

SUNPOWER CORP
Form SC TO-T/A
June 15, 2011

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE TO

**Tender Offer Statement Pursuant to Section 14(d)(1) or 13(e)(1) of
the Securities Exchange Act of 1934**

(Amendment No. 4)

SunPower Corporation

(Name of Subject Company Issuer)

Total Gas & Power USA, SAS

an indirect wholly-owned subsidiary of

TOTAL S.A.

(Names of Filing Persons Offeror)

CLASS A COMMON STOCK, PAR VALUE \$0.001 PER SHARE

CLASS B COMMON STOCK, PAR VALUE \$0.001 PER SHARE

(Title of Class of Securities)

867652109

867652307

(CUSIP Number of Class of Securities)

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Group U.S. Counsel

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(650) 493-9300

(415) 947-2000

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of Filing Persons)

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CALCULATION OF FILING FEE

Transaction Valuation*
\$1,380,222,300

Amount of Filing Fee**
\$160,244

- * Estimated for purposes of calculating the amount of the filing fee only. The transaction valuation was calculated by multiplying 34,144,400 shares of Class A Common Stock and 25,220,000 shares of Class B Common stock, which is 59,364,400 total shares of common stock, by the offer price of \$23.25 per share of common stock of SunPower.
- ** Estimated for purposes of calculating the amount of the filing fee only. The filing fee was calculated in accordance with Rule 0-11 under the Securities Exchange Act of 1934 by multiplying the transaction value by .0001161.
- x Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and date of its filing.

Amount Previously Paid:	\$160,244	Filing Party:	Total Gas & Power USA, SAS and TOTAL S.A.
Form or Registration No.:	Schedule TO	Date Filed:	May 3, 2011

.. Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer. Check the appropriate boxes below to designate any transactions to which the statement relates:

x third-party tender offer subject to Rule 14d-1.

.. issuer tender offer subject to Rule 13e-4.

.. going-private transaction subject to Rule 13e-3.

.. amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer: ..

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

.. Rule 13e-4(i) (cross-border issuer tender offer).

.. Rule 14d-1(d) (cross-border third-party tender offer).

This Amendment No. 4 (this **Amendment**) amends and supplements the Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission on May 3, 2011 (as amended, supplement or modified from time to time, the **Schedule TO**) by Total S.A., a *société anonyme* organized under the laws of the Republic of France (**Total**), and Total Gas & Power USA, SAS, a *société par actions simplifiée* organized under the laws of the Republic of France and an indirect wholly owned subsidiary of Total (**Purchaser**). The Schedule TO relates to the offer by Purchaser to purchase up to 34,144,400 shares of Class A Common Stock, par value \$0.001 per share, of SunPower Corporation, a Delaware corporation (**SunPower**), together with the associated preferred stock purchase rights issued in connection with and subject to the Rights Agreement (the **Rights Agreement**), dated as of August 12, 2008, by and between SunPower and Computershare Trust Company, N.A., as amended (the **Class A Shares**), and up to 25,220,000 shares of Class B Common Stock, par value \$0.001 per share, of SunPower, together with the associated preferred stock purchase rights issued in connection with and subject to the Rights Agreement (the **Class B Shares** and together with the Class A Shares, the **Shares**), for \$23.25 per Share, net to the holder thereof in cash (the **Offer Price**), without interest and less applicable withholding taxes, upon the terms and subject to the conditions set forth in the Offer to Purchase dated May 3, 2011 (as amended, supplemented or otherwise modified from time to time, the **Offer to Purchase**) and the related Letter of Transmittal (as amended, supplemented or otherwise modified from time to time, the **Letter of Transmittal**), copies of which are attached as Exhibits (a)(1)(A) and (a)(1)(B) to the Schedule TO, respectively (which collectively constitute the **Offer**).

The information set forth in the Offer to Purchase is hereby incorporated by reference in answer to Items 1 through 11 of the Schedule TO and is amended, supplemented and modified by the information specifically provided in this Amendment. All capitalized terms used in this Amendment but not otherwise defined herein have the meanings given to them in the Offer to Purchase.

The items of the Schedule TO set forth below are hereby amended and supplemented as follows:

Item 11. Additional Information.

At 12:00 midnight, New York City time, on Tuesday, June 14, 2011, the Offer expired. Purchaser has accepted for payment 30,220,701 Class A Shares and 25,220,000 Class B Shares at a purchase price of \$23.25 per share for a total cost of approximately \$1.3 billion.

