

NORTH CAROLINA UTILITIES COMMISSION

NOTICE TO PARTIES

Docket No. SP-5273, SUB 0

Exceptions Due on or Before: June 12, 2017

Parties to the above proceeding may file exceptions to the report and Recommended Order hereto attached on or before the day above shown as provided in G.S. 62-78. Exceptions, if any, must be filed (original and thirty (30) copies) with the North Carolina Utilities Commission, Raleigh, North Carolina, and a copy thereof mailed or delivered to each party of record, or to the attorney for such party, as shown by appearances noted. Each exception must be numbered and clearly and specifically stated in one paragraph without argument. The grounds for each exception must be stated in one or more paragraphs, immediately following the statement of the exception, and may include any argument, explanation, or citations the party filing same desires to make. In the event exceptions are filed, as herein provided, a time will be fixed for oral argument before the Commission upon the exceptions so filed, and due notice given to all parties of the time so fixed; provided, oral argument will be deemed waived unless written request is made therefore at the time exceptions are filed. If exceptions are not filed, as herein provided, the attached report and recommended decision will become final and effective on June 13, 2017 unless the Commission, upon its own initiative, with notice to parties of record modifies or changes said Order or decision or postpones the effective date thereof.

The report and Recommended Order attached shall be construed as tentative only until the same becomes final in the manner hereinabove set out.

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. SP-5273, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Pecan Solar, LLC, for a)
Certificate of Public Convenience and)
Necessity to Construct a 74.9-MW _{AC})
Solar Facility in Northampton County,)
North Carolina)
	RECOMMENDED ORDER AMENDING CERTIFICATE

HEARD: Wednesday, December 7, 2016, at 6:00 p.m. in the Northampton County Courthouse, 102 West Jefferson Street, Jackson, North Carolina

BEFORE: Hearing Examiner Patrick Buffkin

APPEARANCES:

For Pecan Solar, LLC:

Kiran H. Mehta, Troutman Sanders LLP, 301 South College Street,
Suite 3400, Charlotte, North Carolina 28202

BUFFKIN, HEARING EXAMINER: On August 24, 2015, the Commission issued an Order in the above-captioned proceeding, approving the amended application filed by Pecan Solar, LLC (Pecan Solar), for a certificate of public convenience and necessity (CPCN) for construction of a 74.9-megawatt (MW_{AC}) solar photovoltaic (PV) electric generating facility to be located on either side of Bethel Church Road approximately 0.6 to 2 miles north of the intersection of Bethel Church Road and Highway 186 in an unincorporated area approximately two miles west of the town of Seaboard, Northampton County, North Carolina.¹

On July 27, 2016, Pecan Solar filed an application for a further amendment to its CPCN application, stating, among other things, that additional parcels of land would be used in the construction of the facility, and that the location has been assigned the

¹ On June 17, 2015, the Commission issued the initial Order Issuing Certificate in this docket. Among other things, that Order granted Pecan Solar's request for a waiver from the requirements of Commission Rule R8-64(b)(6)(i)(c), on condition that Pecan Solar make a supplemental filing with the Commission identifying the entity or entities to which the output of the facility will be sold once that determination is made. As is discussed further below, witness Copeland testified that Pecan Solar is currently in confidential negotiations with potential buyers of the facility's electric output and that Pecan Solar would update the Commission in accordance with that Order once it has identified a buyer.

following E911 address: 289 Bethel Church Road, Pleasant Hill, Seaboard, Northampton County, North Carolina. Included in Pecan Solar's filing is a site plan map showing the additional parcels of land adjacent to the original project site and a proposed substation. On July 28, 2016, the Commission issued a Second Amended Order Requiring Publication of Notice in response to the additional land added to the facility site.

On August 25, 2016, Verlene Stephenson filed a letter of complaint in this docket.

On September 23, 2016, Pecan Solar filed another amendment to its CPCN application stating, among other things, that yet additional parcels of land have been added to the site of the proposed facility. Pecan Solar also filed a site plan map showing the additional parcels of land added to the project site.

