

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. EMP-104, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Fern Solar, LLC, for a)
Certificate of Public Convenience and) ORDER GRANTING
Necessity to Construct a 100-MW Solar) CERTIFICATE FOR MERCHANT
Facility in Edgecombe County, North) GENERATING FACILITY
Carolina

BY THE COMMISSION: On November 27, 2018, Fern Solar, LLC (Applicant) filed an application pursuant to N.C.G.S. § 62-110.1 and Commission Rule R8-63 for a certificate of public convenience and necessity (CPCN) to construct a 100-MW_{AC} solar photovoltaic (PV) electric generating facility to be located in Edgecombe County, North Carolina, and to be operated as a merchant plant.

On December 7, 2018, the Public Staff filed a Notice of Completeness stating that the Public Staff has reviewed the application as required by Commission Rule R8-63(d) and that the Public Staff considers the application to be complete. In addition, the Public Staff requested that the Commission issue a procedural order setting the application for hearing, requiring public notice pursuant to N.C.G.S. § 62-82, and addressing other procedural matters.

On December 20, 2018, the Commission issued an Order Scheduling Hearings, Requiring Filing of Testimony, Establishing Procedural Guidelines, and Requiring Public Notice (Scheduling Order). Among other things, the Scheduling Order set dates and locations for a public witness hearing and an expert witness hearing on Applicant's proposed PV facility, and required Applicant to publish notice of the public witness hearing.

On January 28, 2019, the Public Staff filed the affidavit of Evan D. Lawrence, an engineer in the Electric Division of the Public Staff. In his affidavit, Mr. Lawrence stated that, upon review of the application, the Public Staff concluded that Applicant had satisfied the requirements to obtain a CPCN pursuant to N.C.G.S. § 62-110.1 and Commission Rule R8-63. Further, Mr. Lawrence stated that the Public Staff recommended that the Commission issue the requested CPCN to the Applicant with certain conditions.

On January 31, 2019, Applicant filed an affidavit of publication from The Rocky Mount Telegram, stating that publication of notice of the public witness hearing was completed on January 25, 2019.

The Commission has not received any complaints about Applicant's proposed PV facility.

On January 31, 2019, the Commission issued an Order Cancelling Public Hearing.

On February 6, 2019, the Commission issued an Order Suspending Expert Witness Hearing. Among other things, the Commission ordered that the expert witness hearing be suspended until the Commission received the State Clearinghouse's review and the comments of State agencies. Further, the Commission stated that upon receipt of the State Clearinghouse's information it would proceed appropriately in considering the application, including deciding whether to re-schedule the expert witness hearing.

On February 20, 2019, the State Clearinghouse filed comments. In its comments, the State Clearinghouse requested that a supplemental document providing additional information requested by the Department of Cultural Resources be submitted to the Clearinghouse for further review and comment.

On May 3, 2019, the State Clearinghouse filed additional comments. The additional comments included those of the State Historic Preservation Office recommending that Applicant use high-visibility fencing in construction around the 25-foot buffer avoidance area demarcating the Lawrence Family Cemetery. The State Clearinghouse's cover letter indicated that, because of the nature of the comments, no further State Clearinghouse review action by the Commission was required for compliance with the North Carolina Environmental Policy Act.

On May 13, 2019, Applicant filed a letter requesting approval of its application and stating that it agrees to implement the 25-foot buffer avoidance area recommended in the comments of the State Historic Preservation Office.

On June 3, 2019, the Public Staff filed a letter stating that it had reviewed the amended application and determined it to be in compliance with the requirements of N.C.G.S. § 62-110.1(a) and Commission Rule R8-63. In addition, the Public Staff stated that it has not received any protests or other comments on the application for a CPCN. Therefore, the Public Staff recommended that the expert witness hearing be cancelled, and that the Commission issue the CPCN for the facility.

After careful consideration, the Commission finds good cause to approve the application, cancel the expert witness hearing, and issue the requested CPCN for the proposed solar PV electric generating facility, subject to the conditions recommended by the Public Staff. In addition, the Commission finds good cause to require Applicant to

comply with its agreement to use high-visibility fencing around the 25-foot buffer avoidance area demarcating the Lawrence Family Cemetery during construction of the facility.

IT IS, THEREFORE, ORDERED as follows:

1. That a certificate of public convenience and necessity shall be, and is hereby issued to Fern Solar, LLC, for the construction of a 100-MW_{AC} solar PV merchant generating facility to be located in Edgecombe County, North Carolina, and to be operated as a merchant plant. This certificate is subject to the following conditions:

- (a) Fern Solar, LLC, will construct and operate the generating facility in strict accordance with applicable laws and regulations, including any local zoning and environmental permitting requirements;
- (b) Fern Solar, LLC, will not assert that the issuance of the certificate in any way constitutes authority to exercise any power of eminent domain, and it will abstain from attempting to exercise such power; and
- (c) The certificate is subject to Commission Rule R8-63 and all orders, rules, regulations and conditions as are now or may hereafter be lawfully made by the Commission.

2. That during construction Fern Solar, LLC, shall install and maintain high-visibility fencing around the 25-foot buffer avoidance area demarcating the Lawrence Family Cemetery.

3. That Fern Solar, LLC, shall file with the Commission in this docket a progress report and any revisions in the cost estimates for the facility on an annual basis, including any storage systems to be constructed at a later date, with the first report due no later than six months from the date of issuance of this Order.

4. That Appendix A hereto shall constitute the certificate of public convenience and necessity issued for the facility.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of June, 2019.

NORTH CAROLINA UTILITIES COMMISSION



Janice H. Fulmore, Deputy Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. EMP-104, SUB 0

Fern Solar, LLC
17901 Von Karman Avenue, Suite 1050
Irvine, California 92614

is hereby issued this

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
PURSUANT TO N.C. Gen. Stat. § 62-110.1**

for a 100-MW_{AC} solar photovoltaic electric generating facility

located

on non-contiguous parcels of land generally between
Battleboro-Leggett Road, Cool Spring Road, and Speights Chapel Road,
approximately 3.2 miles northeast of Rocky Mount and 6.7 miles northwest
of Tarboro, Edgecombe County, North Carolina,

subject to all orders, rules, regulations and conditions
as are now or may hereafter be lawfully made
by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of June, 2019.

NORTH CAROLINA UTILITIES COMMISSION



Janice H. Fulmore, Deputy Clerk