



**Fox Rothschild** LLP  
ATTORNEYS AT LAW

434 Fayetteville Street  
Suite 2800  
Raleigh, NC 27601  
Tel (919) 755-8700 Fax (919) 755-8800  
www.foxrothschild.com

Benjamin L. Snowden  
Direct No. 919-719-1257  
E-mail: bsnowden@foxrothschild.com

July 27, 2022

Ms. A. Shonta Dunston  
Chief Clerk  
N.C. Utilities Commission  
430 N. Salisbury Street  
Room 5063  
Raleigh, NC 27603-5919

**Re: In the Matter of**  
**Application of American Beech Solar LLC for a Certificate of Public**  
**Convenience and Necessity to Construct a 110-MW Solar Facility in**  
**Halifax County, North Carolina**  
**NCUC Docket No. EMP-108, Sub 0**  
***Consent Motion to Cancel Expert Witness Hearing and Proceed on the Record***

Dear Ms. Dunston:

On behalf of American Beech Solar LLC ("American Beech" or "Applicant"), we herewith submit Consent Motion to Cancel Expert Witness Hearing and Proceed on the Record in the above referenced docket.

Thank you, and please contact me if you have any questions.

Sincerely,

*/s/ Benjamin L. Snowden*

Benjamin L. Snowden

pbb  
Attachment

Copy to: Counsel of Record  
Parties of Record

OFFICIAL COPY

JUL 27 2022

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. EMP-108 SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Application of American Beech Solar  
LLC for a Certificate of Public  
Convenience and Necessity to Construct  
a 140-MW Solar Facility in Halifax  
County, North Carolina

)  
)  
)  
)  
)  
)  
)

**CONSENT MOTION TO CANCEL  
EXPERT WITNESS HEARING**

American Beech Solar LLC (“American Beech” or “Applicant”), by and through its undersigned counsel, pursuant to Commission Rule R1-7 and with the consent of Public Staff, moves the Commission for an order cancelling the August 2, 2022, expert witness hearing and accepting into the record all pre-filed testimony and exhibits of the Applicant and the Public Staff. Based on the evidence provided by the Applicant in support of its Application and in response to Orders of the Commission, the Public Staff has recommended that the Commission approve the Application, subject to certain conditions. American Beech has accepted those conditions. In the interest of judicial economy, and with the consent of Public Staff, American Beech requests that the Commission cancel the August 2, 2022, expert witness hearing, accept into the record the pre-filed testimony and exhibits provided by the parties, and decide the Application based on the record.

In support thereof, Applicant states as follows:

1. In this proceeding, American Beech requests approval to construct a 140 MW<sub>ac</sub> solar photovoltaic electric generating facility proposed to be located in Halifax County, North Carolina (the "Facility").<sup>1</sup> If approved, the Facility is proposed to interconnect to an existing Dominion Energy North Carolina ("DENC") transmission line and sell to customer(s) within the PJM market.

2. American Beech initiated its request to the Commission on January 28, 2020, by filing a CPCN application pursuant to N.C. GEN. STAT. § 62-110.1 and Commission Rule R8-63 (the "Application")

3. On February 6, 2020, the Public Staff filed a Notice of Completeness stating that the Public Staff had reviewed the application as required by Commission Rule R8-63(d) and that the Public Staff considered the Application to be complete.

4. On March 12, 2020, this Commission issued an Order Requiring Filing of Testimony, Establishing Procedural Guidelines, and Requiring Public Notice ("Procedural Order"). The Procedural Order: (1) established a deadline for intervention in this matter on April 16, 2020; (2) scheduled a public hearing on May 20, 2020, at the Halifax County Historical Courthouse, for the purpose of receiving public witness testimony regarding the Applicant's application for a CPCN; (3) scheduled a hearing on May 21, 2020 for the purpose of receiving expert witness testimony regarding the Applicant's application for a CPCN; and (4) required the Applicant to publish Public Notice of the Application once a week for four successive weeks. The Procedural Order further provided that the

---

<sup>1</sup> The original Application requested permission to construct a 100 MW<sub>ac</sub> facility. In testimony filed on May 24, 2022, the Applicant indicated that it had increased the AC capacity of the proposed facility to 140 MW, and filed an updated site plan reflecting that change.

Commission may cancel the public witness hearing if no substantial written complaints regarding the proposed facility are filed with the Commission on or before ten days following the last day of the publication of notice.

5. On May 15, 2020, the Commission issued an Order (1) rescheduling the public witness hearing to June 24, 2020; and (2) canceling the expert witness hearing pending a later order rescheduling that hearing.

6. On June 9, 2020, the Applicant filed an Affidavit of Publication stating that notice of the Application had been published in the Daily Herald, a daily newspaper of general circulation, printed and published in Roanoke Rapids, Halifax County, North Carolina, on May 19, May 26, June 2, and June 9, 2020.