On October 4, 2016, the Commission issued a Third Amended Order Requiring Publication of Notice in response to the additional land added to the facility site. The Third Amended Order Requiring Publication of Notice required Pecan Solar to: (1) publish notice of the application in the manner prescribed by G.S. 62-82(a); (2) file an affidavit of publication with the Commission; (3) mail a copy of the application and notice to the electric utility to which Pecan Solar plans to sell and distribute the electricity; and (4) file a signed and verified certificate of service that the application and notice have been provided to the utility. In addition, the Third Amended Order Requiring Publication of Notice 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 October 19, 2016, Pecan Solar filed a verified certificate of service stating that copies of the application and notice were provided to Virginia Electric and Power Company, d/b/a, Dominion North Carolina Power (DNCP), on October 4, 2016.²

On November 1, 2016, Pecan Solar filed an affidavit of publication from The Daily Herald, stating that notice of the application had been published on October 7, 14, 21, and 28, 2016.

On November 2, 2016, based upon Ms. Stephenson's letter of complaint and the record herein, the Commission issued an Order Scheduling Hearing and Requiring Public Notice, setting this matter for hearing to receive evidence as to whether a CPCN should

² Although Pecan Solar filed this certificate, based on the testimony of Pecan Solar's witness, it appears that Pecan Solar is continuing under the waiver of the requirement to submit a statement by the purchasing utility pursuant to Rule R8-64(b)(6)(i)(c) that was granted by the Commission's June 17, 2015 Order. The Hearing Examiner will, therefore, treat the pending amended application as continuing under the waiver granted by that Order, including Pecan Solar's obligation to update the Commission once Pecan Solar has identified the entity or entities to which the output of the facility will be sold. Further, the Hearing Examiner notes that in the Commission's June 17, 2015 Order, the Commission observed that the Public Staff's support of Pecan Solar's requested waiver was based in part on the fact that DNCP's obligation to purchase energy and capacity from qualifying facilities (QFs) is limited to QFs with a net capacity of 20 MW or less. See Virginia Electric and Power Company, 124 FERC ¶ 61,045 (2008).

be issued, allowing for interested persons to intervene and participate in this docket, and establishing a procedural schedule for parties to pre-file expert witness testimony.

On November 4, 2016, Pecan Solar filed a verified certificate of service, stating that a copy of the notice of hearing was provided to DNCP on November 3, 2016, and an affidavit of publication from The Daily Herald, stating that notice of the hearing had been published on November 10, 2016, as required by the Commission's Order.

On November 18, 2016, Pecan Solar filed the direct testimony and exhibits of Doug Copeland.

On November 14 and 29, 2016, the State Environmental Review Clearinghouse filed comments requesting additional information on behalf of the North Carolina Department of Natural and Cultural Resources (NCDNCR) regarding two archeological sites within the upper portion of the parcel: the remains of a historic-period home site believed to have been that of Thomas W. Moore and a cemetery to the northeast that includes his grave. NCDNCR requests that Pecan Solar submit an archaeological report for review prior to commencing construction activities. As described in more detail below, Pecan Solar's witness addressed this matter at the hearing, and, on February 27, 2017, Pecan Solar filed with the Commission its response to the NCDNCR's comments, including the requested archeological report.

The intervention of the Public Staff – North Carolina Utilities Commission is recognized pursuant to N.C. Gen. Stat. 62-15(d) and Commission Rule R1-19(e). No other parties have intervened in this matter.

On December 7, 2016, this matter came on for hearing as ordered. Four public witnesses testified regarding the proposed facility, including Steve Garner, Verlene Stephenson, Lena Davis, and Tony Mumford. Pecan Solar then presented the testimony and exhibits of Doug Copeland.

