

STATE OF NORTH CAROLINA

UTILITIES COMMISSION
RALEIGH

DOCKET NO. EMP-114, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Oak)	
Trail Solar, LLC for a Certificate of)	
Public Convenience and Necessity to)	MOTION FOR LIMITED
Construct a 100-MW Solar Facility in)	CONSTRUCTION AUTHORITY
Currituck County, North Carolina)	

Oak Trail Solar, LLC (“Oak Trail”) by and through its undersigned counsel, hereby moves the Commission to permit Oak Trail to begin limited construction activities, including the construction of perimeter fencing, erosion control measures, pile installation, wiring, equipment pads, racking, module installation, clearing and grading, switchyard/substation pad and access road installment, driveway and project road installment including culverts, stormwater management facilities, trenching and installation of cable, underground boring, installation of electrical poles, water well installation, and screening and landscaping improvements (“Limited Construction”). In support of its motion, Oak Trail shows the Commission the following:

Background

1. On September 17, 2020, Oak Trail 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 solar photovoltaic electric generating facility with a capacity up to 100 MW_{AC} to be located in Currituck County, NC (the “Facility”) in docket EMP-114, Sub 0 (the “CPCN Application”).

2. On September 29, 2020, 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.

3. On December 14, 2020, the Commission issued an *Order Scheduling Hearings, Requiring Filing of Testimony, Establishing Procedural Guidelines, and Requiring Public Notice* (“Procedural Order”). The Procedural Order required publication of notice, established deadlines for intervention and public comment, and scheduled a public hearing and an evidentiary hearing. The Procedural Order was updated by an *Errata Order* on December 16, 2020, and an *Order Rescheduling Public Witness Hearing, Revising Deadlines Related to Public Witness Hearing and Revising Required Public Notice* on December 18, 2020.

4. On January 19, 2021, the North Carolina Department of Administration filed comments through the State Clearinghouse (the “Clearinghouse”) stating that it had determined that no further Clearinghouse review action on Oak Trail’s part was needed for compliance with the North Carolina Environmental Policy Act.

5. On January 25, 2021, Oak Trail filed an affidavit of publication. No public comments were filed in response to the publication of notice.

6. On February 1, 2021, the Commission issued an *Order Canceling Public Witness Hearing* because no members of the public registered to testify at the remote public hearing and no written complaints were filed.

7. On March 22, 2021, the Public Staff filed the testimony of Evan Lawrence, Utilities Engineer, Electric Division. Mr. Lawrence’s testimony recommended that the Commission issue the CPCN, subject to four conditions.

8. On April 30, 2021, Oak Trail filed the rebuttal testimony of Frank Bristol to respond to the Public Staff’s testimony of Evan Lawrence. Mr. Bristol’s testimony stated

Oak Trail disagreed with the four conditions proposed by the Public Staff, but that Oak Trail would consent to four separate conditions to its CPCN. Oak Trail's proposed conditions were based on a recently issued merchant plant CPCN.

9. On May 17, 2021, the matter came on for an evidentiary hearing as ordered.

10. On June 21, 2021, the Commission issued an Order requiring proposed orders or briefs on or before thirty days from the issuance of the transcript.

11. On June 14, 2021, the transcript of the evidentiary hearing was issued.

12. On July 14, 2021, Oak Trail filed a proposed order granting the certificate to Oak Trail.

13. Also on July 14, 2021, the Public Staff filed a proposed order granting the certificate to Oak Trail. Public Staff's cover letter noted that Public Staff "believes the Commission may want to consider holding this docket in abeyance as well."

14. On July 20, 2021, Oak Trail filed a letter confirming its objection to holding its CPCN application in abeyance for an indefinite amount of time. Oak Trail stated such delay would cause "significant and potentially irreparable harm to this late-stage, fully contracted project." Oak Trail requested that the Commission not hold the application in abeyance and issue the CPCN as quickly as possible.

Request for Limited Construction

15. Oak Trail understands and commits that any construction pursuant to the requested Limited Construction will be undertaken without prejudice to any Commission action concerning Oak Trail's application and construction of the Facility. Oak Trail assumes all risks regarding the Commission's disposition of the application before the Commission in this docket.

16. Oak Trail submits that the grant of the requested Limited Construction authority during pendency of its application is in the public interest and will lead to the timely construction of a new renewable energy generation facility and increased investment in North Carolina. The Clearinghouse has found that no further Clearinghouse review action on Oak Trail's part was needed for the proposed Facility.

17. The requested relief is critical to completing construction of the Facility in accordance with timing requirements established pursuant to contractual obligations of Oak Trail and its affiliates. For example, Oak Trail will have a deadline under its fully executed Interconnection Construction Service Agreement ("ICSA") to provide Dominion the switchyard pad by February 1, 2022 so that Dominion can initiate construction of the new three breaker 230kV switching station. The original deadline to provide the switchyard pad under the ICSA was August 1, 2021, but Oak Trail must amend its ICSA due to the delay in receipt of its CPCN. In addition, there are several other contractual milestones under Oak Trail's fully executed Power Purchase Agreement, Interconnection Service Agreement, and ICSA that must be met in the near future.

18. Further, no risk to North Carolina utility ratepayers or the environment will result from granting the requested relief, as Movant commits to proceed with Limited Construction at its own risk subject to future Commission action.

WHEREFORE, Oak trail respectfully requests that the Commission issue an order granting the Limited Construction authority requested herein. Movant further requests expedited approval of the instant motion so that it may begin the Limited Construction activities as soon as possible.

This the 1st day of September, 2021.

Oak Trail Solar, LLC

/s/ E. Merrick Parrott
Katherine E. Ross
N.C. State Bar # 38468
E. Merrick Parrott
N.C. State Bar # 47999
Parker, Poe, Adams & Bernstein LLP
301 Fayetteville Street
Suite 1400
Raleigh, NC 27601
Tel: (919) 828-0564
Fax: (919) 834-4564

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. EMP-114, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Oak Trail Solar, LLC for a Certificate of Public Convenience and Necessity to Construct a 100-MW Solar Facility in Currituck County, North Carolina)	
)	VERIFICATION FOR MOTION FOR LIMITED CONSTRUCTION AUTHORITY
)	
)	
)	

I, Omar Aboudaher, being duly sworn, do hereby declare that I am duly authorized to act on behalf of the Applicant, that I am familiar with the facts, have read the foregoing Motion for Limited Construction Authority, and the matters and statements contained therein are true to the best of my personal knowledge.

This 31st day of August, 2021.



Omar Aboudaher
Oak Trail Solar, LLC

Sworn and subscribed to before me this 31st day of August, 2021.



Notary Public [Signature of Notary Public]



Name of Notary Public [typewritten or printed]

My Commission expires 03.31.2023

