



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

November 9, 2022

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Docket No. EMP-111, Sub 0
Application of Sweetleaf Solar LLC for a Certificate of Public Convenience and
Necessity to Construct a 94-MW Solar Facility in Halifax County, North Carolina

Dear Ms. Dunston:

In connection with the above-referenced docket, I transmit herewith for filing on behalf of the Public Staff the attached Proposed Order.

By copy of this letter, I am forwarding a copy to all parties of record by electronic delivery.

Sincerely,
Electronically submitted
/s/ Nadia L. Luhr
Staff Attorney
nadia.luhr@psncuc.nc.gov

Attachment

cc: Parties of Record

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STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. EMP-111, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Sweetleaf Solar LLC for a)
Certificate of Public Convenience and)
Necessity to Construct a 94-MW Solar Facility)
in Halifax County, North Carolina)
	PROPOSED ORDER OF THE PUBLIC STAFF

BY THE COMMISSION: On June 2, 2020, Sweetleaf Solar LLC (Sweetleaf or 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 94-megawatt (MW) solar photovoltaic (PV) electric generating facility in Halifax County, North Carolina. Also on June 2, 2020, in support of its application, Sweetleaf filed the direct testimony and exhibits of Kara Price and Donna Robichaud.

On June 15, 2020, the Public Staff filed a Notice of Completeness stating that it had reviewed the CPCN application as required by Commission Rule R8-63(d) and considered the application to be complete. In addition, the Public Staff requested that the Commission issue a procedural order.

On July 8, 2020, the Commission issued an Order Requiring Filing of Testimony, Establishing Procedural Guidelines, and Requiring Public Notice (Scheduling Order). The Scheduling Order: (1) required the Applicant to file

additional testimony and exhibits addressing questions contained in the Scheduling Order on or before Tuesday, July 21, 2020; (2) scheduled a remote public hearing on Monday, August 24, 2020, at 7:00 p.m. via WebEx for the purpose of receiving public witness testimony regarding the application; (3) scheduled an evidentiary hearing on Monday, October 5, 2020, at 2:00 p.m. for the purpose of receiving expert witness testimony from the parties regarding the application; (4) provided that any person having an interest in this proceeding may file a petition to intervene on or before Monday, August 10, 2020; (5) required the Public Staff and other intervenors to file direct testimony and exhibits on or before Monday, August 10, 2020; (6) provided that the Applicant may file rebuttal testimony and exhibits on or before Tuesday, August 25, 2020; and (7) required the Applicant to publish public notice of the application once a week for four successive weeks, and to file affidavits of publication.

On July 22, 2020, in response to a Motion for Extension of Time filed by the Applicant, the Commission issued an order Granting Extension of Time to File Testimony, extending the deadline for: (1) the Applicant's additional testimony and exhibits to August 11, 2020; (2) the Public Staff and intervenors' testimony and exhibits to August 31, 2020; and (3) the Applicant's rebuttal testimony and exhibits to September 15, 2020.

On August 7, 2020, the Applicant filed an Affidavit of Publication.

On August 11, 2020, the Applicant filed the supplemental testimony of Donna Robichaud.

On August 17, 2020, the Applicant filed a Motion to Cancel Public Witness Hearing, stating that ten days had lapsed since the last day of the publication of notice, and to the best of the Applicant's knowledge, no written complaints had been received regarding the proposed facility. The motion requested that if no substantial written complaints have been received regarding the proposed facility, the Commission cancel the public hearing scheduled for August 24, 2020.

On August 18, 2020, the Public Staff filed a Letter Consenting to Cancellation of Public Hearing. The letter stated that while no written complaints had been filed, one member of the public had registered with the Public Staff to testify at the public hearing.

Also on August 18, 2020, the State Clearinghouse filed comments. The cover letter indicated that the Department of Natural and Cultural Resources (DNCR) had requested additional information, and that the State Clearinghouse therefore recommends that a supplemental document addressing the concerns of the DNCR be submitted for further review and comment. The State Clearinghouse also filed a clarification regarding the concerns of the DNCR on August 31, 2020.

On August 24, 2020, the Commission held the public witness hearing, at which one public witness gave a statement.