On February 27, 2017, Pecan Solar filed documents that include a report authored by Susan E. Bamann, Ph.D., RPA, a principal investigator employed by the Commonwealth Heritage Group. In light of the conclusions reached in Dr. Bamann's report, Pecan Solar states that it will: 1) avoid the cemetery by avoiding the entire landform as described in the report, and 2) include a sign on the fence surrounding the facility that provides a contact number for visitors wishing to make arrangements to visit the cemetery. Further, Pecan Solar states that based on Dr. Bamann's conclusions that the old home site lacks significant associations and research potential, avoidance of the site is unnecessary.

On April 3, 2017, the State Clearinghouse filed additional comments from NCDNCR. In its comments, NCDNCR states that it supports Pecan Solar's intention to follow the recommendations in Dr. Bamann's report. Therefore, the Clearinghouse states that no further State Clearinghouse review action is required for compliance with the State Environmental Policy Act.

On May, 24, 2017, the Public Staff filed a letter in this docket summarizing the procedural history and testimony of the witnesses at the hearing. In its letter, the Public Staff recommended that the Commission grant the requested CPCN, noting that the concerns raised by the complainants in this matter are more appropriately addressed through the local permitting process.

Based upon the foregoing, and the entire record in this matter, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. In compliance with G.S. 62-110(a) and Commission Rule R8-64, Pecan Solar filed with the Commission an application for a CPCN authorizing construction of a 74.9-MW_{AC} solar photovoltaic (PV) electric generating facility to be located on either side of Bethel Church Road approximately 0.6 to 2 miles north of the intersection of Bethel Church Road and Highway 186 in an unincorporated area approximately two miles west of the town of Seaboard, Northampton County, North Carolina.

2. No evidence was presented that the application was not prepared and filed in accordance with G.S. 61-110.1(a) or was deficient in any manner.

3. Pecan Solar intends to produce RECs that can be used to satisfy the State's Renewable Energy Portfolio Standard (REPS). In addition, Pecan Solar has self-certified as a QF with the Federal Energy Regulatory Commission (FERC).

4. Pecan Solar timely published notice of the hearing on November 10, 2016. Four public witnesses spoke about concerns regarding aesthetics; the potential impact on property value; the potential for loss of farmlands, wetlands, and wooded areas as a result of the development of the project; and the possibility that the fencing surrounding the facility would impair motorists' visibility when navigating the roadway adjacent to the facility site.

5. Pecan Solar demonstrated the need for the proposed facility based on the public benefits of solar powered generation and state policies encouraging private investment in and development of renewable energy.

6. Pecan Solar demonstrated that construction of the facility is in the public convenience based on the economic benefits of the proposed facility and State policies encouraging investment in and development of renewable energy.

7. Pecan Solar committed to develop the proposed project in accordance with Northampton County's zoning regulations, including a minimum setback of 100 feet around the exterior of the facility site and screening, or vegetative buffer, to minimize the visual impact from outside the facility site.

8. Pecan Solar committed to develop the proposed project in accordance with applicable state and local laws and required permits, including avoiding disturbing wetlands on the parcel, controlling water runoff and soil erosion, and screening the view of the facility. These measures mitigate the project's impact on adjoining properties and the environment.

9. Pecan Solar committed to develop the proposed project in a manner that mitigates or eliminates the potential hazard to motorists posed by the fencing around the facility on the portion of the project site that is nearest to the curve in Bethel Church Road.

10. Pecan Solar committed to develop the proposed project consistent with recommendations included in an archeologist's report related to portions of the project site that the NCDNCR identified as sites of potential historical significance.

11. No persuasive evidence was presented regarding potential reduction in property values that would result from the siting of the proposed facility.

12. It is reasonable and appropriate to grant the requested CPCN conditioned on the facility being constructed and operated in accordance with applicable laws and regulations, the recommendations included in the archeologist report filed with the Commission in this docket on February 27, 2017, and on condition that Pecan Solar make a supplemental filing with the Commission identifying the entity or entities to which the output of the facility will be sold, once that determination is made.