7. On June 19, 2020, the Commission issued an Order canceling the public witness hearing set for June 24, 2020.

8. The State Clearinghouse filed comments on the Application on April 20, 2020; May 6, 2020; September 8, 2020; December 9, 2020; and January 27, 2021. The Clearinghouse's January 27, 2021, comments stated that "it has been determined that no further State Clearinghouse review action on your part is needed for compliance with the North Carolina Environmental Policy Act."

9. On June 8, 2022, the Commission issued an Order Scheduling Hearing and the Filing of Testimony. This order scheduled a hearing for the purpose of receiving expert witness testimony regarding the CPCN, to be held on Tuesday, August 2, 2022, at 10:00 a.m.

10. American Beech has supported the Application with the following testimony:



- Pre-filed direct testimony of Whitney Rubin, filed with the Application on January 28, 2020;
- Pre-filed supplemental testimony of Whitney Rubin, filed on July 9, 2020;
- Pre-filed supplemental reply testimony of Whitney Rubin, filed on July 29, 2020;
- Pre-filed supplemental testimony of Michael Stanton, filed on May 24, 2022; and
- Pre-filed supplemental reply testimony of Michael Stanton, filed on July 14, 2022.

11. On April 16, 2020, the Public Staff filed the Testimony of Jay B. Lucas. In his testimony, Mr. Lucas stated that in his opinion the Applicant had shown a need for the facility, and that the Applicant had complied with the Commission's filing requirements. Mr. Lucas recommended that the Commission grant the Application for a CPCN, subject to certain conditions.

12. On July 22, 2020, the Public Staff filed Supplemental Testimony of Jay B. Lucas. In his testimony, Mr. Lucas reviewed and discussed supplemental testimony and exhibits provided by the Applicant in response to Commission Orders. After reviewing the Applicant's additional testimony, Mr. Lucas again recommended that the Commission grant the Application for a CPCN, subject to certain conditions.

13. On November 17, 2020, the Public Staff filed the Second supplemental Testimony of Jay B. Lucas. In his testimony, Mr. Lucas reviewed and discussed additional supplemental testimony and exhibits provided by the Applicant, as well as other issues not raised in Applicant's testimony. Mr. Lucas again recommended that the Commission grant the Application for a CPCN, subject to certain conditions.

14. On June 27, 2022, the Public Staff filed the Third supplemental testimony of Jay B. Lucas. In his testimony, Mr. Lucas recommended that the Commission grant the Application for a CPCN, with the following conditions:

- (1) The Applicant shall construct and operate the Facility in strict accordance with applicable laws and regulations, including any local zoning and environmental permitting requirements.
- (2) The CPCN shall be subject to Commission Rule R8-63(e) and all orders, rules and regulations as are now or may hereafter be lawfully made by the Commission.
- (3) The Applicant shall file with the Commission in this docket any significant revisions in the cost estimates for the construction of the Facility itself, interconnection facilities, network upgrades, or affected system upgrades, or any other significant change in costs, within 30 days of becoming aware of such revisions.
- (4) The Applicant shall file a copy of any executed Affected System Operating Agreement with the Commission at the same time such filing is made at the Federal Energy Regulatory Commission (at least 61 days prior to commencing construction on the upgrades).
- (5) If at any time the Applicant seeks reimbursement for any interconnection facilities, network upgrade costs, affected system costs, or other costs required to allow energization and operation of the Facility, the Applicant shall notify the Commission no later than 60 days before seeking reimbursement.

15. In supplemental reply testimony filed on July 14, 2022, the Applicant consenting to the conditions proposed by the Public Staff in Mr. Lucas's Third supplemental testimony.

16. deadline for intervention established by the Commission has passed, and no petition to intervene has been filed. Consequently, the only parties to the docket are the Applicant and the Public Staff, and no party has filed comments or testimony in opposition to the Application.

17. More than ten days have elapsed since the last day of the publication of notice. No written complaints have been received regarding the proposed facility.

18. The Public Staff has been consulted prior to the filing of this Motion and states that it consents to the cancellation of the public hearing or evidentiary hearing as requested herein.

Wherefore, Applicant respectfully requests that the Commission (1) cancel the expert witness hearing scheduled for August 2, 2022; and (2) accept into the record all pre-filed testimony and exhibits of the Applicant and the Public Staff.

Respectfully submitted, this 27th day of July, 2022.

FOX ROTHSCHILD LLP

/s/ Benjamin L. Snowden

Benjamin L. Snowden

NC Bar No. 51745

BSnowden@foxrothschild.com

434 Fayetteville Street

Suite 2800

Raleigh, North Carolina 27601

Telephone: 919-719-1258

*Attorneys for American Beech Solar, LLC*

## CERTIFICATE OF SERVICE

I certify on July 27, 2022, that I have this day served a copy of the foregoing  
CONSENT MOTION TO CANCEL EXPERT WITNESS on each of the parties of record  
by United States mail, first class mail, or by means of electronic delivery upon agreement  
of the receiving party.

FOX ROTHSCHILD LLP

/s/ Benjamin L. Snowden

Benjamin L. Snowden