On August 31, 2020, the State Clearinghouse filed comments submitted by the NC Wildlife Resources Commission. The cover letter indicated that the comments should be taken into consideration in project development.

On September 1, 2020, in response to a Motion for Extension of Time filed by the Public Staff on August 25, 2020, and a Response to Request for Time filed by the Applicant on August 26, 2020, the Commission issued an Order Granting Further Extension of Time, extending the deadline for the Public Staff's filing of testimony and exhibits to September 18, 2020, and extending the deadline for the Applicant to file rebuttal testimony to September 29, 2020.

On September 18, 2020, the Commission issued an order rescheduling the expert witness hearing for Thursday, October 29, 2020, at 1:30 p.m., and establishing procedures for a remote hearing.

Also on September 18, 2020, the Public Staff filed the testimony of Jay Lucas.

On September 29, 2020, in response to the Applicant's September 28, 2020 Motion for Extension and Order Directing Supplemental Testimony, the Commission issued an order requiring the Public Staff to file additional supplemental testimony and exhibits on or before October 23, 2020, and requiring the Applicant to file reply testimony and exhibits on or before October 30, 2020. The Commission also cancelled the expert witness hearing scheduled for October 29, 2020.

On October 13, 2020, the Commission issued an order rescheduling the expert witness hearing for Tuesday, December 8, 2020, at 2:00 pm, and establishing procedures for a remote hearing.

On October 26, 2020, in response to the Public Staff's October 22, 2020 motion requesting an extension of time for the filing of its supplemental testimony and the Applicant's reply testimony, the Commission issued an order extending the deadline for the Public Staff's supplemental testimony and exhibits to November 13, 2020, and extending the deadline for the Applicant's reply testimony and exhibits to November 20, 2020.

On November 12, 2020, the Applicant filed a supplemental application and the direct testimony of witness Emily Dalager.

On November 13, 2020, the Public Staff filed the supplemental testimony of Jay Lucas.

On November 20, 2020, in response to the Applicant's motion for an extension of time filed on the same date, the Commission issued an Order Granting Further Extension of Time and Cancelling Hearing, providing that the Applicant shall file supplemental testimony and exhibits no later than February 15, 2021, the Public Staff shall file testimony and exhibits no later than March 1, 2021, and the Applicant shall file reply testimony no later than March 15, 2021. The Commission also cancelled the hearing scheduled for December 8, 2020.

On February 15, 2021, in response to the Applicant's motion for an extension of time filed on February 9, 2021, the Commission issued an Order Granting Further Extension of Time, providing that the Applicant shall file additional supplemental testimony and exhibits on or before June 1, 2021, the Public Staff

shall file testimony and exhibits on or before June 22, 2021, and the Applicant shall file reply testimony and exhibits on or before July 6, 2021.

On May 27, 2021, the Applicant filed a Generator Interconnection Affected System Study Report for PJM Interconnection Cluster AD1 (Affected System Study) dated April 5, 2021.

Also on May 27, 2021, the Applicant filed a Motion for Stay of Proceedings, requesting that the Commission stay proceedings in the current docket, as well as in EMP-110, Sub 0 (Application of Sumac Solar LLC for a Certificate of Public Convenience and Necessity to Construct a 120-MW Solar Facility in Bertie County, North Carolina), pending further order of the Commission, so that the parties and the Commission may have the benefit of additional interconnection-related information prior to filing additional testimony or conducting any evidentiary hearings. The Applicant explained that since receipt of the Affected System Study dated April 5, 2021, PJM Interconnection L.L.C. (PJM) has informed Sweetleaf and Sumac Solar LLC (Sumac), both of which are in the AD1 cluster, that it intends to provide revised interconnection studies for Sumac and Sweetleaf in the fall of 2021. The Applicant further explained that PJM is currently in the process of re-tooling the system impact studies for projects in the AC2 cluster (immediately prior to AD1) to account for changes in the interconnection queue, that PJM will then re-tool the AD1 project studies, and that PJM currently anticipates delivering revised studies for the AD1 cluster in September 2021. In addition, the Applicant stated that the revisions to the AC2 and AD1 studies will require Duke Energy Progress,

LLC (DEP) to revise its April 5, 2021 Affected System Study, with no current timeline for the expected delivery of that revised study.