DISCUSSION OF EVIDENCE AND CONCLUSIONS

The evidence in support of these findings of fact is found in the direct testimony and exhibits of Pecan Solar's witness Doug Copeland, including the amended application filed with the Commission on September 23, 2016, and the testimony of the four public witnesses.

The application for a CPCN filed by Pecan Solar complies with the filing requirements set forth by the Commission and contains all of the information required by the Commission's rules. No party asserted that the application was not prepared and filed in accordance with G.S. 62-110.1(a) or was deficient in any manner.

Summary of the Testimony

At the public hearing on December 7, 2016, four public witnesses testified regarding the proposed facility, including Steve Garner, Verlene Stephenson, Lena Davis, and Tony Mumford.

Mr. Garner testified that he is opposed to this project, and that he is "opposed to any project that takes farmland away from us." Mr. Garner testified that farmland, wetlands, and forests should remain as they are today because wildlife in the area will be "done away with because of this [solar] farm." Mr. Garner further testified that once the

facility fencing is constructed, it will block the line of sight from his driveway and for other motorists who are navigating the curve in Bethel Church Road, creating a safety hazard. With regard to his concern about the impact on wetlands and forestlands, Mr. Garner testified that fencing would be constructed through wet areas and that trees would be cut down, creating an environmental hazard. In addition, Mr. Garner testified that the development of the facility would increase wind velocity and water runoff, and that, once constructed, the facility would have “an unsightly appearance.” Finally, Mr. Garner testified that he believes that property values will be negatively impacted by the presence of Pecan Solar’s facility and that he would have never moved to this area had he known that the facility would be proposed in front of his property.

Ms. Stephenson testified that her main concern is the loss of farmland resulting from the development of Pecan Solar’s facility. Ms. Stephenson further testified that Pecan Solar’s facility will take farmland out of production for 20 years, and that there is no limit on the total number of acres that could be developed with solar PV electric generating facilities in Northampton County. Ms. Stephenson testified that her second concern is the aesthetic impact that the facility will have and that common screening measures are insufficient to reduce that impact. Finally, Ms. Stephenson testified that she is concerned that, because solar PV facilities like Pecan Solar’s proposed facility do not generate electricity 24 hours a day, the cost of electricity could possibly increase because of the use of solar-generated electric power.

Ms. Davis testified that her major concern is the use of farmland for Pecan Solar’s facility in light of the needs of a growing population. Ms. Davis also expressed concern for the number of trees that will be cut to develop Pecan Solar’s proposed facility. Finally, Ms. Davis testified that she shares concerns of other witnesses that the aesthetics of the proposed facility would have a negative impact on value of the nearby properties.

Mr. Mumford testified that he agrees with public witness Garner’s concern that the fencing surrounding Pecan Solar’s proposed facility would impair motorists’ visibility as they navigate the curve in Bethel Church Road. He stated that if the fencing extends to the corner, “it would make a terrible, dangerous intersection.” Mr. Mumford further testified that he is in a different position from the other public witnesses because he has leased to Pecan Solar 40 acres of land representing a portion of the parcel where the facility is proposed to be located. Mr. Mumford testified that his decision to lease the land to Pecan Solar was made after lengthy consideration and prayer; however, he concluded that at his age, he would not farm the land and he hopes to pass it along to his children one day. Mr. Mumford concluded his testimony by stating that he shared some of the concerns expressed by other public witnesses, and that, like Charlotte’s father in Gone with the Wind, he believes that land is the only thing that’s important, and “you cannot do anything without land.”

At the conclusion of the public witness testimony, Doug Copeland testified on behalf of Pecan Solar. Witness Copeland testified that the facility will be a 74.9-MW_{AC} solar PV electric generating facility will occupy approximately 180 acres, which were the subject of leases signed by the current owners and converted to purchase options.

