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July 1, 2015

Ms. Gail L. Mount, Deputy Clerk
North Carolina Utilities Commission, Public Staff
430 North Salisbury Street
Dobbs Building
Raleigh, North Carolina 27606-5918

Re: Sunflower Solar, LLC, Docket No. SP-5272, Sub 0 – Proposed Order

Dear Ms. Mount:

Please find attached a Proposed Order Issuing Certificate and Accepting Registration of New Renewable Energy Facility in the above-referenced docket.

Please contact me at (919) 420-1707 if you have any questions.

Sincerely yours,

KILPATRICK TOWNSEND & STOCKTON LLP



Steven J. Levitas

Attachments

cc: Georg Veit
Tim Dodge
Paul Walden
Jim Manley

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. SP-5272, Sub 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Sunflower)	PROPOSED ORDER ISSUING CERTIFICATE AND ACCEPTING REGISTRATION OF NEW RENEWABLE ENERGY FACILITY
Solar, LLC for a Certificate of Public)	
Convenience and Necessity to Construct a)	
20-MW Solar Photovoltaic Facility in)	
Halifax County, North Carolina)	

HEARD: Tuesday, May 28, 2015, at 6:00 p.m. at the Halifax County Historic Courthouse, Halifax, North Carolina.

BEFORE: Sam Watson, Presiding Hearing Examiner.

APPEARANCES

For Sunflower Solar, LLC:

Steven J. Levitas, Kilpatrick Townsend & Stockton LLP, 4208 Six Forks Road, Suite 1400, Raleigh, North Carolina 27609.

BY THE COMMISSION: On March 3, 2015, in Docket No. SP-5272, Sub 0, Sunflower Solar, LLC ("Sunflower") filed an application pursuant to Commission Rule R8-64 seeking a certificate of public convenience and necessity ("CPCN") pursuant to N.C. Gen. Stat. § 62-110.1(a) for construction of a 20 megawatt ("MW") AC solar photovoltaic facility (the "Facility") to be located approximately two miles south of the town of Weldon in Halifax County, North Carolina. Sunflower stated that it planned to sell the electricity generated by the Facility to Dominion North Carolina Power.

On March 18, 2015, Sunflower filed an amended registration statement for a new renewable energy facility. The registration statement included the certified attestations required by Commission Rule R8-66(b).

On March 24, 2015, the Commission issued an Order Requiring Publication of Notice in Docket No. SP-5272, Sub 0.

On April 20 and June 8, 2015, Sunflower filed amended applications seeking a CPCN for construction of the Facility.

On April 20 and 30, 2015, Paul Walden filed comments expressing concern about impacts of the Facility and alleged lack of public disclosure.

On May 4, 2015, the State Clearinghouse filed comments. Because of the nature of the comments, the cover letter indicated that no further State Clearinghouse review action by the Commission was required for compliance with the North Carolina Environmental Policy Act.

On May 12, 2015, Jim Manley filed comments expressing concern about impacts of the Facility.

On May 13, 2015, the Commission issued an Order Scheduling Hearing establishing the following events and deadlines: (i) a public hearing on May 28, 2015; (ii) at least ten (10) days prior to the hearing, Sunflower shall publish the Public Notice attached to the Order Scheduling Hearing in the newspaper previously used to publish notice of the Application, and Sunflower shall file an affidavit of publication with the Commission on or before the date of the hearing; (iii) no later than the date the public notice is published, Sunflower shall mail a copy of the public notice to the electric utility to which Sunflower plans to sell and distribute the electricity; (iv) on or before May 18,

2015, Sunflower shall prefile its direct expert witness testimony and exhibits; (v) on or before May 22, 2015, other persons desiring to become formal participants and parties in this proceeding shall file petitions to intervene; (vi) on or before May 22, 2015, the Public Staff and other intervenors shall prefile their direct expert witness testimony; (vii) on or before May 27, 2015, Sunflower shall prefile its rebuttal testimony and exhibits, if any.

On May 15, 2015, Sunflower filed a certificate of service stating that a copy of the application and amended application were provided to Dominion North Carolina Power on March 25, 2015 and April 23, 2015, respectively. The certificate of service further provided that public notice of the public hearing was to be published on May 17, 2015, which was provided to Dominion North Carolina Power on May 14, 2015.

