

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. EMP-103, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Albemarle Solar, LLC for a)	AMENDED ORDER
Certificate of Public Convenience and)	SCHEDULING HEARING AND
Necessity to Construct a 80-MW Solar Facility)	REQUIRING PUBLIC NOTICE
in Washington County, North Carolina)	

BY THE HEARING EXAMINER: On April 26, 2019, in the above-captioned proceeding, the Commission issued an Order scheduling this matter for hearing and requiring public notice thereof. It has come to the Hearing Examiner's attention that the April 26 Order and the public notice attached thereto contained scrivener's errors as to location of the facility and the location of the hearing. The Hearing Examiner, therefore, finds good cause to issue this Order amending the April 26 Order by correcting those errors and restating in full the background of this proceeding and the cause for scheduling the hearing.

On September 21, 2015, in Docket No. SP-6476, Sub 0, Albemarle Beach Solar, LLC (Applicant), filed an application seeking a certificate of public convenience and necessity (CPCN) pursuant to N.C. Gen. Stat. § 62-110.1(a) and Commission Rule R8-64 for construction of an 80-MW_{AC} solar photovoltaic (PV) electric generating facility to be located on the south side of Mackeys Road, east and west of Cross Road, and northeast of Woodlawn Road, in Roper, Washington County, North Carolina. The facility has an e911 address of 9740 Saints Delight Road, Roper, North Carolina, and 7340 Mackeys Road, Roper, North Carolina.

On September 23, 2015, also in Docket No. SP-6476, Sub 0, the Commission issued an Order Requiring Publication of Notice requiring the Applicant (1) to publish notice of the application in the manner required by N.C.G.S. § 62-82(a) and file an affidavit of publication with the Commission, and (2) to mail a copy of the application and notice to the electric utility to which the Applicant plans to sell and distribute the electricity, and file a signed and verified certificate of service that the application and notice have been provided to the utility. In addition, the Order directed the Chief Clerk of the Commission to deliver copies of the notice to the Clearinghouse Coordinator of the Office of Policy and Planning of the Department of Administration for distribution by the Coordinator to State agencies having an interest in the application.

On or after November 5, 2015, complaints were filed in Docket No. SP-6476, Sub 0 by John B. Dunn, Norma Brown, Al and Brenda Harkoph, and by Timothy J. Pharr.

On September 9, 2016, in Docket No. SP-6476, Sub 0, based upon the complaints and the record herein, the Commission issued an Order setting this matter for hearing for the purpose of receiving evidence as to whether the CPCN should be issued to the Applicant, and directing the Applicant to publish notice of the public hearing and to pre-file testimony in this docket. On October 6 and 10, 2016, the Commission issued Orders cancelling the hearing previously scheduled and clarifying that all complaints filed in this docket remain pending and that the individuals who submitted those complaints are entitled to a hearing in this proceeding. In addition, the October 10 Order noted that the Applicant's plan to add an additional parcel to the site of the proposed facility justified requiring additional public notice and further review of the application by the State Clearinghouse. Finally, that Order further stated that unless the pending complaints are withdrawn and no further complaints received, a hearing in this matter would be scheduled at an appropriate place and time.

On November 12, 2018, the Applicant filed a second amendment to its application for a CPCN, noting that the location of the site of the proposed facility has changed as a result of the removal of parcels of land from, and the addition of parcels of land to, the site of the proposed facility. In addition, the Applicant states that an e911 address had been assigned to the property, and that the facility would come online in phases before December 2020.

On November 29, 2018, in Docket No. SP-6476, Sub 0, and in the above-captioned docket, the Commission issued an Order declaring the Applicant's amended application for a CPCN to be an application for a CPCN for the construction of an electric generating facility that will be operated as a merchant plant within the scope of Commission Rule R8-63. The Commission, therefore, opened this docket and established this proceeding for the purpose of considering the application, and further declared that all the complaints filed in Docket No. SP-6476, Sub 0, remain pending in this proceeding and that after the Applicant has supplemented its application and its counsel has made an appearance in this proceeding, the Commission would proceed to consider the application.

On March 28, 2019, as amended by further filings on April 10 and 11, 2019, the Applicant, through its counsel, filed the direct testimony of Linda Nwadike, as well as several exhibits, including a map of the proposed location of the facility. In summary, the Applicant's proposed 80-MW_{AC} solar PV facility is anticipated to be placed into service in various phases before December 2020. The location of the proposed facility is located on the south side of Mackeys Road, east and west of Cross Road, and northeast of Woodlawn Road, in Roper, Washington County, North Carolina. The facility has an e911 address of 9740 Saints Delight Road, Roper, North Carolina, and 7340 Mackeys Road, Roper, North Carolina.

