



GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

P.O. Box 13528 • Austin, TX 78711-3528

September 22, 2021

Jeff Van Auken
Superintendent
Nixon-Smilely CISD
800 N. Rancho Road
Nixon, TX 78140

Re: Certificate for Limitation on Appraised Value of Property for School District
Maintenance and Operations taxes by and between Nixon-Smilely Independent
School District and Brush Country Solar Project, LLC, Application 1618

Dear Superintendent Auken:

On August 2, 2021, the Comptroller issued written notice that Brush Country Solar Project, LLC (applicant) submitted a completed application (Application 1618) for a limitation on appraised value under the provisions of Tax Code Chapter 313.¹ This application was originally submitted on June 30, 2021, to the Nixon-Smilely Independent School District (school district) by the applicant.

This presents the results of the Comptroller's review of the application and determinations required:

- 1) under Section 313.025(h) to determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C; and
- 2) under Section 313.025(d), to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

Determination required by 313.025(h)

Sec. 313.024(a)	Applicant is subject to tax imposed by Chapter 171.
Sec. 313.024(b)	Applicant is proposing to use the property for an eligible project.

¹ All Statutory references are to the Texas Tax Code, unless otherwise noted.

Sec. 313.024(d) Applicant has requested a waiver to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.

Sec. 313.024(d-2) Not applicable to Application 1618.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

Certificate decision required by 313.025(d)

Determination required by 313.026(c)(1)

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district's maintenance and operations *ad valorem tax* revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period, see Attachment B.

Determination required by 313.026(c)(2)

The Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state, see Attachment C.

Based on these determinations, the Comptroller issues a certificate for a limitation on appraised value. This certificate is contingent on the school district's receipt and acceptance of the Texas Education Agency's determination per 313.025(b-1).


The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application. If the application is approved by the school district, the applicant shall perform according to the provisions of the Texas Economic Development Act Agreement (Form 50-826) executed with the school district. The school district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement, applicable Texas Administrative Code and Chapter 313, per TAC 9.1054(i)(3).

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement by December 31, 2021.

Note that any building or improvement existing as of the application review start date of August 2, 2021, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

Should you have any questions, please contact Will Counihan, Director, Data Analysis & Transparency, by email at will.counihan@cpa.texas.gov or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,

DocuSigned by:

11EA6DEF0EC441E...

Lisa Craven
Deputy Comptroller

Enclosure

cc: Will Counihan

Attachment A – Economic Impact Analysis

The following tables summarize the Comptroller’s economic impact analysis of Brush Country Solar Project, LLC (project) applying to Nixon-Smiley Independent School District (district), as required by Tax Code, 313.026 and Texas Administrative Code 9.1055(d)(2).

Table 1 is a summary of investment, employment and tax impact of Brush Country Solar Project, LLC.

Applicant	Brush Country Solar Project, LLC
Tax Code, 313.024 Eligibility Category	Renewable Energy - Solar
School District	Nixon-Smiley ISD
2019-2020 Average Daily Attendance	955
County	Gonzales
Proposed Total Investment in District	\$112,240,000
Proposed Qualified Investment	\$112,240,000
Limitation Amount	\$25,000,000
Qualifying Time Period (Full Years)	2022-2023
Number of new qualifying jobs committed to by applicant	5*
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$943
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)(B)	\$943
Minimum annual wage committed to by applicant for qualified jobs	\$49,021
Minimum weekly wage required for non-qualifying jobs	\$876.25
Minimum annual wage required for non-qualifying jobs	\$45,565
Investment per Qualifying Job	\$22,448,000
Estimated M&O levy without any limit (15 years)	\$8,109,744
Estimated M&O levy with Limitation (15 years)	\$3,536,911
Estimated gross M&O tax benefit (15 years)	\$4,572,833

* Applicant is requesting district to waive requirement to create minimum number of qualifying jobs pursuant to Tax Code, 313.025 (f-1).

Table 2 is the estimated statewide economic impact of Brush Country Solar Project, LLC (modeled).