On May 18, 2015, the State Clearinghouse filed additional comments. Based on comments provided by the Department of Cultural Resources, the State Clearinghouse requested additional information be submitted to the State Clearinghouse for review and comment. The Department of Cultural Resources indicated that the geographical setting of the project is considered a high probability area for archaeological remains and recommended that Sunflower perform an archaeological survey and submit a report to the Office of State Archaeology prior to construction or ground disturbance activities.

On May 18, 2015, Sunflower filed direct testimony of Georg Veit, Richard Kirkland, and Tommy Cleveland.

On May 19, 2015, Sunflower filed an affidavit of publication from The Daily Herald (Halifax County) stating that the Notice of Application was published in The

Daily Herald once a week for four (4) successive weeks, beginning with its issue of April 24, 2015 and ending with its issue of May 15, 2015.

On May 19, 2015, Sunflower filed an affidavit of publication from The Daily Herald (Halifax County) stating that the Notice of Hearing was published in The Daily Herald on May 17, 2015.

On May 28, 2015, the Commission conducted an evidentiary hearing in Halifax as scheduled. The following public witnesses appeared at the hearing: Jim Manley, Paul Walden, Charles Copeland, William Hodge, J. Rives Manning, Jr., Terri Medlin, and Tony Brown. The Public Staff did not appear at the hearing. At the evidentiary hearing, Sunflower provided the direct testimony of Georg Veit, Richard Kirkland, and Tommy Cleveland without objection.

On June 8, 2015, Sunflower filed an amended CPCN application for the Facility, updating its status of entering into a lease agreement and the location of the Facility.

On _____, 2015, the State Clearinghouse filed additional comments stating that Sunflower satisfied any issues related to archaeological remains and cultural resources and that no further State Clearinghouse review action by the Commission was required for compliance with the North Carolina Environmental Policy Act.¹

Based on the foregoing, the evidence presented at the hearing, and the entire record in this matter, the Commission makes the following:

¹ **Note to Commission:** In response to the issues raised by the Department of Cultural Resources and the State Clearinghouse, Sunflower retained an archaeological consulting firm to perform an archaeological survey of the project site. The archeological consultant has completed its work and found no archaeological or other cultural resource issues of concern on the site. The consultant is in the process of finalizing its report summarizing these findings for submittal to the State Clearinghouse and the Department of Cultural Resources. It is expected that, based on this report, the Clearinghouse will advise the Commission that no further review is required, but this has not yet occurred.

FINDINGS OF FACT

1. Sunflower is a North Carolina limited liability company with its principal place of business in Charlotte, North Carolina. Sunflower is an affiliate of Geenex Solar, LLC (“Geenex”), which develops solar generating facilities.

2. In compliance with N.C. Gen. Stat. § 62-110.1(a) and Commission Rule R8-64, Sunflower filed an application and amended applications for a CPCN authorizing the construction of a 20 MW AC solar photovoltaic facility (the “Facility”) to be located approximately two miles south of the town of Weldon in Halifax County, North Carolina. Pursuant to Commission Rule R8-66(b), Sunflower also filed its registration as a new renewable energy facility.

3. The Facility will consist of approximately ninety thousand (90,000) 310 to 330 watt photovoltaic modules (or the equivalent) affixed to ground-mounted racks, which will be supported by piles driven into the ground. The system will utilize inverters ranging from one (1) to two and a half (2.5) MW. The Facility will interconnect with Dominion North Carolina Power at distribution voltage. The expected commercial operation date for the Facility is June 2016.

4. It is anticipated that the electricity generated by the Facility will be sold to Dominion North Carolina Power.

5. Sunflower provided sufficient information to support the operational viability of the Facility. The Facility’s estimated net production is 44,000 megawatt-hours (“MWh”) per year.

6. The Facility was reviewed through the State Clearinghouse, which determined that additional information should be required. In response to comments

submitted by the Department of Cultural Resources, it was recommended that Sunflower perform an archaeological survey and submit a report to the Office of State Archaeology prior to construction or ground disturbance activities.

