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July 11, 2019

Clerks Office
4325 Mail Service Center
Raleigh, NC 27699-4300

**Re: Joint Proposed Order Granting Certificate
Albemarle Beach Solar, LLC
Docket No. EMP-103, Sub 0**

Dear Clerk :

Enclosed is the Joint Proposed Order Granting Certificate for Albemarle Beach Solar, LLC in Docket No. EMP-103, Sub 0.

Albemarle Beach Solar, LLC (Albemarle Beach Solar) is respectfully requesting that the Commission issue an order on an expedited basis, as time is of the essence in this matter. Specifically, Albemarle Beach Solar's Application for an Amendment to the Certificate of Public Convenience and Necessity (Amended Application) has been pending before the Commission for an extended period of time, as it was initially filed on November 6, 2018 in Docket No. SP-6476, Sub 0, and was subsequently filed in this docket on March 28, 2019. Also, SunEnergy1, LLC, an affiliate of Albemarle Beach Solar, has entered into a purchase power agreement pursuant with Digital Realty, a leading global provider of data center, colocation and interconnection solutions, for Albemarle Beach Solar to deliver solar power capacity to Facebook. Albemarle Beach Solar is under deadlines to construct the facility and to provide power to Facebook. In light of these deadlines, Albemarle Beach Solar believes that issuance of an order on an expedited basis is appropriate.

Albemarle Beach Solar also respectfully requests that it be allowed to begin limited construction of the facility on the parcels in which State Clearinghouse review has been completed. State

A Pennsylvania Limited Liability Partnership

California Colorado Delaware District of Columbia Florida Georgia Illinois Minnesota
Nevada New Jersey New York North Carolina Pennsylvania South Carolina Texas Washington



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Clearinghouse review has not been completed for all of the parcels comprising the facility due to no fault of Albemarle Beach Solar. Specifically, on April 26, 2019, the Clerk's office forwarded the Amended Application to the State Clearinghouse for review and comment by the various governmental organizations. Due to an administrative oversight, the State Clearinghouse did not forward the Amended Application to the governmental organizations so that review could begin. It was not until approximately July 9, 2019 that the State Clearinghouse forwarded the Amended Application to the governmental organizations for review. For that reason, there has been a significant delay in completion of Clearinghouse review, as Clearinghouse review will not be completed until July 29, 2019.

Thank you for your consideration of this request.

Very truly yours,

/s/Karen Kemerait

KK:sb
Enclosure

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 Beach Solar,)
LLC, for a Certificate of Public)
Convenience and Necessity to)
Construct an 80-MW Solar Facility in)
Washington County, North Carolina)

JOINT PROPOSED ORDER
GRANTING CERTIFICATE

HEARD: Tuesday, June 4, 2019, at 6:30 p.m., Washington County
Courthouse, 120 Adams Street, Plymouth, North Carolina.

BEFORE: Hearing Examiner Patrick Buffkin

APPEARANCES:

For Albemarle Beach Solar, LLC:

Karen Kemerait, Fox Rothschild LLP, 434 Fayetteville Street,
Suite 2800, Raleigh, North Carolina 27604

For the Using and Consuming Public:

Megan Jost, Staff Attorney, Public Staff – North Carolina
Utilities Commission, 4326 Mail Service Center, Raleigh, NC
27699

BUFFKIN HEARING EXAMINER: 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. § 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 both sides of Mackeys Road and Albemarle Beach Road in Roper, Washington County, 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 public notice of the application in the manner required by N.C. Gen. Stat. § 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 notices 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 Hartkopf, and Timothy Pharr.

On September 22, 2016, the Applicant filed an amendment to the application removing parcels of land and adding another parcel to the site of the proposed facility.

On September 9, 2016, the Commission issued an Order setting a hearing for the purpose of receiving evidence as to whether a CPCN should be issued to the Applicant, and directing the Applicant to publish notice of the public hearing and to pre-file testimony.

On October 6 and October 10, 2016, the Commission issued Orders canceling the previously scheduled hearing and clarifying that all complaints filed in docket SP-6476, Sub 0 remain pending, and that the individuals who submitted those complaints are entitled to a hearing in the proceeding. In addition, the October 10, 2016 Order noted that the Applicant's plan to add an additional parcel of land to the site of the proposed facility justified requiring additional public notice and further review of the application by the State Clearinghouse. The Order further stated that, unless the pending complaints were withdrawn and no further complaints received, a hearing would be scheduled at an appropriate time and place.