	Employment			Personal Income		
Year	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2022	150	175	325	\$7,339,800	\$17,660,200	\$25,000,000
2023	150	183	333	\$7,339,800	\$20,660,200	\$28,000,000
2024	5	24	29	\$245,107	\$4,754,893	\$5,000,000
2025	5	13	18	\$245,107	\$3,754,893	\$4,000,000
2026	5	3	8	\$245,107	\$1,754,893	\$2,000,000
2027	5	(2)	3	\$245,107	\$1,754,893	\$2,000,000
2028	5	(3)	2	\$245,107	\$754,893	\$1,000,000
2029	5	(2)	3	\$245,107	\$754,893	\$1,000,000
2030	5	0	5	\$245,107	\$754,893	\$1,000,000
2031	5	3	8	\$245,107	\$754,893	\$1,000,000
2032	5	5	10	\$245,107	\$754,893	\$1,000,000
2033	5	7	12	\$245,107	\$1,754,893	\$2,000,000
2034	5	8	13	\$245,107	\$1,754,893	\$2,000,000
2035	5	9	14	\$245,107	\$1,754,893	\$2,000,000
2036	5	10	15	\$245,107	\$1,754,893	\$2,000,000
2037	5	10	15	\$245,107	\$1,754,893	\$2,000,000
2038	5	10	15	\$245,107	\$1,754,893	\$2,000,000

Source: CPA REMI, Brush Country Solar Project, LLC

Table 3 examines the estimated direct impact on ad valorem taxes to the region if all taxes are assessed.

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Nixon-Smiley ISD I&S Tax Levy	Nixon-Smiley ISD M&O Tax Levy	M&O and I&S Tax Levies	Gonzales County Tax Levy	Nixon Hospital District Tax Levy	Gonzales U.W.C. District Tax Levy	Gonzales E.S. Fire District Tax Levy	Gonzales Emergency Serc #1 Tax Levy	Estimated Total Property Taxes
			Tax Rate*	0.1636	0.9764		0.3839	0.0162	0.0054	0.0259	0.1000	
2024	\$112,240,000	\$112,240,000		\$183,625	\$1,095,911	\$1,279,536	\$430,889	\$18,194	\$6,061	\$29,070	\$112,240	\$1,875,991
2025	\$103,260,800	\$103,260,800		\$168,935	\$1,008,238	\$1,177,173	\$396,418	\$16,739	\$5,576	\$26,745	\$103,261	\$1,725,911
2026	\$94,281,600	\$94,281,600		\$154,245	\$920,566	\$1,074,810	\$361,947	\$15,283	\$5,091	\$24,419	\$94,282	\$1,575,832
2027	\$85,302,400	\$85,302,400		\$139,555	\$832,893	\$972,447	\$327,476	\$13,828	\$4,606	\$22,093	\$85,302	\$1,425,753
2028	\$76,323,200	\$76,323,200		\$124,865	\$745,220	\$870,084	\$293,005	\$12,372	\$4,121	\$19,768	\$76,323	\$1,275,674
2029	\$67,344,000	\$67,344,000		\$110,175	\$657,547	\$767,722	\$258,534	\$10,916	\$3,637	\$17,442	\$67,344	\$1,125,594
2030	\$58,364,800	\$58,364,800		\$95,485	\$569,874	\$665,359	\$224,062	\$9,461	\$3,152	\$15,116	\$58,365	\$975,515
2031	\$49,385,600	\$49,385,600		\$80,795	\$482,201	\$562,996	\$189,591	\$8,005	\$2,667	\$12,791	\$49,386	\$825,436
2032	\$40,406,400	\$40,406,400		\$66,105	\$394,528	\$460,633	\$155,120	\$6,550	\$2,182	\$10,465	\$40,406	\$675,357
2033	\$31,427,200	\$31,427,200		\$51,415	\$306,855	\$358,270	\$120,649	\$5,094	\$1,697	\$8,140	\$31,427	\$525,277
2034	\$22,448,000	\$22,448,000		\$36,725	\$219,182	\$255,907	\$86,178	\$3,639	\$1,212	\$5,814	\$22,448	\$375,198
2035	\$22,448,000	\$22,448,000		\$36,725	\$219,182	\$255,907	\$86,178	\$3,639	\$1,212	\$5,814	\$22,448	\$375,198
2036	\$22,448,000	\$22,448,000		\$36,725	\$219,182	\$255,907	\$86,178	\$3,639	\$1,212	\$5,814	\$22,448	\$375,198
2037	\$22,448,000	\$22,448,000		\$36,725	\$219,182	\$255,907	\$86,178	\$3,639	\$1,212	\$5,814	\$22,448	\$375,198
2038	\$22,448,000	\$22,448,000		\$36,725	\$219,182	\$255,907	\$86,178	\$3,639	\$1,212	\$5,814	\$22,448	\$375,198
			Total	\$1,358,822	\$8,109,744	\$9,468,566	\$3,188,581	\$134,636	\$44,851	\$215,119	\$830,576	\$13,882,330