7. On _____, 2015, the State Clearinghouse filed additional comments stating that Sunflower satisfied any issues related to archaeological remains and cultural resources and that no further State Clearinghouse review action by the Commission was required for compliance with the North Carolina Environmental Policy Act.

8. Paul Walden filed comments expressing concern about an alleged lack of public disclosure. Specifically, the comments stated that the notice was “[b]uried in the classified ads [*sic*] in the local newspaper.”

9. Jim Manley filed comments expressing concern about impacts of the Facility. Specifically, the comments raised the following issues and questions:

No scientific studies have been done showing short and long term health impacts on people in neighborhoods adjacent to these types of facilities.

Who is responsible for damages done to adjacent properties should they occur, and what guarantees do we have that the responsible parties will fulfill their obligations?

What impact will this facility have on adjacent property values in the predominantly “Black” property owned area?

10. In addition to these written comments, the following individuals raised similar concerns at the evidentiary hearing: Paul Walden, Jim Manley, Charles Copeland, William Hodge, and Terri Medlin.

11. Sunflower filed testimony of Georg Veit, Richard Kirkland, Jr., and Tommy Cleveland, which included information in response to the concerns raised by Paul Walden, Jim Manley, and the individuals that testified at the evidentiary hearing. The testimony established the following. First, Sunflower seeks to be open and

transparent with the surrounding community in connection with its development plans. As required by applicable laws and regulations, Sunflower notified the public of its plans to construct the Facility. Sunflower also reached out to Mr. Weldon and Mr. Manley in an attempt to address their concerns. Second, as supported by technical and scientific literature, the Facility will not have any adverse impacts on public health or the environment. Solar systems do not burn fossil fuels and therefore do not produce toxic air or greenhouse gas emissions. Further, solar panels are encased in tempered glass, and there is very little risk that any material from the solar panels will be released into the environment. The presence of solar panels do not cause higher ambient temperatures in the surrounding area, and the strength of electromagnetic fields produced by solar systems does not approach levels considered harmful to human health. Third, Sunflower has directly addressed potential impacts to the neighbors' view-shed by voluntarily implementing a buffer zone and vegetative screen. Fourth, the Facility will not have an adverse impact on neighboring property values based on the following: (i) a series of matched-pair analyses of properties located across North Carolina showing that being located next to a solar facility has no impact on value of residential or agricultural property; (ii) a harmony of use analysis finding that the proposed solar facility will be compatible with nearby residential and agricultural uses in terms of appearance, noise, odor, traffic, and the presence (or absence) of hazardous material; and (iii) an informal survey of real estate professionals who have sold properties located near solar facilities in North Carolina indicating that solar farms do not diminish the market value of adjoining land. Fifth, Geenex did not consider race or other discriminatory factors in selecting the

site for the Facility. Geenex is not aware that is facilities or other solar facilities in North Carolina have been disproportionately sited in low-income or minority communities.

12. In addition to the direct testimony and expert witnesses on behalf of Sunflower, the following individuals testified either in support of the Facility or that Geenex is a good corporate citizen and has positively addressed concerns in response to other projects: J. Rives Manning, Jr. and Tony Brown.

13. During the 2007 Session, the North Carolina General Assembly enacted S.L. 2007-397 (Senate Bill 3). In this legislation, the General Assembly declared it to be the public policy of the State to promote the development of renewable energy through the implementation of a Renewable Energy and Energy Efficiency Portfolio Standard (“REPS”) and to encourage private investment in renewable energy.

14. Sunflower has made a sufficient showing of need for the Facility based on the public benefits of renewable energy and the public policy of this State, as prescribed in Senate Bill 3, of promoting the development of renewable energy resources in this State.

15. It is reasonable and appropriate to grant the CPCN for the Facility.

16. It is reasonable and appropriate to accept registration of the Facility as a new renewable energy facility.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 – 2

These findings of fact are essentially informational, procedural and jurisdictional in nature and are not in dispute. These findings are supported by the application and testimony of Sunflower witness Georg Veit.

An examination of the application and testimony and exhibits of Veit confirms that Sunflower has complied with all filing requirements of the law and Commission rules associated with applying for a certificate to construct a renewable energy facility in North Carolina.

