

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. EMP-120, SUB 0  
DOCKET NO. SP-5259, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Aulander Holloman Solar, LLC,	)	ORDER AMENDING AND
for a Certificate of Public Convenience and	)	REISSUING CERTIFICATE
Necessity to Construct a 100 MW Solar	)	FOR MERCHANT
Photovoltaic Facility in Hertford County,	)	GENERATING FACILITY
North Carolina	)	

BY THE COMMISSION: On February 27, 2015, Aulander Holloman Solar, LLC (Applicant), filed an application pursuant to Commission Rule R8-64 in Docket No. SP-5259, Sub 0 for a certificate of public convenience and necessity (CPCN) for the construction of an 80-megawatt (MW) solar photovoltaic generating facility to be located in the Dominion Energy North Carolina (DENC) service area (QF CPCN Application). DENC is part of PJM Interconnection, LLC (PJM), a regional transmission organization serving all or part of 13 states and the District of Columbia.

No complaints were received after newspaper publication and State Clearinghouse review. The Public Staff presented this matter to the Commission at its Regular Staff Conference on June 15, 2015, and the Commission issued an order granting the CPCN on June 17, 2015.

On March 27, 2018, the Applicant filed an amendment to its application stating that the facility's site location had been modified by removing one parcel of land and adding others. After additional public notice and review by the State Clearinghouse, the Commission issued an order on June 20, 2018, amending the CPCN to reflect the revised site layout.

On October 26, 2023, Applicant filed a verified Motion to Amend and Reissue Certificate of Public Convenience and Necessity and Request for Limited Waiver (Motion). By cover letter dated the same day, Applicant filed an Application for a Certificate of Public Convenience and Necessity issued under Commission Rule R8-63 (EMP CPCN Application) increasing the size of the facility to 100 MW. The EMP CPCN Application was subsequently designated as Docket No. EMP-120, Sub 0.

In its Motion, Applicant states that construction of the 80 MW facility was completed consistent with the amended design layout approved by the Commission. In 2018 Applicant entered into an agreement to sell the output of the facility to Fifth Third Bancorp and began exploring the possibility of increasing the maximum output of the facility without changing the facility design. On June 12, 2018, Applicant filed a request with PJM to study the system

impacts of increasing the injection capacity of the facility from 80 MW to 100 MW. PJM thoroughly studied the request and concluded that the facility could inject up to 100 MW without causing additional impacts to the system or requiring additional upgrades and issued an Interconnection Service Agreement (ISA) reflecting the higher capacity on February 24, 2020. In June 2020, Applicant modified its transformers and plant controller to accommodate a maximum injection capacity of 100 MW. No solar panels were added to the facility, and the direct current rating of the facility did not change.

Applicant acknowledges that it failed to comply with the requirement of Commission Rule R8-64(d)(3) that it notify the Commission of “any significant changes in the information set forth” in Exhibits 1-5 of its application, including the certificated output of the facility, and states that while “the Applicant and its upstream owner endeavor in good faith to comply with all Commission requirements, the relevant personnel simply failed to understand the obligation to inform the Commission of this change.”

Because of the change in capacity, the facility no longer qualifies for QF status and has withdrawn its QF self-certification with FERC. Applicant, therefore, requests that the Commission cancel its existing CPCN issued under Rule R8-64 in Docket No. SP-5259, Sub 0 and issue a CPCN for a merchant generating facility under Commission Rule R8-63 in Docket No. EMP-120, Sub 0. The Applicant also requests that the Commission waive, for good cause, certain requirements of Rule R8-63.

The Public Staff presented this matter to the Commission at its Regular Staff Conference on December 11, 2023, recommending that the Commission cancel the CPCN granted in Docket No. SP-5259, Sub 0 and grant the requested CPCN for a 100 MW EMP facility in Docket No. EMP-120, Sub 0. The Public Staff recommends issuing the new CPCN subject to the following two conditions: (1) that the certificate be 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, and (2) that Applicant shall file with the Commission any significant revisions in the cost estimates for the construction of the facility or the construction of any interconnection facilities, network upgrades, or affected systems upgrades within 30 days of becoming aware of such revisions.

On December 14, 2023, Applicant filed the additional information requested by the Commission regarding: (1) affected system impacts from the uprate at Applicant’s facility; (2) the planned sale of the facility; (3) other merchant generating facilities in North Carolina owned by Applicant’s parent company, SunEnergy1 LLC (SE1); (4) the compliance of SE1’s other merchant generating facilities with the capacity limits in their CPCNs; and (5) steps that SE1 is taking to ensure compliance with the Commission’s requirements going forward.

## **DISCUSSION AND CONCLUSIONS**

Based upon the unique facts and circumstances of this case, the Commission finds good cause to grant the requested relief subject to the conditions recommended by the Public Staff.

