



434 Fayetteville Street
Suite 2800
Raleigh, NC 27601
☎ 919.755.8700 📠 919.755.8800
WWW.FOXROTHSCHILD.COM

BENJAMIN L. SNOWDEN
Direct No: 919-719-1257
Email: bsnowden@foxrothschild.com

March 27, 2024

Ms. A. Shonta Dunston
Chief Clerk
NC Utilities Commission
430 N. Salisbury Street
Room 5063
Raleigh, NC 27603-5919

Re: 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, NC
NCUC Docket EMP-103, Sub o
Prefiled Supplemental Direct Testimony of Kenny Habul

Dear Ms. Dunston:

On behalf of Albemarle Beach Solar, LLC (“Albemarle Beach” or “Applicant”), we herewith submit the ***Prefiled Supplemental Direct Testimony of Kenny Habul*** in support of Applicant’s Motion To Withdraw Proposed Amendment, Lift Stay, and Amend Certificate of Public Convenience and Necessity which was filed earlier today in the docket.

Twelve hard copies of the Testimony will be provided to the Clerk’s Office within 24 hours of filing and the Testimony, in native format, will also be provided to NCUCExhibits@ncuc.net.

Please do not hesitate to contact me if you have any questions concerning this submission.

A Pennsylvania Limited Liability Partnership

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

156793604 - 3/27/2024 1:02:15 PM

OFFICIAL COPY

Mar 27 2024



Ms. A. Shonta Dunston
March 27, 2024
Page 2

Thank you for your assistance.

Sincerely,

/s/ Benjamin L. Snowden

Ben Snowden

pbb

Enclosure

Copy to: Parties and Counsel of Record
NC Public Staff

OFFICIAL COPY

Mar 27 2024

**PREFILED SUPPLEMENTAL DIRECT TESTIMONY OF
KENNY HABUL
ON BEHALF OF ALBEMARLE BEACH SOLAR LLC**

NCUC DOCKET NO. EMP-103, SUB 0

1 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2 A. My name is Kenny Habul. I am the founder, President, and CEO of SunEnergy1, which
3 developed, owns, and operates the Albemarle Beach solar facility (“the Facility”).

4 **Q. PLEASE DESCRIBE YOUR EDUCATION AND PROFESSIONAL EXPERIENCE.**

5 A. I received a law degree from Bond University in Queensland, Australia in 1994 and became
6 a partner in Habul Brothers Luxury Home Construction, one of the most prominent and
7 innovative builders on Australia’s Gold Coast. In 2006 I relocated to Charlotte, North
8 Carolina. I have been involved with solar thermal and photovoltaic project development
9 since 1996. In 2009, I founded SunEnergy1 (“SE1”) with the goal of making renewable
10 energy more accessible and sustainable. Through SunEnergy1, I aimed to create a company
11 that could lead in solar energy solutions while also promoting environmental stewardship
12 and energy independence.

13 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE NORTH CAROLINA
14 UTILITIES COMMISSION?**

15 A. No, I have not.

16 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL DIRECT TESTIMONY?**

17 A. The purpose of my testimony is to support Albemarle Beach Solar, LLC’s (“Applicant’s”)
18 Motion to Withdraw Proposed Amendment, Lift Stay, and Amend Certificate of Public
19 Convenience and Necessity (“Motion”). My testimony provides additional detail about the
20 circumstances related to the uprating of the Facility in August 2023, as well as

1 SunEnergy1's commitment to compliance with legal regulatory requirements, including
2 those of the North Carolina Utilities Commission.

3 **Q. PLEASE PROVIDE SOME ADDITIONAL BACKGROUND ON SUNENERGY1.**

4 SunEnergy1 is a leading U.S. solar developer, owner, and operator of utility-scale solar
5 projects with close to 1 GW of installed solar power. SunEnergy1 has pioneered large-scale
6 solar power on the East Coast for more than a decade, and has developed numerous record-
7 breaking solar projects in the region. SunEnergy1 is vertically integrated and controls all
8 stages of development in-house. SunEnergy1's professional team works closely with
9 manufacturers, utilities, and industry groups to ensure the safety, performance, and cost
10 efficiency of its projects. The Company's employees work closely with the National
11 Electric Code (NEC), National Fire Protection Association (NFPA) 70E, and other
12 government agencies to ensure that safety in the solar industry continues to improve.