Commission Rule R8-66 requires the owner, including an electric power supplier, of each renewable energy facility that intends for RECs is earns to be eligible for use an electric power supplier to comply with N.C. Gen. Stat. § 62-133.8 to register the facility with the Commission. Sunflower's filing includes certified attestations that: (1) the Facility is in substantial compliance with all federal and State laws, regulations and rules for the protection of the environment and conservation of natural resources; (2) the Facility will be operated as a new renewable energy facility; (3) Sunflower will not market or otherwise resell any RECs sold to an electric power supplier to comply with N.C. Gen. Stat. § 133.8; and (4) Sunflower consents to the auditing of its books and records by the Public Staff insofar as those records relate to transactions with North Carolina electric power suppliers.

The Commission concludes that Sunflower has complied with the Commission's rules for registration as a new renewable energy facility.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 3 – 5

The evidence supporting these findings of fact may be found in the application and the testimony of Sunflower witness Georg Veit.

According to the application and amended application and as Sunflower witness Veit testified, the Facility will be located at approximately two miles south of the town of Weldon in Halifax County, North Carolina. Sunflower is leasing the real property from

the current owners and will own 100% of the Facility. As proposed, the Facility will consist of approximately ninety thousand (90,000) 310 to 330 watt photovoltaic modules (or the equivalent) affixed to ground-mounted racks, which will be supported by piles driven into the ground. The system will utilize inverters ranging from one (1) to two and a half (2.5) MW. [Tr., p. 71, ll 1-10]. A map of the proposed Facility was included as Exhibit 2 to the direct testimony of Georg Veit.

The Facility is expected to achieve commercial operation by June 2016. [Tr., p. 71, ll 11-12]. As indicated in the CPCN application, the expected service life of the Facility is a minimum of twenty-five (25) years.

The application indicates that the net maximum capacity of the Facility is 19.9 MW. The Facility's estimated net production is 44,000 MWh per year. [Tr., p. 72, ll 14-15].

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6 – 7

The evidence supporting these findings of fact is found in the letters dated May 18 and _____, 2015 filed by the State Clearinghouse with the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 8 – 12

The evidence supporting these findings of fact is found in the application and the testimony and exhibits of Sunflower witnesses Veit, Kirkland and Cleveland.

Veit, Kirkland and Cleveland testified as follows. First, Sunflower seeks to be open and transparent with the surrounding community in connection with its development plans. [Tr., p. 77, ll 4-12]. As required by applicable laws and regulations, Sunflower notified the public of its plans to construct the Facility. [Tr., p. 77, ll 9-10]. Sunflower also reached out to Mr. Weldon and Mr. Manley in an attempt to address their

concerns. [Tr., p. 77, ll 11-12]. Second, as supported by technical and scientific literature, the Facility will not have any adverse impacts on public health or the environment. [Tr., p. 77, ll 15-22; p. 78, l 1; p. 108, ll 19-22, p. 109, ll 1-23; p. 110, ll 1-15]. Solar systems do not burn fossil fuels and therefore do not produce toxic air or greenhouse gas emissions. [Tr., p. 108, l 22; p. 109, ll 1-4]. Further, solar panels are encased in tempered glass, and there is very little risk that any material from the solar panels will be released into the environment. [Tr., p. 109, ll 4-8]. The presence of solar panels do not cause higher ambient temperatures in the surrounding area, and the strength of electromagnetic fields produced by solar systems does not approach levels considered harmful to human health. [Tr., p. 109, ll 8-15]. Also, the Facility will be required to comply with stormwater requirements, file an Erosion and Sediment Control Plan and obtain stormwater permits from North Carolina Department of Environmental and Natural Resources. [Tr., p. 77, ll 15-20]. Third, Sunflower has directly addressed potential impacts to the neighbors' view-shed by voluntarily implementing a buffer zone and vegetative screen. [Tr., p. 78, ll 4-14]. Fourth, the Facility will not have an adverse impact on neighboring property values based on the following: (i) a series of matched-pair analyses of properties located across North Carolina showing that being located next to a solar facility has no impact on value of residential or agricultural property; (ii) a harmony of use analysis finding that the proposed solar facility will be compatible with nearby residential and agricultural uses in terms of appearance, noise, odor, traffic, and the presence (or absence) of hazardous material; and (iii) an informal survey of real estate professionals who have sold properties located near solar facilities in North Carolina indicating that solar farms do not diminish the market value of adjoining land. [Tr., p.