Witness Copeland testified that the amendment to Pecan Solar's application was necessary to evidence the addition of new land that was added to the project site. He further explained that while the additional parcels would help optimize the layout of the project and to avoid wetlands, Pecan Solar would not develop the entire project site. Witness Copeland explained that Pecan Solar is currently engaged in confidential negotiations with potential buyers of the electric output from the facility and that Pecan Solar will update the Commission in accordance with the Commission's June 17, 2015 Order once it has identified a buyer.

Witness Copeland next testified to the measures that Pecan Solar plans to take to minimize the disturbance to neighbors during the construction of the facility. He testified that Pecan Solar will follow all local permits and rules regarding construction schedules and vehicle movement; in particular, the Road Use Agreement, Conditional Use Permit, and District Regulations. The requirements of these permits and rules include minimizing the impact of traffic on local roads, using site screening measures, limiting work to daylight hours where possible, and notifying adjacent landowners. In addition, witness Copeland testified that appropriate dust control and water runoff measures would be used, and that very little grading or heavy earth movement is anticipated.

Witness Copeland then testified to the ways that the local community will benefit from Pecan Solar's proposed facility. He testified that the facility will provide over 190,000 MWh of electricity each year. Further, he testified that, because the proposed facility would be located in DNCP's service territory, the electric power generated at the facility has the potential to cause DNCP to defer the addition of fossil fuel-fired generation to its generating fleet. Witness Copeland additionally testified that the facility will create 20-50 construction jobs over an approximately six month period, and stated that the facility will provide an additional tax base to local governments resulting in approximately \$300,000 of additional personal property tax revenue annually.

Witness Copeland testified that the facility will be a QF as defined in the federal Public Utility Regulatory Policies Act of 1978 (PURPA), which requires that the electrical output from the facility be purchased by the local utility. Additionally, the REPS, passed by the General Assembly as S.L. 2007-397, established State policy to promote the development of renewable energy and requires the State's utilities to obtain a certain percentage of their electricity from renewable energy resources, of which solar energy is one of the qualifying resources. Witness Copeland testified that the proposed facility will provide over 190,000 renewable energy credits (RECs) annually that can be used by electric power suppliers to comply with their North Carolina REPS obligations.

Witness Copeland next addressed the comments of the public witnesses. He testified that Pecan Solar is open to hearing concerns from neighbors, working to ensure that the impact to neighbors caused by the construction of the facility is minimized, and seeing that Pecan Solar's proposed facility makes a positive contribution to the community. He further testified that Northampton County considers solar PV facilities to be an approved and compatible use of farmland, and that the facility will be constructed in strict accordance with all applicable laws and regulations, including applicable zoning

ordinances. As to Ms. Stephenson's concern regarding the loss of farmland, witness Copeland stated that Pecan Solar will use best practices in the construction and maintenance of the facility to ensure that productive capabilities of the land for future agricultural uses will be maintained. Further, he stated that at the end of the project's lifespan, all material from the solar project will be removed and the land will be able to be farmed. Witness Copeland addressed Ms. Stephenson's concern about weed control by stating that Pecan Solar plans to plant groundcover grass and clover and to mow the site three times a year. Witness Copeland further testified that Pecan Solar will be required to obtain applicable permits from the relevant state and local jurisdictions, including those related to environmental standards, and that solar facilities do not create a potential for adverse impacts to public health. As to the aesthetics of the facility, witness Copeland testified that Northampton County's zoning regulations require that solar facilities be set back from all roads a certain distance and incorporate an evergreen screen or retain an existing tree buffer around all exterior portions of the project.

