

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**IN RE: SUNEDISON, INC. SECURITIES
LITIGATION**

No. 1:16-md-02742 (PKC) (RWL)

This Document Applies To:

*In re TerraForm Global, Inc. Securities
Litigation, No. 1:16-cv-07967-PKC, and
consolidated cases*

**[PROPOSED] ORDER GRANTING PLAINTIFFS'
MOTION TO APPROVE MODIFICATIONS TO THE CLASS
ACTION SETTLEMENT AND TO PROVIDE SUPPLEMENTAL NOTICE**

WHEREAS, (i) the Lead Plaintiff Pyramid Holdings, Inc., on behalf of itself and on behalf of the Settlement Class and plaintiffs Iron Workers Mid-South Pension Fund and Simon Fraser (collectively, “the Plaintiffs”), (ii) Defendant TerraForm Global, Inc. (“Global” or the “Company”), (iii) Defendants Ahmad Chatila, Carlos Domenech Zornoza, Jeremy Avenier, Martin Truong, Brian Wuebbels, and (iv) Defendants J.P. Morgan Securities LLC, Barclays Capital Inc., Citigroup Capital Markets, Inc., Morgan Stanley & Co. LLC, Goldman, Sachs & Co. (n/k/a Goldman Sachs & Co. LLC), Merrill Lynch, Pierce, Fenner & Smith Incorporated (n/k/a BofA Securities, Inc.), Deutsche Bank Securities Inc., BTG Pactual US Capital LLC, Itaú BBA USA Securities, Inc., SMBC Nikko Securities America, Inc., SG Americas Securities, LLC, and Kotak Mahindra Inc., have entered into a Settlement Modification Agreement dated September 19, 2019 (the “Settlement Modification Agreement”), which modifies some of the terms of the Stipulation and Agreement of Settlement dated December 14, 2017 (the “Stipulation”), which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits annexed thereto, sets forth the terms and conditions for the proposed Settlement and dismissal of the class action pending before the Court styled as *In re TerraForm Global, Inc. Securities Litigation*, Case No. 1:16-cv-07967 (S.D.N.Y.) (the “Action”); and the Court having previously granted preliminary approval of the proposed Settlement as provided for in the Stipulation (ECF No. 269¹), and having read and considered the Stipulation and the exhibits thereto and the Settlement Modification Agreement, and the exhibits thereto, and submissions made relating thereto, and finding that substantial and sufficient

¹ References to “ECF No.” are to the docket for *In re: SunEdison, Inc. Sec. Litig.*, No. 1:16-md-02742 (PKC) (S.D.N.Y.) unless stated otherwise.

grounds exist for entering this Order; and the Settling Parties having consented to the entry of this Order;

NOW, THEREFORE, IT IS HEREBY ORDERED, this ____ day of _____, 2019, that:

1. This Order incorporates by reference the definitions in the Stipulation, as modified by the Settlement Modification Agreement, and in the Settlement Modification Agreement, and all capitalized terms used herein shall have the same meanings as set forth therein. References to the Settlement and Stipulation mean the Settlement and Stipulation as modified by the Settlement Modification Agreement.

2. The Court finds that (a) the Settlement Modification Agreement resulted from good faith, arm's-length negotiations, and (b) the Settlement Modification Agreement is sufficiently fair, reasonable and adequate to the Settlement Class Members to warrant providing Supplemental Notice of the modifications to the Settlement to Purported Claimants (as defined in the Settlement Modification Agreement) and holding a Settlement Hearing.

3. The Court hereby preliminarily approves the modifications to the Settlement, as contained in the Settlement Modification Agreement, subject to further consideration at a hearing (the "Settlement Hearing") pursuant to Federal Rule of Civil Procedure 23(e), which is hereby scheduled to be held before the Court on _____ 2019 at __:___ .m. for the following purposes:

(a) to determine finally whether the applicable prerequisites for class action treatment under Federal Rules of Civil Procedure 23(a) and (b) are satisfied;

(b) to determine finally whether the Settlement is fair, reasonable, and adequate, and should be approved by the Court;

(c) to determine finally whether the Final Judgment, as provided under the Settlement Modification Agreement, should be entered, dismissing the Action on the merits and with prejudice, and to determine whether the release by the Releasing Parties of the Released Claims against the Released Parties, as set forth in the Stipulation, should be ordered, along with a permanent injunction barring efforts to prosecute or attempt to prosecute any Released Claims extinguished by the release against any of the Released Parties, as also set forth in the Stipulation;

