



**FILED**

12-08-10

04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Tessera Solar,

Complainant,

Complaint 10-10-015

(Filed October 21, 2010)

vs.

BNSF Railway Company,

Defendant.

**DECLARATION OF FELICIA BELLOWS IN SUPPORT OF TESSERA SOLAR  
AND CALICO SOLAR, LLC OPPOSITION TO BNSF'S MOTION TO DISMISS  
COMPLAINT**

William D. Kissinger  
Todd O. Edmister  
Bingham McCutchen LLP  
Three Embarcadero Center  
San Francisco, CA 94111

Attorneys for  
Tessera Solar and Calico Solar, LLC

December 8, 2010

I, Felicia Bellows, declare:

1. I am a Vice President of Tessera Solar and of Calico Solar, LLC (“Calico”). I have been extensively involved with the Calico Solar Project since March of 2009. I also have personally reviewed the background information regarding project planning and entitlement efforts which occurred prior to my involvement with the project. I am therefore intimately familiar with the project’s history and how construction and operational activities will be carried out. I have personal knowledge of the matters set forth in this declaration, and if called as a witness, I could and would competently testify thereto.

2. BNSF’s Motion to Dismiss states what the Calico Parties refer to as the “Hector Road Crossing” is not “at Hector Road.” The crossing is, however, near Hector Road and is commonly and frequently referred to by both BNSF and the Calico Parties as the “Hector Road Crossing.”

3. On December 6, 2010, Calico filed under seal a “Track Chart” on which Greg Rousseau, BNSF’s Project Engineer, showed, correctly, the location of the Hector Road crossing. (Declaration of Irene James, 12/6/10, ¶ 5, Ex. 2.)

4. I understand Mr. Rousseau provided Calico with this Track Chart showing the Hector Road crossing because the Hector Road crossing had been inaccurately depicted on the Agreement for Private Crossing dated May 30, 2008 between BNSF Railway Company and SES Solar One LLC, the predecessor to Calico Solar, LLC (the “Private Crossing Agreement”).

5. A true and correct copy of an excerpt of this Private Crossing Agreement is attached hereto as Exhibit 1. This Private Crossing Agreement is for a temporary crossing “at or near Licensor’s station of Hector.” Exhibit “C” to the Private Crossing Agreement is on BNSF letterhead and refers to the “request submitted to be permitted for the use of an existing At-Grade Private crossing at or near Hector.” According to Exhibit “C” one condition to the approved request was the following:

In the event SES acquires a property interest in the property adjacent to the crossing and commences construction of its “Solar 1 - Solar Farm” facility on the premises, SES agrees to construct an overpass to replace the Hector Road crossing. During the construction of the overpass, SES shall apply for a temporary at-grade private crossing agreement to utilize the private crossing. Upon completion of the construction of the overpass, the Hector Road crossing will be permanently closed to SES use.

6. BNSF’s Motion to Dismiss also states that Tessera Solar never requested a crossing. Motion to Dismiss at 7.

7. On November 17, 2009, Mr. Rousseau sent an e-mail regarding “Tessera Solar Right of Way” to Irene James, who now works for Calico, but at the time was a consultant to Calico. While she was a consultant Ms. James reported to me and Ms. James reports directly to me as an employee. A true and correct copy of this e-mail is attached hereto as Exhibit 2. In the e-mail, Mr. Rousseau states that he had received the approval needed to send Calico a letter regarding the Tessera Solar Right of Way.

8. On November 19, 2009, Mr. Rousseau sent an e-mail to Ms. James attaching his letter addressed to me and dated November 20, 2009, regarding BNSF Application for an Exclusive Right of Way. In the November 19 e-mail, Mr. Rousseau refers to the letter as his “general approval letter for access.” He also explains that the letter is “intended as a simple MOU to further the BNSF Right of Way access process by Tessera” because the details still needed to be worked out. A true and correct copy of the November 19 e-mail is attached hereto as Exhibit 3 and a true and correct copy of the November 20 MOU/letter is attached hereto Exhibit 4.

9. On March 4, 2010, Mr. Rousseau again sent an e-mail to Ms. James. The subject of the March 4 e-mail was “Hector Road Crossing and Tessera Solar Bridge Locations.” In the March 4 e-mail, Mr. Rousseau refers to the mile post of the “private crossing” as 612.68. I believe that this is a typo because Mr. Rousseau was responding to questions raised by Ms. James in her March 3, 2010 e-mail regarding the Hector Road Crossing, which she identified

as being located at “DOT #919188X, Line Segment 7200, Mile Post 712.68.” Mr. Rousseau’s response was that “that is close enough for me.” A true and correct copy of the e-mail chain between Mr. Rousseau and Ms. James containing e-mails dated March 3, 2010 and March 4, 2010 is attached hereto as Exhibit 5.

I declare under penalty of perjury of the laws of State of California that the foregoing is true and correct.

Executed on December 8, 2010.

/s/ Felicia Bellows

Felicia Bellows

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “DECLARATION OF FELICIA BELLOWS IN SUPPORT OF TESSERA SOLAR AND CALICO SOLAR, LLC OPPOSITION TO BNSF’S MOTION TO DISMISS COMPLAINT” by using E-Mail Service, sending the entire document as an attachment to an e-mail message to all known representative of parties of record to this proceeding and CPUC staff who provided electronic mail addresses as set forth in the attached list.

Executed on December 8, 2010 at San Francisco, California.

/s/ Todd O. Edmister

Todd O. Edmister

felicia.bellows@tesseractosolar.com; cynthia.burch@kattenlaw.com;  
Douglas.Werner@bnsf.com; steven.lamb@kattenlaw.com;  
mdjoseph@adamsbroadwell.com; todd.edmister@bingham.com;  
cem@newsdata.com; sgallagher@stirlingenergy.com; jhe@cpuc.ca.gov;  
vdl@cpuc.ca.gov; dar@cpuc.ca.gov

A/73586525.1