Witness Copeland then addressed the comments filed with the Commission by the State Clearinghouse on November 29, 2016. Specifically, the State Clearinghouse noted comments by NCDNCR relating to two archeological sites within a portion of the parcel where Pecan Solar's project will be located. The two sites represent the remains of a historic-period home site believed to have been that of Thomas W. Moore and a cemetery to the northeast that includes his grave. NCDNCR recommends that both sites be relocated, delineated, and evaluated by an experienced professional archaeologist to determine their historic significance, including potential eligibility for inclusion for the National Register of Historic Places. Therefore, NCDNCR requests that Pecan Solar submit an archaeological report for review prior to commencing construction activities. Witness Copeland testified that Pecan Solar plans to address these comments by engaging an archeologist to locate the home site and cemetery to avoid disturbing these sites during construction. Once Pecan Solar receives the archeologist's report, witness Copeland testified, a copy would be sent to NCDNCR and filed with the Commission. Witness Copeland concluded his direct testimony by recommending that the Commission issue an order amending the CPCN for the facility. On examination by the Hearing Examiner, witness Copeland testified in further detail about the land use issues, decommissioning of the facility, motorists' visibility when navigating along Bethel Church Road, aesthetics of the facility, and the potential impact on property values.

The Public Staff, in its letter, summarized the public witness testimony in opposition to the facility. The Public Staff states that "with regard to the concerns raised by the complaints received and the public witness testimony regarding environmental impacts, stormwater runoff, and compatibility with existing land uses, the Public Staff believes that these concerns are more appropriately addressed through the local permitting process." The Public Staff notes that the Commission has in the past determined that these types of issues are best settled through the exercise of local zoning authority.³ The Public Staff believes that consideration of the application should be handled similarly. Therefore, based on its review of the materials filed in this docket and the transcript of the testimony

³ See e.g., Order Granting Certificate of Public Convenience and Necessity with Conditions, Docket No. SP-231, Sub 0, p. 9 (April 24, 2008).

heard on December 7, 2016, the Public Staff recommends that the Commission approve the application and issue the requested CPCN, subject to the conditions required in Commission Rule R8-64 and, consistent with the Commission's June 17, 2015 Order, subject to Pecan Solar making a supplemental filing with the Commission identifying the entity or entities to which the output of the facility will be sold, once that determination is made.

Discussion and Conclusions

As stated by witness Copeland, the 2007 REPS statute establishes State policy to promote the development of renewable energy by requiring the State's utilities to obtain a certain percentage of their electricity from renewable energy resources, including solar energy. Witness Copeland testified that the proposed facility will provide renewable energy and RECs for use by electric power suppliers to meet the REPS requirements. The uncontroverted evidence shows that Pecan Solar's solar PV facility will further the goals of State policy by supporting the use and development of renewable energy. This demonstrates the need for the facility as required by G.S. 62-110.1.

The need, therefore, having been demonstrated by Pecan Solar, the contested issue is whether construction of the proposed facility is in the public convenience. The public witness testimony against the proposed facility addressed concerns regarding the impact on the value of adjoining properties, the appearance of the facility, the removal of farmland from agricultural production, and the disturbance of wetlands on the project site. Pecan Solar's witness testified that the facility will be sited and developed in accordance with applicable laws and under the permits required for such development. Witness Copeland further testified that Pecan Solar will not be developing the entire project site; rather, the facility would be developed in a manner that avoids impacts to the wetlands on the site.

Witness Copeland also testified that the siting of the facility on the property at issue in this case is subject to the zoning laws of Northampton County. Witness Copeland testified that Pecan Solar will develop the project in compliance with the requirements of the Northampton County zoning regulations, as well as all other applicable laws. According to witness Copeland, Northampton County's zoning regulations allow solar PV projects as a permitted use on agricultural land and require a minimum set back of 100 feet around the exterior of the facility site. In addition, these zoning regulations require screening or a vegetative buffer to minimize the visual impact from outside the facility site.

As recommended by the Public Staff and as applied in previous solar PV cases, the Hearing Examiner is persuaded that restrictions on land use, where they do not otherwise frustrate State policy, are best left to local zoning and a determination by local elected officials. For example, in the Commission's April 24, 2008 Order in

Docket No. SP-231, Sub 0, regarding local authority over the siting of facilities, the Commission stated:

[S]uch decisions are, in most instances, best left to the local community through the exercise of its zoning authority rather than made by the Commission. Local governing bodies are, generally speaking, in a better position than the Commission to make local land use planning decisions (so long as those decisions do not operate to thwart controlling State policy).