Source: CPA, Brush Country Solar Project, LLC

*Tax Rate per \$100 Valuation

Table 4 examines the estimated direct impact on ad valorem taxes to the school district and Gonzales County, with all property tax incentives sought being granted using estimated market value from the application. The project has applied for a value limitation under Chapter 313, Tax Code and tax abatement with the county.

The difference noted in the last line is the difference between the totals in Table 3 and Table 4.

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Nixon-Smiley ISD I&S Tax Levy	Nixon-Smiley ISD M&O Tax Levy	M&O and I&S Tax Levies	Gonzales County Tax Levy	Nixon Hospital District Tax Levy	Gonzales U.W.C. District Tax Levy	Gonzales E.S. Fire District Tax Levy	Gonzales Emergency Serc #1 Tax Levy	Estimated Total Property Taxes
			Tax Rate*	0.1636	0.9764		0.3839	0.0162	0.0054	0.0259	0.1000	
2024	\$112,240,000	\$25,000,000		\$183,625	\$244,100	\$427,725	\$86,178	\$18,194	\$6,061	\$29,070	\$112,240	\$679,468
2025	\$103,260,800	\$25,000,000		\$168,935	\$244,100	\$413,035	\$79,284	\$16,739	\$5,576	\$26,745	\$103,261	\$644,638
2026	\$94,281,600	\$25,000,000		\$154,245	\$244,100	\$398,345	\$72,389	\$15,283	\$5,091	\$24,419	\$94,282	\$609,809
2027	\$85,302,400	\$25,000,000		\$139,555	\$244,100	\$383,655	\$65,495	\$13,828	\$4,606	\$22,093	\$85,302	\$574,979
2028	\$76,323,200	\$25,000,000		\$124,865	\$244,100	\$368,965	\$58,601	\$12,372	\$4,121	\$19,768	\$76,323	\$540,150
2029	\$67,344,000	\$25,000,000		\$110,175	\$244,100	\$354,275	\$51,707	\$10,916	\$3,637	\$17,442	\$67,344	\$505,321
2030	\$58,364,800	\$25,000,000		\$95,485	\$244,100	\$339,585	\$44,812	\$9,461	\$3,152	\$15,116	\$58,365	\$470,491
2031	\$49,385,600	\$25,000,000		\$80,795	\$244,100	\$324,895	\$37,918	\$8,005	\$2,667	\$12,791	\$49,386	\$435,662
2032	\$40,406,400	\$25,000,000		\$66,105	\$244,100	\$310,205	\$31,024	\$6,550	\$2,182	\$10,465	\$40,406	\$400,832
2033	\$31,427,200	\$25,000,000		\$51,415	\$244,100	\$295,515	\$24,130	\$5,094	\$1,697	\$8,140	\$31,427	\$366,003
2034	\$22,448,000	\$22,448,000		\$36,725	\$219,182	\$255,907	\$86,178	\$3,639	\$1,212	\$5,814	\$22,448	\$375,198
2035	\$22,448,000	\$22,448,000		\$36,725	\$219,182	\$255,907	\$86,178	\$3,639	\$1,212	\$5,814	\$22,448	\$375,198
2036	\$22,448,000	\$22,448,000		\$36,725	\$219,182	\$255,907	\$86,178	\$3,639	\$1,212	\$5,814	\$22,448	\$375,198
2037	\$22,448,000	\$22,448,000		\$36,725	\$219,182	\$255,907	\$86,178	\$3,639	\$1,212	\$5,814	\$22,448	\$375,198
2038	\$22,448,000	\$22,448,000		\$36,725	\$219,182	\$255,907	\$86,178	\$3,639	\$1,212	\$5,814	\$22,448	\$375,198
			Total	\$1,358,822	\$3,536,911	\$4,895,734	\$982,428	\$134,636	\$44,851	\$215,119	\$830,576	\$7,103,344
			Diff	\$0	\$4,572,833	\$4,572,833	\$2,206,154	\$0	\$0	\$0	\$0	\$6,778,986
Assumes School Value Limitation and Tax Abatements with the County.												