(d) to determine finally whether the proposed Plan of Allocation for the distribution of the Net Settlement Fund is fair and reasonable and should be approved by the Court;

(e) to consider the application of Class Counsel for an award of attorneys' fees and the reimbursement of expenses and an Award to Plaintiffs;

(f) to consider, if not previously ruled on, Purported Claimants' objections to the Settlement, if any, whether submitted previously in writing or presented orally at the Settlement Hearing by Purported Claimants (or by counsel on their behalf) provided that they gave proper notice that they intend to appear at the Settlement Hearing; and

(g) to rule upon such other matters as the Court may deem appropriate.

4. The Court reserves the right to adjourn the Settlement Hearing to a later date and/or time and to approve the Settlement without further revisions, or with such further revisions as may be agreed to by the Settling Parties, and with or without further notice of any kind. The Court further reserves the right to enter its Final Judgment approving the Settlement and dismissing the Action, on the merits and with prejudice, regardless of whether it has approved the Plan of Allocation or awarded attorneys' fees and expenses.

5. The Court approves the form, substance and requirements of the Supplemental Notice, which is attached as Exhibit C to the Settlement Modification Agreement.

6. Class Counsel has the authority to enter into the Settlement on behalf of the Settlement Class and has the authority to act on behalf of the Settlement Class with respect to all acts or consents required by or that may be given pursuant to the Stipulation or such other acts that are reasonably necessary to consummate the Settlement.

7. The Claims Administrator shall supervise and administer the mailing of the Supplemental Notice and post the Supplemental Notice on the website it created and maintains for this Settlement.

8. Class Counsel, through the Claims Administrator, shall cause the Supplemental Notice, substantially in the form annexed as Exhibit C to the Settlement Modification Agreement, to be mailed, by first class mail, postage prepaid, within thirty (30) days of the entry of this Order, to all Purported Claimants.

9. Class Counsel shall, at least fourteen (14) calendar days before the Settlement Hearing, serve upon counsel for Defendants and file with the Court proof of the mailing of the Supplemental Notice as required by this Order.

10. Class Counsel, through the Claims Administrator, shall cause the Settlement Modification Agreement, the exhibits to the Settlement Modification Agreement, this Order and a copy of the Supplemental Notice to be posted on the website the Claims Administrator created and maintains for this Settlement within thirty (30) days after entry of this Order.

11. The forms and methods set forth herein, and the forms and methods previously provided pursuant to this Court's Order Granting Lead Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement (ECF No. 269), of notifying the Settlement

Class Members of the Settlement and its terms and conditions meet the requirements of due process, Rule 23 of the Federal Rules of Civil Procedure, and 15 U.S.C. 77z-1(a)(7), as amended by the Private Securities Litigation Reform Act of 1995; constitute the best notice practicable under the circumstances; and constitute due and sufficient notice to all persons and entities entitled thereto. No Settlement Class Member will be relieved from the terms and conditions of the Settlement, including the releases provided for therein, based upon the contention or proof that such Settlement Class Member failed to receive actual or adequate notice.

12. The Court will consider comments and/or objections to the Settlement, the Plan of Allocation, or the Fee and Expense Application from Purported Claimants, provided, however, that no Purported Claimant shall be heard or entitled to contest the approval of the terms and conditions of the proposed Settlement or, if approved, the Final Judgment, or any other order relating thereto, including the Plan of Allocation and/or the Fee and Expense Application, unless that Person has served copies of any objections, papers and briefs to each of the following counsel at least twenty-one (21) calendar days prior to the Settlement Hearing date:

CLASS COUNSEL:

Jack G. Fruchter
ABRAHAM, FRUCHTER & TWERSKY, LLP
One Penn Plaza, Suite 2805
New York, NY 10119

COUNSEL FOR DEFENDANTS:

Michael G. Bongiorno, Esq.
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7 World Trade Center
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28 State Street
Boston, MA 02109

and that Person has (at least twenty-one (21) calendar days prior to the Settlement Hearing date) mailed a letter (and any other papers and briefs) stating that you object to the Settlement in the matter of *In re TerraForm Global, Inc. Securities Litigation*, 1:16-cv-07967-PKC (S.D.N.Y.), showing due proof of service upon counsel identified above, to the Clerk of the Court, U.S. District Court, Southern District of New York, 500 Pearl Street, New York, New York 10007. To be valid, any such objection must contain (1) the Purported Claimant's name, address, and telephone number, (2) a list of all purchases and sales of Global Common Stock in order to show the Purported Claimant's membership in the Settlement Class, and a copy of the timely Proof of Claim submitted to the Claims Administrator, (3) all grounds for the objection, including any legal and evidentiary support known to the Purported Claimant and/or his, her, or its counsel, (4) the name, address and telephone number of all counsel, if any, who represent the Purported Claimant, including former or current counsel who may be entitled to compensation in connection with the objection, and (5) the number of times the Purported Claimant and/or his, her, or its counsel has filed, authorized or approved an objection to a class action settlement in the last five years, the nature of each such objection in each case, the jurisdiction in each case, and the name of the issuer of the security or seller of the product or service at issue in each case. Attendance at the Settlement Hearing is not necessary but Persons wishing to be heard orally in

opposition to the approval of the Settlement, the Plan of Allocation, and/or the Fee and Expense Application are required to indicate in their written objection that they intend to appear at the Settlement Hearing and identify any witnesses they may call to testify or exhibits they intend to introduce into evidence at the Settlement Hearing. Purported Claimants do not need to appear at the Settlement Hearing or take any other action to indicate their approval.

13. Any Purported Claimant who does not object in the manner prescribed above shall: (i) be deemed to have waived all such objections; (ii) forever be foreclosed from making any objection to the fairness, adequacy or reasonableness of the Settlement, the Final Judgment to be entered approving the Settlement, the Plan of Allocation, and/or the Fee and Expense Application, unless otherwise ordered by the Court; (iii) be bound by all the terms and provisions of the Stipulation, and by all proceedings, orders and judgments in the Action; and (iv) be foreclosed from appealing from any judgment or order entered in this Action.

14. All papers in support of the Settlement, the Plan of Allocation and/or the Fee and Expense Application shall be filed and served no later than twenty-eight (28) calendar days before the Settlement Hearing.

15. Any submissions filed in response to any objections or in further support of the Settlement, the Plan of Allocation and/or the Fee and Expense Application shall be filed no later than seven (7) calendar days prior to the Settlement Hearing.

16. At or after the Settlement Hearing, the Court shall determine whether the Plan of Allocation proposed by Class Counsel, and the Fee and Expense Application shall be approved.

17. All reasonable expenses incurred in mailing the Supplemental Notice to Purported Claimants, as well as all other Administrative Costs as defined in the Settlement Modification Agreement, shall be paid from the Settlement Fund as set forth in the Stipulation. In the event

the Settlement is not finally approved by the Court, or otherwise fails to become effective, neither the Plaintiffs nor any of Plaintiffs' Counsel shall have any obligation to repay any amounts actually and properly disbursed from the Settlement Fund.

18. In the event the Settlement is not finally approved or consummated in accordance with the terms of the Stipulation, as modified by the Settlement Modification Agreement, then the Settlement Modification Agreement and this Order (including any amendment(s) thereof, and except as expressly provided in the Settlement Modification Agreement or by order of the Court) shall be null and void, of no further force or effect, and without prejudice to any Settling Party, and may not be introduced as evidence or used in any action or proceeding by any Person for any purpose against the Settling Parties or the Released Parties, and each Settling Party shall be restored to his, her or its respective litigation positions as they existed prior to July 1, 2019, pursuant to the terms of the Settlement Modification Agreement, and they shall proceed in all respects as if the Settlement Modification Agreement had not been executed and related orders or judgments had not been entered (including, without limitation, this Order and the Final Judgment (in the form attached as Exhibit A to the Settlement Modification Agreement), with each to be deemed following such termination as vacated, *nunc pro tunc*), and in the event of such termination all of their respective claims and defenses as to any issue in the Action shall be preserved without prejudice in accordance with the terms of the Settlement Modification Agreement.

19. The Court reserves the right to alter the time or the date of the Settlement Hearing without further notice to the Class Members, provided that the time or the date of the Settlement Hearing shall not be set at a time or date earlier than the time and date set forth in ¶ 3 above. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of,

or relating to, the Stipulation, including by way of illustration and not limitation, any dispute concerning any Proof of Claim submitted and any future requests by one or more of the Parties that the Final Judgment, the releases and/or the permanent injunction set forth in the Stipulation be enforced.

Dated: _____, 2019

HON. P. KEVIN CASTEL
UNITED STATES DISTRICT JUDGE