On June 3, 2021, the Commission issued an Order Granting Request for Stay of Proceedings, providing that the Applicant shall file any additional interconnection studies it receives for the facility and may propose an appropriate procedural schedule after receipt of the additional interconnection studies.

On January 3, 2022, the Applicant filed a revised PJM Generation Interconnection System Impact Study (SIS) Report for the facility, dated December 1, 2021.

On June 24, 2022, the Applicant filed the supplemental testimony of Amanda Mack and the second supplemental testimony of Donna Robichaud.

On July 25, 2022, the Public Staff filed a Consent Motion for Procedural Order in the present docket, as well as in Docket Nos. EMP-110, Sub 0 and EMP-119, Sub 0 (Application of Macadamia Solar LLC for a Certificate of Public Convenience and Necessity to Construct a 484-MW Solar Facility in Washington County, North Carolina), and EMP-119, Sub 1 (Application of Macadamia Solar LLC for a Certificate of Environmental Compatibility and Public Convenience and Necessity to Construct a Transmission Line in Washington County, North Carolina).

On July 29, 2022, the Public Staff filed the second supplemental testimony of Jay Lucas.

On August 5, 2022, the Commission issued its Order Accepting Testimony, Requiring Further Testimony, and Scheduling Hearings. The order: accepted the second supplement testimony of Public Staff witness Lucas; provided that the Applicant may file supplemental reply testimony on or before August 12, 2022; scheduled the expert witness hearing in Docket No. EMP-110, Sub 0 to immediately follow the expert witness hearing in Docket No. EMP-119, Subs 0 and 1 on Tuesday, September 6, 2022; and scheduled the expert witness hearing in EMP-111, Sub 0 to immediately follow the hearing for Docket No. EMP-110, Sub 0.

On August 12, 2022, the Applicant filed the second supplemental reply testimony and exhibits of Donna Robichaud.

On August 30, 2022, the Public Staff filed a motion for leave to file joint supplemental testimony, as well as the joint supplemental testimony of Jay Lucas and Evan Lawrence.

On September 2, 2022, the Commission issued its Order Accepting Supplemental Testimony and Providing Questions to be Answered at Hearings (September 2 Order). The September 2 Order accepted the joint supplemental testimony of Public Staff witnesses Lucas and Lawrence and directed the Applicant and the Public Staff to produce witnesses at the September 6, 2022 expert witness hearing to provide testimony addressing specific questions that were provided in the order.

Also on September 2, 2022, the Public Staff filed a letter providing an update on its negotiations and resolution of outstanding issues between the Public Staff and the Applicant.

On September 6, 2022, the Commission convened the hearing for Docket No. EMP-119, Subs 0 and 1 in the Commission Hearing Room 2115 at 1:00 p.m., as scheduled. Upon opening the hearing, the Chair noted that the parties waived cross-examination of each other's witnesses and that the witnesses were being presented solely for the purpose of answering the questions posed by the Commission in its September 2 Order. Because the issues to be addressed by those questions are common among the three dockets, the Commission found good cause to consolidate the proceedings in Docket Nos. EMP-110, Sub 0; EMP-111, Sub 0; and EMP-119, Subs 0 and 1, solely to receive testimony on the Commission questions. The Commission noted that a copy of the transcript of the consolidated hearing would be placed in all three dockets and that the Commission would issue a subsequent order in each respective docket accepting into the record the testimony and exhibits of the parties' witnesses filed in each docket.

At the September 6, 2022 consolidated hearing for the purpose of addressing the questions in the September 2 Order, the attorney for the Applicants made a motion to cancel any subsequent hearings to be held in Docket Nos. EMP-110, Sub 0 and EMP-111, Sub 0.

On September 8, 2022, the Commission issued its Order Excusing Witnesses, Accepting Testimony, Canceling Expert Witness Hearing, and Requiring Proposed Orders.

Also on September 8, 2022, the Public Staff filed Public Staff Late-Filed Exhibit No. 1.