Source: CPA, Brush Country Solar Project, LLC

*Tax Rate per \$100 Valuation

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

Attachment B – Tax Revenue before 25th Anniversary of Limitation Start

This represents the Comptroller's determination that Brush Country Solar Project, LLC (project) is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement. This evaluation is based on an analysis of the estimated M&O portion of the school district property tax levy directly related to this project, using estimated taxable values provided in the application.

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
Limitation Pre-Years	2021	\$0	\$0	\$0	\$0
	2022	\$0	\$0	\$0	\$0
	2023	\$0	\$0	\$0	\$0
Limitation Period (10 Years)	2024	\$244,100	\$244,100	\$851,811	\$851,811
	2025	\$244,100	\$488,200	\$764,138	\$1,615,950
	2026	\$244,100	\$732,300	\$676,466	\$2,292,415
	2027	\$244,100	\$976,400	\$588,793	\$2,881,208
	2028	\$244,100	\$1,220,500	\$501,120	\$3,382,328
	2029	\$244,100	\$1,464,600	\$413,447	\$3,795,775
	2030	\$244,100	\$1,708,700	\$325,774	\$4,121,548
	2031	\$244,100	\$1,952,800	\$238,101	\$4,359,649
	2032	\$244,100	\$2,196,900	\$150,428	\$4,510,078
	2033	\$244,100	\$2,441,000	\$62,755	\$4,572,833
Maintain Viable Presence (5 Years)	2034	\$219,182	\$2,660,182	\$0	\$4,572,833
	2035	\$219,182	\$2,879,365	\$0	\$4,572,833
	2036	\$219,182	\$3,098,547	\$0	\$4,572,833
	2037	\$219,182	\$3,317,729	\$0	\$4,572,833
	2038	\$219,182	\$3,536,911	\$0	\$4,572,833
Additional Years as Required by 313.026(c)(1) (10 Years)	2039	\$219,182	\$3,756,094	\$0	\$4,572,833
	2040	\$219,182	\$3,975,276	\$0	\$4,572,833
	2041	\$219,182	\$4,194,458	\$0	\$4,572,833
	2042	\$219,182	\$4,413,640	\$0	\$4,572,833
	2043	\$219,182	\$4,632,823	\$0	\$4,572,833
	2044	\$219,182	\$4,852,005	\$0	\$4,572,833
	2045	\$219,182	\$5,071,187	\$0	\$4,572,833
	2046	\$219,182	\$5,290,370	\$0	\$4,572,833
	2047	\$219,182	\$5,509,552	\$0	\$4,572,833
	2048	\$219,182	\$5,728,734	\$0	\$4,572,833
		\$5,728,734	is greater than	\$4,572,833	
Analysis Summary					
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?					Yes

Source: CPA, Brush Country Solar Project, LLC

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

Attachment C – Limitation as a Determining Factor

Tax Code 313.026 states that the Comptroller may not issue a certificate for a limitation on appraised value under this chapter for property described in an application unless the comptroller determines that “the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state.” This represents the basis for the Comptroller’s determination.

Methodology

Texas Administrative Code 9.1055(d) states the Comptroller shall review any information available to the Comptroller including:

- the application, including the responses to the questions in Section 8 (Limitation as a Determining Factor);
- public documents or statements by the applicant concerning business operations or site location issues or in which the applicant is a subject;
- statements by officials of the applicant, public documents or statements by governmental or industry officials concerning business operations or site location issues;
- existing investment and operations at or near the site or in the state that may impact the proposed project;
- announced real estate transactions, utility records, permit requests, industry publications or other sources that may provide information helpful in making the determination; and
- market information, raw materials or other production inputs, availability, existing facility locations, committed incentives, infrastructure issues, utility issues, location of buyers, nature of market, supply chains, other known sites under consideration.