78, ll 12-14; p. 97, ll 17-23; p. 98, ll 1-14]. Fifth, Geenex did not consider race or other discriminatory factors in selecting the site for the Facility. [Tr., p. 75, ll 2-8; p. 78, ll 16-17]. Geenex is not aware that is facilities or other solar facilities in North Carolina have been disproportionately sited in low-income or minority communities. [Tr., p. 78, ll 17-19].

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 13 – 14

The evidence supporting these findings of fact is found in the application and the testimony and exhibits of Sunflower witness Veit.

Sunflower witness Veit testified that the Facility will provide a significant source of RECs for use by electric power suppliers to comply with their REPS obligations. [Tr., p. 73, ll 14-16]. It is anticipated that the Facility will provide 44,000 RECs annually. [Tr., p. 73, l 16]. In addition to facilitating the compliance of the electric power suppliers in North Carolina with their REPS obligations, the Facility will promote the various objectives of Senate Bill 3, including: (1) diversifying the resources used to meet the energy needs of North Carolina consumers; (2) providing greater energy security through the use of indigenous resources; and (3) encouraging private investment in renewable energy. Electric utilities in North Carolina have also acknowledged the generation benefits of distributed base load power to stabilize the grid. [Tr., p. 73, ll 17-22; p. 74, ll 1-2].

The Commission concludes that there has been a sufficient showing of need for the Facility based on the public benefits of renewable energy generation and the public policy of this State, as prescribed in Senate Bill 3, of promoting the development of renewable energy resources in this State.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 15 – 16

The evidence supporting these findings of fact is found in the application, the testimony and exhibits of Sunflower witnesses Veit, Kirkland and Cleveland, and the agency letters submitted as a result of the State Clearinghouse review process.

For the reasons explained in this Order, the Commission finds that the construction of the Facility is in the public interest and justified by the public convenience and necessity as required by N.C. Gen. Stat. § 62-110.1. The Commission further finds good cause to accept registration of the Facility as a new renewable energy facility. Sunflower shall annually file the information required by Commission Rule R8-66 on or before April 1 of each year. To the extent that Sunflower is not otherwise participating in a REC tracking system, it will be required to participate in the NC-RETS REC tracking system in order to facilitate the issuance of RECs.

IT IS THEREFORE, ORDERED as follows:

1. That the application of Sunflower Solar, LLC for a certificate of public convenience and necessity shall be, and is hereby, approved.
2. That Appendix A shall constitute the certificate of public convenience and necessity issued to Sunflower Solar, LLC for the 20-MW solar photovoltaic electric generating facility located in an unincorporated area of Halifax County, North Carolina, just east of the intersection of Dickens Wildwood Road and Highway 301 and south of the intersection of Lilly Lane and Highway 301.
3. That the amended registration statement filed by Sunflower Solar, LLC, for its solar photovoltaic facility located in Halifax County North Carolina, as a new renewable energy facility shall be, and is hereby, accepted.

4. That Sunflower Solar, LLC, annually file the information required by Commission Rule R8-66 on or before April 1 of each year.

5. That the Chief Clerk shall close Docket No. SP-5272, Sub 0.

ISSUED BY ORDER OF THE COMMISSION.

This ____ day of July, 2015.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount, Chief Clerk

APPENDIX A

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. SP-5272, SUB 0

Sunflower Solar, LLC
7804 – C Fairview Road #257
Charlotte, North Carolina 28226

is hereby issued this

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
PURSUANT TO G.S. 62-110.1**

for a 20-MW AC solar photovoltaic electric generating facility

located

in an unincorporated area of Halifax County, North Carolina, just east of the intersection of Dickens Wildwood Road and Highway 301 and south of the intersection of Lilly Lane and Highway 301

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 ____ day of July, 2015.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount, Chief Clerk