The Public Staff indicates that it studied the EMP CPCN Application and that the issues associated with a merchant generating facility application were all satisfactorily addressed. The Public Staff states that it based its conclusion on (1) the review of the facility that occurred when Applicant applied for its original and amended CPCNs, (2) that the site plan did not further change with the increase in capacity, (3) that Applicant is currently selling the output of the facility to Fifth Third Bancorp, and (4) that Applicant has provided information in its Motion and in discovery that alleviate any concerns the Public Staff typically has in traditional EMP applications pursuant to Commission Rule R8-63. The Public Staff further states that while Applicant is in technical violation of the current CPCN and Commission rules, Applicant did receive approval from PJM through its interconnection study process prior to operating at the higher capacity. Applicant completed the PJM interconnection study process and entered into an amended ISA reflecting the revised output of the facility. The request to increase the output of the facility from 80 MW to 100 MW did not trigger any upgrades to the PJM transmission system and did not trigger any impacts on potentially Affected Systems or otherwise require the construction of any Affected System Upgrades. The capacity increase did not require additional construction, did not modify the footprint of the facility, and did not result in any additional impacts from the facility. Therefore, the Public Staff recommends waiver of Commission Rules R8-63(b)(1)(iii), (b)(5), (b)(6) and (d), cancelation of the CPCN under Commission Rule R8-64 in Docket No. SP-5259, Sub 0, and issuance of a CPCN to Applicant under Commission Rule R8-63 in Docket No. EMP-120, Sub 0.

Applicant acknowledges that it failed to timely seek an amendment to its CPCN, stating that while “Applicant and its upstream owner endeavor in good faith to comply with all Commission requirements, the relevant personnel simply failed to understand the obligation to inform the Commission of this change.” There is no indication, however, that this failure was intentional. The Commission emphasizes that Applicant’s error, while ultimately inconsequential, nonetheless represents a significant deviation from the requirements of the Commission’s rules. While Applicant’s failure to comply may be excused in this limited circumstance, Applicant is now on notice of its requirement to notify the Commission of any further changes to the facility pursuant to Rule R8-63.

Thus, because the facility is a merchant generating facility, the Commission agrees with the recommendation of the Public Staff that the CPCN issued under Rule R8-64 should be canceled and that a new CPCN should be issued to Applicant under Rule R8-63.<sup>1</sup> Further, because construction of the facility has been completed pursuant

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<sup>1</sup> It appears that the application should have been filed originally as one for a merchant generating facility pursuant to Commission Rule R8-63. As provided in Rule R8-64(a)(1), under which the QF CPCN Application was filed, not only does that rule apply only to facilities that meet the definition of a QF, 16 U.S.C. § 796(17)-(18), but the applicant must be seeking the benefits of 16 U.S.C. 824a-3 or G.S. 62-156 — i.e., the right to sell to the utility at Commission-approved avoided cost rates. As noted in the June 17, 2015 order granting the QF CPCN Application, the mandatory purchase obligation did not apply to DENC for facilities larger than 20 MW, such as the 80 MW facility at issue in this case. Thus, the facility was a merchant generating plant even at that time notwithstanding the fact that it met the definition of a QF, and Applicant should have complied with the filing requirements of Rule R8-63. Even had it properly sought and obtained authority as a merchant generating facility, Applicant would have remained obligated to seek an amendment to its certificate for authority when it proposed to increase the output of the facility. Applicant had been approved to construct an 80 MW facility, not a 100 MW facility.

to its earlier granted QF CPCN Application and the facility has been operated for several years, the Commission finds good cause to waive the requested provisions of Rule R8-63 related to the filing of the EMP CPCN Application.

IT IS, THEREFORE, ORDERED as follows:

1. That a certificate of public convenience and necessity shall be, and is hereby, issued to Applicant for the construction of a 100 MW<sub>AC</sub> solar photovoltaic facility in Hertford County, North Carolina, subject to the following conditions:

a) 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; and

b) Applicant shall file with the Commission in Docket No. EMP-120, Sub 0 any significant revisions in the cost estimates for the construction of the Facility or the construction of any Interconnection Facilities, Network Upgrades, and/or Affected Systems Upgrades within 30 days of becoming aware of such revisions;

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

3. That the certificate of public convenience and necessity issued to the facility in Docket No. SP-5259, Sub 0 is hereby canceled.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of December, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script, reading "Tamika D. Conyers".

Tamika D. Conyers, Deputy Clerk

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. EMP-120, SUB 0

Aulander Holloman Solar, LLC  
595 Summer Street, 4th Floor  
Stamford, CT 06901

is hereby issued this

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

for a 100 MW<sub>AC</sub> solar photovoltaic electric generating facility

located at

208 Joe Holloman Rd, Aulander, North Carolina 27805 and  
146 B W Brickmill Rd, Aulander, North Carolina 27805.  
GPS 36.246084, -77.066151.

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 18th day of December, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink, reading "Tamika D. Conyers". The signature is written in a cursive, flowing style.

Tamika D. Conyers, Deputy Clerk