On October 19, 2022, the Applicant filed in this docket an Affected System Operating Agreement (ASOA) between Sumac and DEP, explaining that DEP filed this ASOA with the Federal Energy Regulatory Commission (FERC) and with the Commission in Docket No. E-100, Sub 170 on October 17, 2022.

FINDINGS OF FACT

1. Sweetleaf is a North Carolina limited liability company. Sweetleaf is wholly owned by EDF Renewables Development, Inc. (EDF Renewables), a Delaware corporation registered to do business in the State of North Carolina.

2. In compliance with N.C.G.S. § 62-110.1 and Commission Rule R8-63, the Applicant filed with the Commission an application and supplemental application for a CPCN authorizing the construction of a 94-MW solar PV electric generating facility located on approximately 1,235 acres north of Enfield, in Halifax County, North Carolina.

3. The application has met all requirements for publication of notice.

4. The facility will be a 94-MW_{AC} PV array with single-axis tracking.

5. The facility will be interconnected to the grid operated by Dominion Energy North Carolina (DENC).

6. Construction of the facility is anticipated to begin in the middle of 2025, and the expected date of commercial operation is the fourth quarter of 2026.

7. DNCR, through the State Clearinghouse, has requested additional information regarding the facility, and further action is needed before the CPCN is issued.

8. Sweetleaf is financially and operationally able to undertake the construction and operation of the facility.

9. Sweetleaf is one of the earliest-queued active projects in the DENC territory of PJM without an executed Interconnection Service Agreement (ISA). Based on the June 2022 SIS Report, Sweetleaf has cost responsibility for \$82,962,766 in network upgrade costs, which will be funded by Sweetleaf without reimbursement from PJM or DENC.

10. The facility has a Levelized Cost of Transmission (LCOT) of \$19.54 per megawatt-hour (MWh) based on its allocated costs for PJM network upgrades.

11. Sweetleaf, Sumac, and Macadamia are in the PJM AD1 cluster and trigger incremental affected system costs of \$150,000 on the Greenville-Everetts transmission line in DEP territory. Sumac has signed an ASOA with DEP to provide the funds for the construction of these upgrades.

12. Sweetleaf has shown a need based on the projected demand in the PJM region, projections for corporate purchase of energy and renewable energy credits from solar facilities in the southeast market of PJM, and projected load growth in PJM.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-6

These findings of fact are essentially informational, procedural, and jurisdictional in nature and are not in dispute. These findings are supported by the application, the supplemental application, and the testimony of Sweetleaf witnesses Price, Mack, Robichaud, and Dalager.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence supporting this finding of fact is located in the State Clearinghouse comments filed in this docket on August 18, 2020, and August 31, 2020.

On August 18, 2020, the State Clearinghouse filed a letter that included comments from multiple state agencies. The letter requested that the applicant provide additional information regarding archaeological resources to address concerns of the DNCR. On August 31, 2020, the State Clearinghouse filed a letter with additional comments of the DNCR, clarifying its request for additional information regarding archaeological resources. Also on August 31, 2020, the State Clearinghouse filed a letter with comments by the North Carolina Wildlife Resources Commission. The letter indicated that the attached comments should

be taken into consideration in project development. No further filings have been made in this docket by the State Clearinghouse.

Based on the foregoing and the entire record in this proceeding, the Commission concludes that the CPCN shall not be issued until the applicant files documentation showing that the concerns of the DNCR have been resolved.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The evidence supporting this finding of fact is located in the application, the supplemental application, and the testimony of Sweetleaf witnesses Price, Mack, Robichaud, and Dalager. This finding of fact is not disputed by any party.

Sweetleaf is wholly owned by EDF Renewables. Witness Dalager explained that the facility was initially developed by Geenex Solar, LLC (Geenex), a Delaware limited liability company, and was later fully acquired by EDF Renewables. Geenex will continue participating in the development of the Sweetleaf facility until it achieves commercial operation. Witness Price testified that Geenex develops high-quality solar projects ultimately for sale to its partners and investors, and that Geenex is skilled in all aspects of a solar project's development including site evaluation, real estate procurement, facility and interconnection engineering, environmental analysis, power purchase agreements, and federal, state, and local permitting processes. Geenex's corporate history, business model, financial capabilities, and expertise in the development of solar projects are set forth in Exhibit 1, Items (ii) and (iii) to the application.