Pursuant to the terms of the Offer, the tender with respect to the Class B Shares is subject to proration, as more than 60% of the Class B Shares were tendered. The tender with respect to the Class A Shares will be subject to proration only if the actual number of Class A Shares validly tendered and not withdrawn after the expiration of the guaranteed delivery period exceeds 60 percent of the Class A Shares at the close of business on June 13, 2011. If the actual number of Class A Shares validly tendered and not withdrawn after the expiration of the guaranteed delivery period exceeds 34,144,400, then Purchaser intends to accept for payment that number of Class A Shares that represents approximately 60% of the Class A Shares outstanding at the close of business on June 13, 2011. Purchaser intends to return all Shares not accepted for payment to the stockholder that tendered such Shares, or, in the case of tendered Shares delivered by book-entry transfer, credit such Shares to the account at the book-entry transfer facility from which the transfer had previously been made, promptly after the expiration of the Offer.

On June 15, 2011, Total and Purchaser issued a press release announcing the preliminary results of the Offer. The full text of the press release is set forth as Exhibit (a)(1)(J) hereto and is incorporated by reference herein.

Item 12. Exhibits.

Item 12 of the Schedule TO is hereby amended, supplemented and modified to add the following exhibit:

(a)(1)(J) Press release dated June 15, 2011.**

** Filed herewith.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

Dated: June 15, 2011

TOTAL S.A.

By: /s/ Jérôme Schmitt

Name: Jérôme Schmitt

Title: Treasurer

TOTAL GAS & POWER USA, SAS

By: /s/ Arnaud Chaperon

Name: Arnaud Chaperon

Title: Chairman

EXHIBIT INDEX

- (a)(1)(A) Offer to Purchase, dated May 3, 2011.*
- (a)(1)(B) Letter of Transmittal (including Substitute Form W-9).*
- (a)(1)(C) Notice of Guaranteed Delivery.*
- (a)(1)(D) Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
- (a)(1)(E) Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
- (a)(1)(F) Press Release, issued on April 28, 2011, incorporated herein by reference to Exhibit 99.1 to the Current Report on Form 8-K filed by SunPower on April 28, 2011.
- (a)(1)(G) Form of Summary Advertisement as published on May 3, 2011 in The Wall Street Journal.*
- (a)(1)(H) Press release dated May 24, 2011.*
- (a)(1)(I) Press release dated June 7, 2011.*
- (a)(1)(J) Press release dated June 15, 2011.**
- (b) Not applicable.
- (d)(1) Tender Offer Agreement, dated as of April 28, 2011, by and between Purchaser and SunPower, incorporated herein by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by SunPower on May 2, 2011.
- (d)(2) Credit Support Agreement, dated as of April 28, 2011, by and between Total and SunPower, incorporated herein by reference to Exhibit 10.2 to the Current Report on Form 8-K filed by SunPower on May 2, 2011.
- (d)(3) Affiliation Agreement, dated as of April 28, 2011, by and between Purchaser and SunPower, incorporated herein by reference to Exhibit 10.3 to the Current Report on Form 8-K filed by SunPower on May 2, 2011.
- (d)(4) Registration Rights Agreement, dated as of April 28, 2011, by and between Purchaser and SunPower, incorporated herein by reference to Exhibit 10.6 to the Current Report on Form 8-K filed by SunPower on May 2, 2011.
- (d)(5) Research & Collaboration Agreement, dated as of April 28, 2011, by and between Purchaser and SunPower, incorporated herein by reference to Exhibit 10.5 to the Current Report on Form 8-K filed by SunPower on May 2, 2011.
- (d)(6) Guaranty, dated as of April 28, 2011, by and between Total and SunPower, incorporated herein by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by SunPower on May 2, 2011.
- (d)(7) Guaranty, dated as of April 28, 2011, by and between Total and SunPower, incorporated herein by reference to Exhibit 10.4 to the Current Report on Form 8-K filed by SunPower on May 2, 2011.
- (d)(8) Confidentiality Agreement, as amended and restated, dated as of November 4, 2010 by and between Total Gas & Power Ventures SAS and SunPower.*
- (d)(9) Amendment to Tender Offer Agreement, dated as of June 7, 2011, by and between Purchaser and SunPower[, incorporated herein by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by SunPower on June 7, 2011].
- (d)(10) Amendment to Affiliation Agreement, dated as of June 7, 2011, by and between Purchaser and SunPower[, incorporated herein by reference to Exhibit 2.2 to the Current Report on Form 8-K filed by SunPower on June 7, 2011].
- (d)(11) Amendment to Credit Support Agreement, dated as of June 7, 2011, by and between Purchaser and SunPower[, incorporated herein by reference to Exhibit 2.3 to the Current Report on Form 8-K filed by SunPower on June 7, 2011].
- (d)(12) Amendment to Research & Collaboration Agreement, dated as of June 7, 2011, by and between Purchaser and SunPower[, incorporated herein by reference to Exhibit 2.4 to the Current Report on Form 8-K filed by SunPower on June 7, 2011].
- (g) Not applicable.
- (h) Not applicable.

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- * Previously filed.
Included in mailing to stockholders.
- ** Filed herewith.