Thus, where, as in this case, the relevant local jurisdiction has adopted an ordinance addressing the appropriateness of siting a solar PV facility, the Commission generally will not substitute its judgment for that of the local jurisdiction. Moreover, Pecan Solar, by its testimony and application, committed to develop the project in compliance with the requirements of the Northampton County zoning regulations, and, in some aspects, to go beyond those requirements to minimize impact on the neighbors from construction and operation of the facility. The Hearing Examiner, therefore, concludes that the foregoing authority and evidence of record supports issuance of the CPCN for the proposed solar facility.

Public witnesses Garner and Davis testified as to their concerns about the potential impact on the value of property nearby or adjoining the site of the Applicant's proposed facility. In Jackson v. Guilford Cty. Bd. of Adjustment, 275 N.C. 155, 166 S.E.2d 78 (1969), the N.C. Supreme Court addressed similar arguments in a case where a landowner sought an exception to a zoning ordinance to establish a mobile home park on his land over the neighbors' objections that the mobile home park would diminish the value of their land. "The mere fact that one's proposed lawful use of his own land will diminish the value of adjoining or nearby lands of another does not give to such other person a standing to maintain an action, or other legal proceeding, to prevent such use." Id. at 161, 166 S.E.2d at 82. As applied in this proceeding, this principle instructs that the diminution in value resulting from Pecan Solar's legal use of neighboring property, by itself, is an insufficient basis upon which to prevent that legal use. Further, witness Copeland testified that, although Pecan Solar has not completed a study addressing this site specifically, he has not seen a study that has shown that solar PV facilities have a negative impact on the value of adjoining or nearby properties. The Hearing Examiner concludes that the evidence presented as to the potential impact on the value of adjoining property is speculative and hearsay. Therefore, the Hearing Examiner concludes that there is no competent, material, and substantial evidence of record supporting the conclusion that Pecan Solar's facility will negatively impact the value of nearby or adjoining properties. See G.S. 62-94(a). Moreover, pursuant to Jackson, this evidence, without more, is an insufficient basis on which to deny the Pecan Solar's requested CPCN when Pecan Solar committed to develop the facility in accordance with applicable regulations and permits. The Hearing Examiner, therefore, further concludes that Jackson supports issuance of the CPCN for the facility, so long as it is developed in strict accordance with the applicable laws and regulations, including any local zoning ordinances.

Additional testimony against the proposed facility addressed the possibility that fencing surrounding Pecan Solar's proposed facility would impair motorists' visibility as they navigate the curve in Bethel Church Road. Witness Copeland testified that he is familiar with the curve in Bethel Church Road and acknowledged that the fencing and vegetative buffer required by Northampton County zoning regulations could create a safety issue. Witness Copeland testified that Pecan Solar would design the facility in a way that the trees are as close to the fence as possible to preserve visibility for motorists navigating the curve, mitigating this potential hazard. Further, witness Copeland testified that during the site planning or final design stages, Pecan Solar's construction manager would be directed to incorporate mirrors or other measures to mitigate visibility issues. The Hearing Examiner concludes that Pecan Solar has demonstrated an awareness of this public safety concern and committed to design the facility in a manner that reduces or eliminates this potential danger and inconvenience to the public. Therefore, the Hearing Examiner is not persuaded that sufficient evidence supports denying the requested CPCN based on this issue.

The remainder of the testimony against the proposed facility addressed concerns regarding potential environmental issues, including the removal of farmland from productive agriculture. With regard to environmental concerns, witness Copeland stated that the facility will be developed in compliance with the applicable environmental laws of the State, including obtaining required permits. Witness Copeland further testified that the facility will be designed to avoid any impacts to wetlands on the site, and that Pecan Solar will perform little or no mass grading. The Hearing Examiner, therefore, is not persuaded that sufficient evidence supports denying the requested CPCN based on these issues.