Sweetleaf witness Dalager testified regarding EDF Renewables' technical experience and financial capabilities to own and operate the facility. She stated that EDF Renewables has the experience to build, own, and operate solar power generation facilities, including the Sweetleaf facility. She explained that EDF Renewables develops, builds, and operates clean energy power plants in 22 countries, and that, as of October 2020, its North American portfolio consisted of 16 GW of developed projects and 11 GW of operating assets under service contracts. She added that EDF Renewables has an additional 26 GW of projects in development. In addition, EDF Renewables has completed construction of two solar generating facilities in the Southeastern Electric Reliability Council (SERC) region, comprising a combined 154.8 MW, and currently has two solar generating facilities totaling 271.9 MW under construction in SERC.

Regarding financing, witness Dalager explained that EDF Renewables builds projects, some of which have capital costs exceeding \$500 million, on-balance sheet. She stated that successful construction of EDF Renewables projects will not be contingent on third party capital. According to witness Dalager, EDF Renewables works with large tax equity investors and has raised more than \$5.5 billion to date. She stated that tax equity is not invested until the project has neared completion, and that the balance of long-term capital is provided by EDF Renewables. Financial statements for EDF Renewables were provided as Supplemental Schedule 2.

Based on the foregoing and the entire record in this proceeding, the Commission concludes that Sweetleaf is financially and operationally able to undertake the construction and operation of the facility.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9-12

The evidence supporting these findings of fact is located in the application, the supplemental application, the testimony and exhibits of Sweetleaf witnesses Price, Mack, Robichaud, and Dalager, the testimony and exhibits of Public Staff witnesses Lucas and Lawrence, and the Public Staff's letter filed with the Commission on September 2, 2022, informing the Commission of an agreement between the parties.

N.C.G.S. § 62-110.1(e) states that "no certificate shall be granted unless the Commission has approved the estimated construction costs and made a finding that the construction will be consistent with the Commission's plan for expansion of electric generating capacity." Commission Rule R8-63(b)(3) also requires a merchant plant application to include a description of the need for the facility in the "state and/or region." This requirement is an outgrowth of the 1991 Empire Power Company case in Docket No. SP-91, Sub 0, which requires an independent power producer (IPP) to obtain a contract or a written commitment from a utility to demonstrate need.

In 2001, the Commission initiated a generic proceeding in Docket No. E-100, Sub 85 to consider changes to the certification requirements for merchant plants. As impetus for its Order, the Commission cited the Energy Policy Act of

1992, which encouraged independent power production and competition in the wholesale power market through the creation of exempt wholesale generators and the ability of FERC to issue wheeling orders requiring utilities to allow access to their transmission grids for wholesale power transactions.¹ Further, the Commission cited FERC Order 2000 as “encouraging the formation of regional transmission organizations which would operate interconnected transmission systems, reduce the cost of transmitting power to more distant markets, and further enhance wholesale competition.”² In the E-100, Sub 85 Order, the Commission ordered the Public Staff to file a proposal for certification requirements for merchant plants.³ In its proposal, the Public Staff recommended that the Commission address in its proceeding how the public convenience and necessity for an IPP would be demonstrated “when the facility is intended in whole or in part to serve . . . load outside of North Carolina, on varying bases and for varying duration.”⁴

In its Order adopting the certification rule, the Commission stated “[i]t is the Commission’s intent to facilitate, and not to frustrate, merchant plant development. Given the present statutory framework, the Commission is not in a position to abandon any showing of need or to create a presumption of need. However, the

¹ Order Initiating Further Proceedings, *Investigation of Certification Requirements for New Generating Capacity in North Carolina*, Docket No. E-100, Sub 85, at 3 (N.C.U.C. February 7, 2001).

² *Id.*

³ *Id.*

⁴ Public Staff’s Initial Comments, *Investigation of Certification Requirements for New Generating Facilities*, Docket No. E-100, Sub 85, at 8 (January 10, 2000).