Determination

The Comptroller **has determined** that the limitation on appraised value is a determining factor in the Brush Country Solar Project, LLC’s decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- Per Brush Country Solar Project, LLC in Tab 5 of their Application for a Limitation on Appraised Value:
 - A. “Brush Country Solar Project, LLC has entered into the following representative agreements and contracts for the development of a project within Nixon-Smiley CISD: Grants of lease and easement covering approximately 900 acres in Gonzales County; Interconnect Studies and Agreement; and Third-party contracts for development-related work, such as resource estimation, legal review, and construction planning.”
 - B. “The ENEL management team is uniquely qualified to develop and construct PV solar energy projects in the United States with favorable solar energy resource. ...the management team evaluates all potential projects for feasibility, finance-ability, and the economic returns they represent in comparison to other project opportunities both OUTSIDE the State of Texas as well as WITHIN the State of Texas. Other locations being evaluated include, but are not limited to: Oklahoma, South Carolina, Georgia Virginia, California, Nevada, Idaho, Wyoming, New Mexico, Iowa, Minnesota, North Dakota, Illinois, Missouri, Nebraska, Kansas, Oklahoma, New York, Rhode Island, Connecticut, New Hampshire, Vermont.”
 - C. “ENEL studies various competing sites throughout the market areas outside and inside the State of Texas where solar energy development is attractive. Without a Value Limitation program, ENEL would seek to move to alternative sites OUTSIDE of the State of Texas.”
 - D. “Brush Country Solar Project, LLC is currently in a period of evaluation to determine whether the identified site in Nixon-Smiley CISD represents the best location or whether redeployment of its development resources and capital to other power markets in the United States is more advisable. As such, the development resources necessary to advance the planned 100 MWac Brush Country Solar could be redeployed to other renewable energy development projects in other power markets in the United States.”

- E. “Therefore, a 313 Limitation of Appraised Value Agreement is a vital tax incentive necessary to ensure the Project is on a level playing field with other solar energy projects with similar incentives. Without the requested limitation, the Project will be unable to generate sufficient operating margins and net income to produce economically competitive energy and associate returns necessary to attract tax and sponsor equity investment. Such third-party investment is mandatory to finance the projected capital costs of approximately \$112.240 M needed to purchase solar modules and other infrastructure and to fund the construction of the facility.”

Supporting Information

- a) Section 8 of the Application for a Limitation on Appraised Value
- b) Attachments provided in Tab 5 of the Application for a Limitation on Appraised Value

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

Supporting Information

**Section 8 of the Application for
a Limitation on Appraised Value**

SECTION 8: Limitation as Determining Factor

1. Does the applicant currently own the land on which the proposed project will occur? ☐ Yes ☐ No
2. Has the applicant entered into any agreements, contracts or letters of intent related to the proposed project? ☐ Yes ☐ No
3. Does the applicant have current business activities at the location where the proposed project will occur? ☐ Yes ☐ No
4. Has the applicant made public statements in SEC filings or other documents regarding its intentions regarding the proposed project location? ☐ Yes ☐ No
5. Has the applicant received any local or state permits for activities on the proposed project site? ☐ Yes ☐ No
6. Has the applicant received commitments for state or local incentives for activities at the proposed project site? ☐ Yes ☐ No
7. Is the applicant evaluating other locations not in Texas for the proposed project? ☐ Yes ☐ No
8. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with other alternative investment opportunities? ☐ Yes ☐ No
9. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project? ☐ Yes ☐ No
10. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas? ☐ Yes ☐ No

Chapter 313.026(e) states "the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2)." If you answered "yes" to any of the questions in Section 8, attach supporting information in Tab 5.

SECTION 9: Projected Timeline

NOTE: Only construction beginning after the application review start date (the date the Texas Comptroller of Public Accounts deems the application complete) can be considered qualified property and/or qualified investment.

