, 2024.

Respectfully submitted,

By: 

Joseph P. Hebert (La. Bar Roll #06734)

LISKOW & LEWIS

1200 Camellia Blvd., Suite 300

Lafayette, Louisiana 70508

Telephone: (337) 232-7424

Facsimile: (337) 267-2398

Email: jphebert@liskow.com

Attorneys for Golden Beams Power LLC

CERTIFICATE OF SERVICE

I, the undersigned counsel, hereby certify that a copy of the above and foregoing has been served on the persons listed below by facsimile, by hand delivery, by electronic mail, or by depositing a copy of same with the United States Postal Service, postage prepaid, addressed as follows:

Commissioner Eric F. Skrmetta
Office of the Commissioner
District 1 – Metairie
433 Metairie Road Suite 406
Metairie, LA 70005

Commissioner Davante Lewis
Office of the Commissioner
District 3 – New Orleans
1450 Poydras Street, Suite 1402
New Orleans, LA 70112-1470

Commissioner Foster L. Campbell
Office of the Commissioner
District 5 – Shreveport
One Texas Centre
415 Texas Street, Suite 100
P.O. Drawer E (71161)
Shreveport, LA 71101-3541

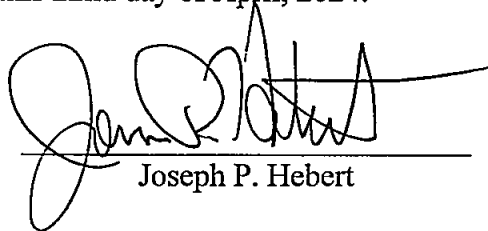
Kathryn Bowman
Executive Counsel
Louisiana Public Service Commission
P.O. Box 91154
Baton Rouge, LA 70821-9154

Commissioner Craig Greene
Office of the Commissioner
District 2 – Baton Rouge
10713 N. Oak Hills Parkway, Suite B
P.O. Box 83209 (70884)
Baton Rouge, LA 70810-2967

Commissioner Mike Francis
Office of the Commissioner
District 4 – Crowley
222 N. Parkerson Avenue
Crowley, LA 70526

Lauren Temento Evans
Deputy General Counsel
Louisiana Public Service Commission
P.O. Box 91154
Baton Rouge, LA 70821-9154

Lafayette, Louisiana, this 22nd day of April, 2024.



Joseph P. Hebert