Commission believes that a flexible standard for the showing of need is appropriate.”⁵

The Commission has determined in previous merchant plant proceedings that “it is appropriate for the Commission to consider the total construction costs of a facility, including the cost to interconnect and to construct any necessary transmission Network Upgrades, when determining the public convenience and necessity of a proposed new generating facility.”⁶

The Commission has also determined that “the use of the levelized cost of transmission (LCOT) provides a benchmark as to the reasonableness of the transmission Network Upgrade cost associated with interconnecting a proposed new generating facility.”⁷ Further, the Commission has explained that “the very reason the CPCN statute was enacted was to stop the costly overexpansion of facilities to serve areas that did not need them.”⁸ Lastly, the Commission has noted, based on policies established explicitly in N.C.G.S. § 62-2, that the “legislature intends the Commission to encourage cost-efficient siting of generation

⁵ Order Adopting Rule, *Investigation of Certification Requirements for New Generating Facilities*, No. E-100, Sub 85, at 7 (N.C.U.C. May 21, 2001).

⁶ See Order Denying Certificate of Public Convenience and Necessity for Merchant Plant Generating Facility, *In the Matter of Application of Friesian Holdings, LLC for a Certificate of Convenience and Necessity to Construct a 70-MW Solar Facility in Scotland County, North Carolina*, Docket No. EMP-105 Sub 0, at 6 (N.C.U.C. June 11, 2020).

⁷ *Id.*

⁸ *Id.* at 17. See also *High Rock Lake Ass’n*, 97 N.C. App. at 140-41, 245 S.E.2d at 790; *State ex rel. Utils. Comm’n v. Empire Power*, 112 N.C. App. 265, 280, 435 S.E.2d 553, 561 (1994).

facilities, and thus that the Commission has the authority to consider all costs borne as a result of that siting decision.”⁹

The proposed Sweetleaf facility holds two positions in the PJM interconnection queue: AD1-056/57. In her second supplemental testimony, witness Robichaud stated that, since the filing of her supplemental testimony in 2020, the allocated network upgrade costs for Sweetleaf had increased from \$29,882,913 to \$82,962,766. These network upgrades are identified in the June 2022 SIS Report. Witness Robichaud also stated that since the network upgrades are part of the PJM system, there is no cost allocation to DEP’s ratepayers.

In her second supplemental testimony and Confidential Attachment F to that testimony, witness Robichaud calculated the LCOT for the allocated cost of PJM network upgrades to be \$19.54/MWh. Sweetleaf will be responsible for paying these interconnection-related costs, and North Carolina ratepayers will not bear any portion of the cost. For this reason, the estimated LCOT for PJM network upgrades in this proceeding does not raise concerns for the Commission.

In his second supplemental testimony, Public Staff witness Lucas stated that DEP had released a revised affected system study report for the AD1 cluster, which includes Sweetleaf, Sumac, and Macadamia, on June 8, 2022. He explained that DEP had decided to rebuild the Greenville-Everetts 230 kV transmission line,

⁹ *Id.* at 17-18.

which would reduce the affected system upgrade costs assigned to the AD1 cluster from approximately \$10 million to \$350,000.

In her second supplemental reply testimony, witness Robichaud stated that Macadamia is negotiating an ASOA with DEP for the construction of the necessary upgrades to the Greenville-Everetts line at a cost of approximately \$150,000, and that Macadamia is seeking to expedite the upgrades at a cost of approximately \$1.6 million. She further stated that Macadamia is seeking an ASOA that would require Macadamia to fund the upgrade and the expediting fees, but would not provide any reimbursement of those costs from DEP. In addition, she noted that Sweetleaf may enter into a side agreement with Macadamia to provide a portion of the funding for the DEP upgrade, but that no such agreement had yet been reached.

In their joint supplemental testimony filed August 30, 2022, Public Staff witnesses Lucas and Lawrence expressed concern over the possibility of DEP ratepayers ultimately being responsible for the cost of expediting the construction of the upgrades in light of FERC's decision on the ASOA between DEP and American Beech Solar LLC (American Beech), in which FERC ruled that the modification to the ASOA's reimbursement provision was not just and reasonable.

