

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. EMP-115, Sub 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Cherry Solar, LLC, for a) PUBLIC STAFF'S
Certificate of Public Convenience and) MOTION FOR
Necessity to Construct a 180-MW Solar) LEAVE TO FILE
Facility in Northampton County, North) SUPPLEMENTAL
Carolina) TESTIMONY

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Christopher J. Ayers, and respectfully seeks leave to file the Supplemental Testimony of Jay B. Lucas. In support thereof, the Public Staff shows the following:

1. On November 13, 2020, Cherry Solar, LLC (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 a 180-MW solar photovoltaic (PV) electric generating facility to be located in Northampton County, North Carolina, and operated as a merchant generating facility.

2. On March 11, 2021, the Applicant filed the Supplemental Testimony of Linda Nwadike.

3. On April 14, 2021, the Public Staff filed the testimony of Jay B. Lucas, in which the Public Staff recommended that the Commission issue the requested CPCN with certain conditions.

4. On April 28, 2021, the Applicant filed a Letter of No Objection, stating that “. . . Cherry Solar has chosen not to file testimony in rebuttal to the testimony of Mr. Lucas, and confirms for the record by this letter that Cherry Solar will not object to the issuance of the requested CPCN, subject to the conditions recommended in the aforesaid direct testimony of Mr. Lucas.”

5. On May 10, 2021, the Applicant filed a motion requesting that the Commission: (1) admit into evidence all pre-filed testimony and exhibits filed by the Applicant and the Public Staff without cross-examination; (2) excuse all witnesses from appearing at any scheduled hearings; (3) cancel any further hearings in the docket; and (4) issue the CPCN subject to the conditions identified in the testimony of Public Staff witness Lucas.

6. On May 19, 2021, “[b]ased upon the Applicant’s motion and the record as a whole,” the Commission issued an order canceling the expert witness hearing scheduled in this docket.

7. The project for which the Applicant is seeking a CPCN is assigned to PJM cluster AC1. Interconnection of the generators in PJM Cluster AC1 requires Duke Energy Progress, LLC (DEP) to upgrade its portion of the Rocky Mount-Battleboro 115 kilovolt transmission line at an estimated cost of \$31 million.

8. The recommendations made by Public Staff witness Lucas in his April 14, 2021 testimony were based on the assumption that, consistent with DEP's Affected Systems Business Procedure and PJM's current Open Access Transmission Tariff (OATT), generators who cause affected system costs will be responsible for those upgrade costs without reimbursement from DEP customers.

9. On October 1, 2021, the Federal Energy Regulatory Commission (FERC) rejected an Affected System Operator Agreement (ASOA) entered into between DEP and American Beech, LLC (American Beech), another interconnection customer in the AC1 cluster. The ASOA between DEP and American Beech provided that, consistent with DEP's Affected Systems Business Procedure, American Beech would not be reimbursed for the upgrade costs for the Rocky Mount-Battleboro line.

10. On November 1, 2021, DEP filed a Request for Rehearing with FERC, requesting reconsideration of FERC's October 1, 2021 order on the ASOA between DEP and American Beech. FERC has 30 days to issue an order on the motion or it is denied by operation of law.¹

11. The Public Staff believes that FERC's rejection of the ASOA between DEP and American Beech may impact future ASOAs and

¹ FERC Rule 713, C.F.R. § 385.713(f).

reimbursements between DEP and other AC1 cluster generators, including the Applicant in this docket.

12. In light of this recent development, the Public Staff believes it is necessary to file supplemental testimony revising its recommendations on the application in this docket.

13. The Public Staff further believes it would be prudent to wait to file supplemental testimony in this docket until a decision on DEP's Request for Rehearing is issued by FERC. The decision will be issued on or before December 1, 2021, or the request will be denied by operation of law on that date.

14. The Public Staff, therefore, seeks leave to file supplemental testimony in this docket once the Public Staff has had sufficient time to review and evaluate FERC's response to the Request for Rehearing. The Public Staff believes it will be prepared to file its supplemental testimony on or before December 17, 2021.

15. In light of the foregoing, the Public Staff respectfully requests leave to file the supplemental testimony of Jay B. Lucas, in order to take into account recent developments with regard to AC1 cluster projects and reimbursements, on or before December 17, 2021. The Public Staff also respectfully requests that the Applicant have the opportunity to file reply testimony on or before January 13, 2022.

WHEREFORE, the Public Staff respectfully requests that the Commission grant the Public Staff leave to file the supplemental testimony of Jay B. Lucas on or before December 17, 2021, and grant the Applicant the opportunity to file reply testimony on or before January 13, 2022.

Respectfully submitted this the 4th day of November, 2021.

PUBLIC STAFF
Christopher J. Ayers
Executive Director

Dianna W. Downey
Chief Counsel

Electronically submitted
s/ Nadia L. Luhr
Staff Attorney

4326 Mail Service Center
Raleigh, North Carolina 27699-4300
Telephone: (919) 733-6110
nadia.luhr@psncuc.nc.gov

CERTIFICATE OF SERVICE

I certify that a copy of this Motion has been served on all parties of record or their attorneys, or both, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 4th day of November, 2021.

Electronically submitted
/s/ Nadia L. Luhr
Staff Attorney