The facility will interconnect with the electric transmission system owned by Virginia Electric and Power Company, d/b/a, Dominion North Carolina Power. The expected service life of the facility is 20 or more years, and the Applicant plans to sell the power generated at the proposed facility to Facebook through a "virtual power purchase agreement" involving Digital Realty and the Applicant's parent company, SunEnergy 1, LLC.

On April 11, 2019, 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 of the hearing, and addressing other procedural matters.

Based upon the complaints and record herein, the Hearing Examiner finds good cause to schedule a hearing in this proceeding on Tuesday, June 4, 2019, at 6:30 p.m. at the Washington County Courthouse, 120 Adams Street, Plymouth, North Carolina, to receive evidence as to whether a CPCN should be issued to the Applicant. The Hearing Examiner further finds good cause to require the Applicant to publish notice of the hearing and to mail a copy of the notice to each person who has submitted a complaint in this proceeding. In addition, the Hearing Examiner finds good cause to apply the following guidelines regarding discovery in this docket, subject to modification for good cause shown:

1. Any deposition which a party desires to take shall be taken before the deadline for filing of Public Staff and intervenor testimony. Notice of deposition shall be served on all parties at least seven days prior to the taking of the deposition. Notice of deposition and all other discovery notices, requests and motions shall be served on the appropriate parties by hand delivery or facsimile, or by electronic delivery if the receiving party has agreed to receipt by electronic delivery.

2. Any motion for subpoena of a witness to appear at the evidentiary hearing shall be filed with the Commission before the deadline for filing of Public Staff and intervenor testimony, shall be served by hand delivery or facsimile to the person sought to be subpoenaed at or before the time of filing with the Commission, and shall make a reasonable showing that the evidence of such person will be material and relevant to an issue in the proceeding. See N.C.G.S. § 62-62. Unless an objection is filed, the Chief Clerk shall issue the requested subpoena 24 hours after such motion is filed.

3. Formal discovery requests related to the application and the Applicant's prefiled direct testimony shall be served on the Applicant not later than fourteen days prior to the deadline for filing of Public Staff and intervenor testimony. The party served shall have up to ten calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than ten days prior to the deadline for filing of Public Staff and intervenor testimony.

4. Formal discovery requests of the Public Staff or intervenors shall be served not later than three days after such testimony is filed. The party served shall have up to three calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than five days after that party's testimony was filed.

5. Formal discovery requests related to the Applicant's prefiled rebuttal testimony shall be served on the Applicant not later than two days after such testimony is filed. The party served shall have up to two calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall

objections be filed later than three days after the rebuttal testimony was filed. Discovery related to rebuttal testimony shall be limited to new material introduced in such rebuttal testimony and will be carefully scrutinized upon objection that such discovery should have been sought during the initial period of discovery from the Applicant.

6. Discovery requests need not be filed with the Commission when served; however, any party filing objections shall attach a copy of the relevant discovery request to the objections. Each discovery request, or part thereof, to which no objection is filed shall be answered by the time objections are due, subject to other agreement of the affected parties or other order of the Commission. Upon the filing of objections, the party seeking discovery shall have two days to file a motion to compel with the Commission, and the party objecting to discovery shall have one day thereafter to file a response. All objections, motions to compel, and responses shall be served on the other affected party at or before the time of filing with the Commission.

7. A party shall not be granted an extension of time to pursue discovery because of that party's late intervention or other delay in initiating discovery.

The Hearing Examiner recognizes that in the past most discovery has been conducted in an informal manner without the need for Commission involvement or enforcement, and that such has been generally successful. The above guidelines are without prejudice to the parties conducting informal discovery or exchanging information by agreement at any time with the understanding that such will not be enforceable by the Commission if outside the guidelines.