On November 12, 2018, the Applicant filed a second amendment to its application, 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 stated that an E911 address had been assigned to the property, and that the facility would now be planned to come online in phases before December of 2020. Based on the Applicant's second amendment, the proposed facility will 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.

On November 29, 2018, the Commission issued an Order determining that the Applicant erred in applying for a CPCN pursuant to Commission Rule R8-64, the rule applicable to CPRE Program participants, qualifying cogeneration facilities, and small power producers, and should instead have applied for a CPCN pursuant to Commission Rule R8-63, the rule applicable to merchant plant facilities. The Commissioner, therefore, declared the application to be an

application for a CPCN for the construction of an electric generating facility that will be operated as a merchant plant, and, accordingly, directed that Docket Number SP-6476, Sub 0, be closed, that the record in that docket be transferred to the present docket, EMP-103, Sub 0, and that all complaints filed in Docket No. SP-6476, Sub 0, remain pending before the Commission in the present docket. The Commission further determined that the application, as transferred, was incomplete as it did not include direct pre-filed testimony as required by Commission Rule R8-63, and permitted the Applicant to supplement its application with such testimony.

On March 28, 2019, the Applicant filed the direct testimony and exhibits of Linda Nwadike, which were amended by further filings on April 10 and 11, 2019.

On April 11, 2019, the Public Staff filed the notice required pursuant to Commission Rule R8-63(d), stating that the Public Staff has reviewed the application and giving notice that the Public Staff considers the application to be complete. The Public Staff, therefore, requested that the Commission issue a procedural order setting the application for hearing, requiring public notice thereof, and addressing any other procedural matters.

On April 26, 2019, as amended by further Order issued on May 1, 2019, the Commission issued an Order Scheduling Hearing and Requiring Public Notice, setting this matter for hearing on June 4, 2019, at 6:30 p.m., at the Washington County Courthouse in Plymouth, North Carolina, and establishing a procedural schedule to allow for the pre-filing of direct expert testimony and to allow for intervenors to participate in this proceeding. The Order also required the Applicant to publish notice of the hearing in the newspaper which the Applicant previously published notice of the application, and to mail a copy of the notice of the hearing to each of the individuals who filed a complaint in this proceeding.

Also on April 26, 2019, the Commission requested that state agencies having an interest in the Application submit comments on the Applicant's November 18, 2018 amended Application through the State Environmental Review Clearinghouse.

On May 20, 2019, the Applicant filed a Certificate of Service, evidencing that the notice of the hearing was mailed to each of the individuals who filed a complaint in this proceeding.

On May 29, 2019, the Applicant filed an Affidavit of Publication stating that the notice of the hearing had been published in The Roanoke Beacon.

On May 24, 2019, the Public Staff filed the direct testimony of Evan D. Lawrence.

No other parties have intervened in this matter.

FINDINGS OF FACT

1. In compliance with N.C. Gen. Stat. § 62-110.1(a) and Commission Rule R8-63, the Applicant filed with the Commission an application for a certificate of public convenience and necessity for construction of an 80-MW_{AC} solar 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 will interconnect with the transmission grid owned by Dominion Energy, which will afford the Applicant access to PJM.

2. The Applicant has made a sufficient showing of the need for the proposed facility. Dominion Energy has committed to increasing its use of renewable power to generate 5,000 MW of electricity by 2028, and the Applicant cited evidence forecasting growth in PJM and the Dominion Virginia Power zone. Additionally, the Applicant's plans to sell the power generated at the facility to Facebook further demonstrate the need for the facility.

3. The Applicant has demonstrated that construction of the proposed facility is in the public convenience based on the economic benefits of the proposed facility and because the facility will enable Facebook to meet its goal of supporting all of its operations with 100% renewable energy.

4. The Applicant mailed notice to each of the individuals who filed a complaint in this proceeding, and published notice of the hearing in The Roanoke Beacon on May 29, 2019. At the public hearing on June 4, 2019, one public witness testified regarding concerns related to health effects from the facility's solar panels, potential impacts to the environment, and decommissioning of the facility. Another public witness spoke at the public hearing, but expressed no concerns about the facility.

5. No party presented evidence that the application was not prepared and filed in accordance with N.C. Gen. Stat. § 62-110(a) or was deficient in any manner.