Finally, the Hearing Examiner carefully considered the comments filed by the State Clearinghouse, including the additional information requested by NCDNCR and Pecan Solar's response to these comments. On February 27, 2017, Pecan Solar filed a report on the two historic sites authored by Susan E. Bamann, Ph.D., RPA, who is a Regional Director of the Commonwealth Heritage Group. As to the first site, the potential remains of a historic-period home site, the report states that the site is unlikely to yield additional significant information on domestic life or farming in the Coastal Plain region of North Carolina during the nineteenth or twentieth centuries. Dr. Bamann, therefore, concludes that this site is not likely to be eligible for inclusion in the National Register of Historic Places and that avoidance of the site is unnecessary. With respect to the second site, the cemetery, Dr. Bamann confirmed the location of the Thomas W. Moore Cemetery and recommends that the entire landform upon which the cemetery is located be marked and avoided during any land alteration and construction associated with Pecan Solar's proposed facility. In light of Dr. Bamann's report, Pecan Solar states that it will avoid the cemetery as recommended and provide access to descendants or others who may wish to visit the cemetery by posting signage on the facility fencing that provides a contact number for visitors wishing to make arrangements to visit the cemetery. On April 3, 2017, the State Clearinghouse filed additional comments, wherein NCDNCR expressed concurrence in Pecan Solar's plans. Based upon the foregoing, the Hearing Examiner concludes that Pecan Solar's February 27, 2017 filing in this docket demonstrates a sincere consideration of NCDNCR's concern for the potential significance of these historic

sites, a commitment to construct and operate the proposed facility in a manner that minimizes or eliminates disturbance of these sites, and a means for public access to these sites which is reasonable and workable. Therefore, the Hearing Examiner concludes that the evidence on this issue supports issuing the requested CPCN on condition that Pecan Solar constructs and operates the facility in a manner consistent with the recommendations of the archeologist's report filed in this docket on February 27, 2017.

Based upon the foregoing and after careful consideration of the entire record in this proceeding, the Hearing Examiner finds that construction of the proposed 74.9-MW_{AC} solar PV electric generating facility is in the public interest and justified by the public convenience and necessity as required by G.S. 62-110.1. The Hearing Examiner, therefore, finds good cause to approve the application and issue the attached certificate for the proposed solar PV electric generating facility.

IT IS THEREFORE, ORDERED as follows:

1. That the amended application filed by Pecan Solar, LLC, for a certificate of public convenience and necessity shall be, and is hereby, approved;
2. That Appendix A shall constitute the amended certificate of public convenience and necessity for the 74.9-MW_{AC} solar photovoltaic electric generating facility located east and west of Bethel Church Road approximately 0.6 to 2 miles north of the intersection of Bethel Church Road and Highway 186 in an unincorporated area approximately two miles west of the town of Seaboard, Northampton County, North Carolina;
3. That the facility shall be constructed in strict accordance with the applicable laws and regulations, including any local zoning ordinances, and in the manner described by Pecan Solar in its February 27, 2017 filing with the Commission; and
4. That Pecan Solar shall make an additional filing in this docket identifying the entity or entities to which the output of the facility will be sold once that determination is made.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of May, 2017.

NORTH CAROLINA UTILITIES COMMISSION



Linnetta Threatt, Acting Deputy Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. SP-5273, SUB 0

Pecan Solar, LLC
1925 Isaac Newton Square, Suite 280
Reston, Virginia 20190

is hereby issued this

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

for a 74.9-MW_{AC} solar photovoltaic electric generating facility
to be located at 289 Bethel Church Road, Pleasant Hill, Seaboard, North Carolina in
Northampton 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 26th day of May, 2017.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script, appearing to read "Linnetta Threatt".

Linnetta Threatt, Acting Deputy Clerk