IT IS, THEREFORE, ORDERED as follows:

1. That a hearing for the purpose of receiving public witness testimony and expert witness testimony from the parties shall be, and is hereby, scheduled for Tuesday, June 4, 2019, at 6:30 p.m., in the Washington County Courthouse, 120 Adams Street, Plymouth, North Carolina Washington, North Carolina;

2. That the Applicant shall publish the Public Notice attached as Appendix A hereto one time at least ten (10) days prior to the date of the hearing in the newspaper in which the Applicant previously published notice of the application, and the Applicant shall file an affidavit of publication with the Commission on or before the date of the hearing;

3. That the Applicant shall mail a copy of the attached Public Notice, no later than the date that such notice is published, to each person who has filed a complaint in this proceeding, and the Applicant shall file a certificate of service with the Commission on or before the date of the hearing;

4. That any person having an interest in this proceeding may file a petition to intervene stating such interest on or before Friday, May 24, 2019;

5. That the direct testimony and exhibits of the Public Staff and other intervenors shall be filed on or before Friday, May 24, 2019;

6. That the Applicant may file rebuttal testimony and exhibits on or before Friday, May 31, 2019;

7. That the Chief Clerk of the Commission shall deliver copies of the amended application and the Public Notice attached hereto as Appendix A to the Clearinghouse Coordinator of the Office of Policy and Planning of the Department of Administration for distribution by the Coordinator to State agencies having an interest in the application.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of May, 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink, appearing to read "Janice H. Fulmore". The signature is written in a cursive style with a large initial "J" and "F".

Janice H. Fulmore, Deputy Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
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DOCKET NO. EMP-103, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Albemarle Solar LLC for a)
Certificate of Public Convenience and) PUBLIC NOTICE
Necessity to Construct a 80-MW Solar Facility)
in Washington County, North Carolina)

NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission has scheduled a public hearing to be held on Tuesday, June 4, 2019, at 6:30 p.m. at the Washington County Courthouse, 120 Adams Street, Plymouth, North Carolina. The purpose of the hearing is to receive public witness and expert witness testimony regarding the application of Albemarle Solar LLC (Applicant). Public witness testimony will be received in accordance with Commission Rule R1-21(g).

On September 21, 2015, as subsequently amended and supplemented by further filings with the Commission, the Applicant filed an application pursuant to N.C. Gen. Stat. § 62-110.1 and Commission Rule R8-63 for a certificate of public convenience and necessity (CPCN) to construct an 80-MW solar photovoltaic (PV) electric generating facility in Washington County, North Carolina. The Applicant also filed for registration of the facility as a new renewable energy facility. The Applicant subsequently filed amendments to its application.

In support of the amended application for a CPCN, the Applicant filed the direct testimony of Linda Nwadike, as well as several exhibits. In summary, the Applicant's proposed 80-MW facility, consisting of solar panels, inverters, transformers, and various ancillary equipment, and is anticipated to be placed in-service in various phases before December 2020. The location of the proposed facility is on the south side of Mackeys Road, east and west of Cross Road, and northeast of Woodlawn Road, in Roper, Washington County, North Carolina. The facility has an e911 address of 9740 Saints Delight Road, Roper, North Carolina, and 7340 Mackeys Road, Roper, North Carolina. A map of the proposed location of the facility is on file with the Commission and available for public inspection.

The facility will interconnect with the electric transmission system owned by Virginia Electric and Power Company, d/b/a, Dominion Energy North Carolina. The expected service life of the facility is 20 or more years.

Specific information about the application for a CPCN may be obtained from the Office of the Chief Clerk, North Carolina Utilities Commission, Raleigh, North Carolina,

where a copy of the application, exhibits and supporting testimony are available for review by the public, and on the Commission's website at www.ncuc.net.

The Public Staff is authorized by statute to represent consumers in proceedings before the Commission. Written statements to the Public Staff should include any information that the writers wish to be considered by the Public Staff in its investigation of the matter. Such statements should be addressed to Mr. Christopher J. Ayers, Executive Director, Public Staff, 4326 Mail Service Center, Raleigh, North Carolina 27699-4326.

The Attorney General is also authorized by statute to represent consumers in proceedings before the Commission. Statements to the Attorney General should be addressed to The Honorable Josh Stein, Attorney General, 9001 Mail Service Center, Raleigh, North Carolina, 27699-9001.

Written statements are not evidence unless persons appear at a public hearing and testify concerning the information contained in their written statements.

Any person desiring to intervene in the proceeding as a formal party of record should file a petition pursuant to North Carolina Utilities Commission Rules R1-5 and R1-19 on or before Friday, May 24, 2019. Such petitions should be filed with the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325. The direct testimony and exhibits of expert witnesses to be presented by intervenors should also be filed with the Commission on or before Friday, May 24, 2019.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of May, 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink, appearing to read "Janice H. Fulmore".

Janice H. Fulmore, Deputy Clerk