6. It is reasonable and appropriate to grant the requested CPCN conditioned as follows: (1) the Applicant shall construct and operate the facility in strict accordance with applicable laws and regulations, including the provisions of all permits issued by the North Carolina Department of Environmental Quality and any local zoning and environmental permitting requirements; (2) the Applicant shall not begin construction on the parcels that were added to the site by the Applicant's amendment filed November 12, 2018, until the State Clearinghouse files comments indicating that no further review action by the Commission is required for compliance with the North Carolina Environmental Policy Act facility; (3) the Applicant will not assert that the issuance of the certificate in any way constitutes authority to exercise any power of eminent

domain, and it will abstain from attempting to exercise such power; (4) the CPCN shall be subject to Commission Rule R8-63 and all orders, rules, and regulations and conditions as are now or may hereafter be lawfully made by the Commission; and (5) the Applicant shall file with the Commission a progress report and any revisions in the cost estimates for the facility on an annual basis, including any storage systems to be constructed at a later date, with the first report due no later than six months from the date of issuance of the CPCN.

EVIDENCE AND CONCLUSIONS FOR FIND OF FACT NO. 1

This finding of fact is essentially informational, procedural, and jurisdictional in nature, and not in dispute. The evidence supporting this finding is found in the direct testimony and exhibits of Applicant witness Nwadike filed on March 28, 2019, and amended by further filings on April 10 and 11, 2019, the direct testimony of Public Staff witness Lawrence filed May 24, 2019, and in the testimony of Applicant witness Nwadike and Public Staff witness Lawrence at the June 6, 2019 hearing. Public Staff witness Lawrence testified that the Applicant has complied with the Commission's filing requirements.

EVIDENCE AND CONCLUSIONS FOR FIND OF FACT NO. 2

The evidence supporting this finding is found in the direct testimony and exhibits of Applicant witness Nwadike filed on March 28, 2019, and amended by further filings on April 10 and 11, 2019, the direct testimony of Public Staff witness Lawrence filed May 24, 2019, and in the testimony of Applicant witness Nwadike and Public Staff witness Lawrence at the June 6, 2019 hearing. Applicant witness Nwadike and Public Staff witness Lawrence testified that the facility will interconnect with the Dominion Energy transmission system, affording it access to PJM, a Regional Transmission Organization in which Dominion participates. Applicant witness Nwadike testified that there are strong market conditions in the PJM market that will create sustainable off-take for the facility's power production. Dominion Energy has committed to increasing its use of renewable power to generate 5,000 MW of electricity by 2028. Applicant witness Nwadike stated that the Applicant anticipates contracting the sale of energy, capacity, and renewable energy credits through PJM. The annual net energy growth rates for PJM over the next ten years are expected to grow by 0.4% for PJM and by 1.1% for the Dominion Virginia Power zone. Summer peak load for PJM and the Dominion Virginia Power zone is expected to grow by 0.9% per year over the next ten years. The winter peak load growth in PJM is expected to grow at an average of 0.4% per year over the next ten-year period, and by 1.1% per year for the Dominion Virginia Power zone.

EVIDENCE AND CONCLUSIONS FOR FIND OF FACT NO. 3

The evidence supporting this finding is found in the direct testimony and exhibits of Applicant witness Nwadike filed on March 28, 2019, and amended by

further filings on April 10 and 11, 2019, the direct testimony of Public Staff witness Lawrence filed May 24, 2019, and in the testimony of Applicant witness Nwadike and Public Staff witness Lawrence at the June 6, 2019 hearing. Applicant witness Nwadike testified that the 80-MW solar PV electric generating facility will interconnect with the Dominion transmission grid and sell the electricity generated at the facility at wholesale to a retail customer. Digital Realty, a leading global provider of data center, colocation, and interconnection solutions, has entered into a purchase power agreement (PPA) on behalf of Facebook to support Facebook's renewable energy goals at data center facilities leased from Digital Realty. SunEnergy1, the Applicant's parent company, has entered into a long-term PPA for SunEnergy1 to deliver 80 MW of solar energy capacity to Facebook. Under the terms of the agreement, all renewable energy certificates and environmental claims will be delivered to Facebook.

Applicant witness Nwadike also testified that the facility will bring a variety of financial benefits to Washington County where it will be located. Applicant witness Nwadike anticipates that Washington County will realize property and real estate taxes from the project. In addition to these financial benefits, the Applicant will create community benefits by enhancing the County's reputation as an attractive and friendly environment for advanced manufacturing, technology, and related jobs. Local contractors and businesses, such as installation, fencing, landscaping, and machine rental companies will receive sales opportunities from the construction and operation of the facility. During the approximately year-long construction process, the facility will offer full-time construction jobs. The Applicant expects to hire up to 1,200 workers for the duration of the construction phase.