1. Estimated school board ratification of final agreement _____
2. Estimated commencement of construction _____
3. Beginning of qualifying time period (MM/DD/YYYY) _____
4. First year of limitation (YYYY) _____
- 4a. For the beginning of the limitation period, notate which **one of the following** will apply according to provision of 313.027(a-1)(2):

☐ A. January 1 following the application date

☐ B. January 1 following the end of QTP

☐ C. January 1 following the commencement of commercial operations
5. Commencement of commercial operations _____

SECTION 10: The Property

1. County or counties in which the proposed project will be located _____
2. Central Appraisal District (CAD) that will be responsible for appraising the property _____
3. Will this CAD be acting on behalf of another CAD to appraise this property? ☐ Yes ☐ No
4. List all taxing entities that have jurisdiction for the property, the portion of project within each entity and tax rates for each entity:

M&O (ISD): _____
(Name, tax rate and percent of project)

County: _____
(Name, tax rate and percent of project)

Hospital District: _____
(Name, tax rate and percent of project)

Other (describe): _____
(Name, tax rate and percent of project)

I&S (ISD): _____
(Name, tax rate and percent of project)

City: _____
(Name, tax rate and percent of project)

Water District: _____
(Name, tax rate and percent of project)

Other (describe): _____
(Name, tax rate and percent of project)

Supporting Information

Attachments provided in Tab 5
of the Application for a
Limitation on Appraised Value

Tab 5

Documentation to assist in determining if limitation is a determining factor.

Chapter 313.026© states “the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection © (2).” If you answered “yes” to any of the questions in Section 8, attach supporting information in Tab 5.

2. Has the applicant entered into any agreements, contracts or letters of intent related to the proposed project?

Brush Country Solar Project, LLC has entered into the following representative agreements and contracts for the development of a project within Nixon-Smiley CISD:

- Grants of lease and easement covering approximately 900 acres in Gonzales County;
- Interconnect Studies and Agreement; and
- Third-party contracts for development-related work, such as resource estimation, legal review, and construction planning.

7. Is the applicant evaluating other locations not in Texas for the proposed project?

Yes. The ENEL management team is uniquely qualified to develop and construct PV solar energy projects in the United States with favorable solar energy resource. With a combined 20+ years of experience in the renewable energy industries, the ENEL team has a proven track record of developing, financing, and constructing large-scale renewable energy projects. Our collective experience includes wind and solar projects in the U.S. Based on this experience, the management team evaluates all potential projects for feasibility, finance-ability, and the economic returns they represent in comparison to other project opportunities both OUTSIDE the State of Texas as well as WITHIN the State of Texas. Other locations being evaluated include, but are not limited to:

Oklahoma
South Carolina
Georgia Virginia
California
Nevada
Idaho
Wyoming New
Mexico Iowa
Minnesota
North Dakota
Illinois

Missouri
Nebraska
Kansas
Oklahoma
New York
Rhode Island
Connecticut
New Hampshire
Vermont

For these reasons, ENEL studies various competing sites throughout the market areas outside and inside the State of Texas where solar energy development is attractive. Without a Value Limitation program, ENEL would seek to move to alternative sites OUTSIDE of the State of Texas.

Brush Country Solar Project, LLC is currently in a period of evaluation to determine whether the identified site in Nixon-Smiley CISD represents the best location or whether redeployment of its development resources and capital to other power markets in the United States is more advisable. As such, the development resources necessary to advance the planned 100 MWac Brush Country Solar could be redeployed to other renewable energy development projects in other power markets in the United States.

Therefore, a 313 Limitation of Appraised Value Agreement is a vital tax incentive necessary to ensure the Project is on a level playing field with other solar energy projects with similar incentives. Without the requested limitation, the Project will be unable to generate sufficient operating margins and net income to produce economically competitive energy and associate returns necessary to attract tax and sponsor equity investment. Such third-party investment is mandatory to finance the projected capital costs of approximately \$112.240 M needed to purchase solar modules and other infrastructure and to fund the construction of the facility.

10. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas?

The information provided in this Attachment and throughout the Application has been assembled to provide the reviewer with the best possible information to make an assessment and determination of the critical nature of the Limitation on Appraised Value to the feasibility of Brush Country Solar Project, LLC.