13 **Q. WHY IS ALBEMARLE BEACH SEEKING TO AMEND ITS CPCN?**

14 A. As described in the Motion and in the Supplemental Testimony of Jason Hathcock, we are
15 asking the Commission to approve in increase in the AC capacity of the Facility from 80
16 MW to 140 MW AC, which will allow it to increase its total export of energy to the grid
17 without adding solar panels or increasing the environmental or other impacts of the
18 Facility. PJM has approved the proposed uprate, and has concluded that the Facility can
19 safely inject up to 140 MW AC to the grid without causing impacts to PJM's or Duke
20 Energy Progress's systems, or requiring the construction of any Upgrades.

21 Because the Facility's transformers are rated for a capacity up to 118 MVA, the Facility's
22 AC injection capacity can be increased by making changes to the transformer and plant
23 controller settings. This change can be implemented by SE1 personnel, without incurring

1 any contractor costs.

2 **Q. THE APPLICANT ALREADY MADE THAT CHANGE, DIDN'T IT?**

3 A. It did, albeit temporarily. After PJM completed its study of the Uprate and executed a
4 Revised Interconnection Service Agreement (Revised ISA) authorizing the change in
5 August 2023, SunEnergy1 changed the transformer and plant controller set points to
6 increase the maximum output of the Facility to 140 MW AC.

7 **Q. HOW MUCH IMPACT DID THAT HAVE ON THE OVERALL OUTPUT OF THE**
8 **FACILITY?**

9 A. The impact was relatively small, because under most conditions the Facility is generating
10 80 MW AC or less. Nevertheless, even a small increase in output, in this case an additional
11 15%, represents a meaningful economic benefit to the Facility, especially when it can be
12 accomplished without incurring additional cost.

13 **Q. WHY DIDN'T ALBEMARLE BEACH REQUEST A CPCN AMENDMENT**
14 **BEFORE IMPLEMENTING THIS CHANGE?**

15 A. Unfortunately, we didn't realize that we needed to. As the owner, I take the responsibility
16 for not knowing this requirement. Because the Uprate didn't involve any construction
17 activity, addition of land, or change to the layout of the facility, and had been thoroughly
18 studied by PJM (which concluded that it could safely be implemented without any impacts
19 to its system and did not create any affected system issues), the SE1 personnel responsible
20 for regulatory compliance, and myself, did not understand that approval from this
21 Commission was necessary. Only when SE1 began diligencing compliance with NCUC
22 requirements across its operating fleet did SE1 appreciate that it had failed to obtain this
23 required approval.

1 **Q. IS THE FACILITY STILL OPERATING AT UP TO 140 MW AC?**

2 A. No, it is not. Upon realizing its error, SE1 promptly returned the maximum output of the
3 Facility to 80 MW AC, as authorized under its current CPCN. Unless and until this
4 Commission approves an amendment to the CPCN authorizing an increase in capacity, the
5 maximum output from the Facility will stay at 80 MW AC.

6 **Q. IS THIS ERROR INDICATIVE OF SUNENERGY1'S APPROACH TO**
7 **COMPLIANCE WITH COMMISSION REQUIREMENTS?**

8 A. No, it is not. Despite this lapse, SunEnergy1 remains deeply committed to corporate
9 citizenship. As developers and operators, we recognize that compliance with applicable
10 legal and regulatory requirements is critical to protecting our reputation, maintaining the
11 trust of regulators and other stakeholders, and ensuring the integrity of our operations.
12 SE1 regrets the error and is taking proactive steps to ensure that it will maintain compliance
13 with Commission requirements going forward. These include conducting an audit of
14 compliance across its North Carolina operating portfolio and implementing a Management
15 of Change policy to ensure that any future changes to SE1-owned facilities obtain any
16 required approvals.

17 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

18 A. Yes, it does.