EVIDENCE AND CONCLUSIONS FOR FIND OF FACT NO. 4

Brenda Hartkopf testified at the public hearing about a number of concerns including potential health effects from the solar panels, the potential impacts of the facility on the environment, local taxes and employment, and electric utility rates, and the decommissioning of the facility. William Mitchell Dotson testified that he owns land where the facility would be constructed and that he supports Applicant's application.

Applicant witness Nwadike testified that the solar panels that will be installed are silicon based and contain no toxic materials. She also testified that the facility will have a 300-foot setback from residential properties and a 75-foot setback from nonresidential properties, and that an evergreen vegetative buffer must be provided around the facility where no vegetation is already present. Applicant witness Nwadike testified that the Washington County Zoning Ordinance requires that the Applicant provide a decommissioning plan and post a bond, and that a Soil and Erosion Control Permit must be obtained required prior to construction of the facility.

EVIDENCE AND CONCLUSIONS FOR FIND OF FACT NO. 5

The application for a CPCN pursuant to Commission Rule R8-63 complies with the filing requirements set forth by the Commission and contains all required information set out in Commission rules. The evidence supporting this finding is found in the direct testimony and exhibits of Applicant witness Nwadike filed on March 28, 2019, and amended by further filings on April 10 and 11, 2019, the direct testimony of Public Staff witness Lawrence filed May 24, 2019, and in the testimony of Applicant witness Nwadike and Public Staff witness Lawrence at the June 6, 2019 hearing.

EVIDENCE AND CONCLUSIONS FOR FIND OF FACT NO. 6

The evidence supporting this finding is found in the testimony of Public Staff witness Lawrence.

Based upon the foregoing and after careful consideration of the entire record in this proceeding, the Hearing Examiner finds that construction of the proposed 80-MW_{AC} solar PV electric generating facility is in the public interest and justified by the public convenience and necessity as required by N.C. Gen. Stat. § 62-110.1. The Hearing Examiner, therefore, finds good cause to approve the application and issue the attached certificate for the proposed 80-MW_{AC} solar PV electric generating facility, subject to the conditions set forth below.

IT IS, THEREFORE, ORDERED as follows:

1. That a certificate of public convenience and necessity shall be, and is hereby issued to Albemarle Beach Solar, LLC, for the construction of an 80-MW_{AC} solar PV merchant generating facility to be located in Washington County, North Carolina, and to be operated as a merchant plant. This certificate is subject to the following conditions:

- (a) Albemarle Beach Solar, LLC, shall construct and operate the facility in strict accordance with applicable laws and regulations, including the provisions of all permits issued by the North Carolina Department of Environmental Quality and any local zoning and environmental permitting requirements;
- (b) Albemarle Beach Solar, LLC shall not begin construction on the parcels that were added to the site by the Applicant's amendment filed November 12, 2018, until the State Clearinghouse files comments indicating that no further review action by the Commission is required for compliance with the North Carolina Environmental Policy Act;

- (c) Albemarle Beach Solar, LLC will not assert that the issuance of the certificate in any way constitutes authority to exercise any power of eminent domain, and it will abstain from attempting to exercise such power;
- (d) The certificate shall 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.

2. That Albemarle Beach Solar, LLC, shall file with the Commission a progress report and any revisions in the cost estimates for the facility on an annual basis, including any storage systems to be constructed at a later date, with the first report due no later than six months from the date of issuance of the CPCN.

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

ISSUED BY ORDER OF THE COMMISSION.

This the ___ day of _____, 2019.

NORTH CAROLINA UTILITIES COMMISSION

Janice Fulmore, Deputy Chief Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. EMP-103, SUB 0

Albemarle Beach Solar, LLC
192 Raceway Drive
 Mooresville, North Carolina 28117

is hereby issued this

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

for an 80-MW solar photovoltaic electric generating facility

located

on the south side of Mackeys Road, east and west of Cross Road, and northeast
of Woodlawn Road, in Roper, in Washington 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 ____ day of _____, 2019

NORTH CAROLINA UTILITIES COMMISSION

Janice Fulmore, Deputy Chief Clerk