On September 2, 2022, however, the Public Staff filed a letter informing the Commission that Macadamia, Sweetleaf, and Sumac had agreed not to seek expedited construction of the network upgrades on the Greenville-Everetts line. The Public Staff therefore recommended approval of the CPCN applications for all

three projects, subject to certain conditions. The Public Staff also recommended that the Commission forego any conditions on the CPCNs that may prevent the applicants and DEP from executing an ASOA that provides for reimbursement of the estimated \$150,000 to construct the incremental network upgrades.

Ultimately, Sumac, rather than Macadamia, signed an ASOA with DEP for the affected system upgrades. DEP filed the Sumac ASOA with FERC, and with the Commission in Docket No. E-100, Sub 170, on October 17, 2022. The Sumac ASOA provides for the construction of the Greenville-Everetts network upgrades at an estimated cost of \$150,000. In addition, the cover letter filed with the ASOA indicates that DEP filed the ASOA with FERC unexecuted because it is actively litigating the issue of whether it is appropriate for FERC to require DEP to provide reimbursement to the customer under the ASOA. Based on the Sumac ASOA filed in this docket, the evidence before the Commission is that there are currently no affected system costs assigned to Sweetleaf.

In its analysis of public convenience and necessity in the context of merchant generating facilities, the Commission has considered the long-term energy and capacity needs in the State and region, as well as system reliability concerns. As described in Exhibit 3 of the application, the project will interconnect to PJM, which coordinates the movement of electricity through all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia. Exhibit 3 states that there are several opportunities to sell the output of the facility, including the PJM wholesale market, ancillary services sales under

the PJM tariffs, and corporate agreements. The applicant anticipates contracting the sale of energy, capacity, and Renewable Energy Credits through PJM, and load growth for the PJM service area of North Carolina is expected to average between 0.9% and 1.1% per year over the next ten years. In addition, demand for renewable power is expected to increase in the Southeast over the expected lifetime of the project.

As the history of Commission Rule R8-63(b)(3) described above makes clear, the statement of need requirement is a “flexible standard” that is consistent with the Commission’s Order Adopting Rule in Docket No. E-100, Sub 85 issued on May 21, 2001. When considering the demonstration of need, the Commission must also weigh the costs of the facility, whether and to what extent those costs may be borne by ratepayers, and the benefits provided to those incurring the costs in determining the need for the facility. Therefore, for all the reasons explained in this Order, the Commission finds that the construction of the facility is in the public interest and meets the public convenience and necessity as required by N.C.G.S. § 62-110.1. However, the certificate will be conditioned in the manner described below to ensure that the Commission is notified of any future material revisions in the cost estimates for the interconnection facilities and network upgrades, including network upgrades on affected systems.

IT IS, THEREFORE, ORDERED as follows:

That after the applicant files documentation showing that the concerns of the North Carolina Department of Natural and Cultural Resources have been

resolved, a certificate of public convenience and necessity shall be issued to Sweetleaf Solar LLC for the construction of a 94-MW_{AC} solar PV merchant generating facility to be located in Halifax County, North Carolina. This certificate, once granted, shall be subject to the following conditions:

1. The Applicant shall construct and operate the facility in strict accordance with applicable laws and regulations, including any local zoning and environmental permitting requirements.
2. The CPCN shall be subject to Commission Rule R8-63(e) and all orders, rules, and regulations as are now or may hereafter be lawfully made by the Commission.
3. The Applicant shall file with the Commission in this docket any significant revisions in the cost estimates for the construction of the facility itself, interconnection facilities, network upgrades, or affected system upgrades, or any other significant change in costs, within 30 days of becoming aware of such revisions.
4. The Applicant shall file a copy of any executed Affected System Operating Agreement with the Commission at the same time such filing is made at the Federal Energy Regulatory Commission (at least 61 days prior to commencing construction of the upgrades).
5. If at any time the Applicant seeks reimbursement for any interconnection facilities, network upgrade costs, affected system costs, or other costs

required to allow energization and operation of the facility, the Applicant shall notify the Commission no later than 60 days before seeking reimbursement.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____ 2022.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk