



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

June 10, 2024

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

Re: Docket No. EMP-103, Sub 0 - Application of Albemarle Beach Solar, LLC, for an Amended Certificate of Public Convenience and Necessity to Construct an 80 MW Solar Facility in Washington County, North Carolina

Dear Ms. Dunston:

Attached for filing on behalf of the Public Staff in the above-referenced docket is the testimony of Evan D. Lawrence, Engineer with the Energy Division of the Public Staff – North Carolina Utilities Commission.

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

Sincerely,

Electronically submitted

/s/ Lucy E. Edmondson

Chief Counsel

lucy.edmondson@psncuc.nc.gov

/s/ Nadia L. Luhr

Staff Attorney

nadia.luhr@psncuc.nc.gov

Attachments

Executive Director
(919) 733-2435

Accounting
(919) 733-4279

Consumer Services
(919) 733-9277

Economic Research
(919) 733-2267

Energy
(919) 733-2267

Legal
(919) 733-6110

Transportation
(919) 733-7766

Water/Telephone
(919) 733-5610

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. EMP-103, SUB 0

In the Matter of
Application of Albemarle Beach Solar,)
LLC, for an Amended Certificate of)
Public Convenience and Necessity to)
Construct an 80 MW Solar Facility in)
Washington County, North Carolina)

**TESTIMONY OF
EVAN D. LAWRENCE
PUBLIC STAFF –
NORTH CAROLINA UTILITIES
COMMISSION**

June 10, 2024

1 **Q. Mr. Lawrence, please state your name, business address, and**
2 **current position.**

3 A. My name is Evan D. Lawrence. My business address is 430 North
4 Salisbury Street, Dobbs Building, Raleigh, North Carolina. I work for
5 the Public Staff of the North Carolina Utilities Commission (Public
6 Staff) as an engineer in the Energy Division, specifically the Electric
7 Section – Operations and Planning.

8 **Q. Briefly state your qualifications and duties.**

9 A. My qualifications and duties are attached as Appendix A.

10 **Q. What is the mission of the Public Staff?**

11 A. The Public Staff represents the concerns of the using and consuming
12 public in all public utility matters that come before the North Carolina
13 Utilities Commission. Pursuant to N.C. Gen. Stat. § 62-15(d), it is the
14 Public Staff's duty and responsibility to review, investigate, and make
15 appropriate recommendations to the Commission with respect to the
16 following utility matters: (1) retail rates charged, service furnished,
17 and complaints filed, regardless of retail customer class; (2)
18 applications for certificates of public convenience and necessity; (3)
19 transfers of franchises, mergers, consolidations, and combinations
20 of public utilities; and (4) contracts of public utilities with affiliates or
21 subsidiaries. The Public Staff is also responsible for appearing

1 before State and federal courts and agencies in matters affecting
2 public utility service.

3 **Q. What is the purpose of your testimony in this proceeding?**

4 A. The purpose of my testimony is to make recommendations to the
5 Commission regarding the request for an amended certificate of
6 public convenience and necessity (CPCN) filed by Albemarle Beach
7 Solar, LLC (Applicant) on March 27, 2024. The Applicant has
8 requested that its CPCN be amended to increase the capacity of the
9 solar photovoltaic (PV) merchant electric generating facility in
10 Washington County, North Carolina from 80 megawatts alternating
11 current (MW_{AC}) to 140 MW_{AC}.

12 **Q. Please provide a procedural history of this docket.**

13 A. On July 15, 2019, the Commission issued a Recommended Order
14 Issuing Certificate granting the Applicant a CPCN for the construction
15 of an 80 MW solar PV merchant electric generating facility.

16 On January 21, 2020, the Applicant filed a request to amend the
17 CPCN to: (1) add parcels of land to the original project footprint; and
18 (2) increase the capacity of the facility from 80-MW_{AC} to 140-MW_{AC}.

19 On June 22, 2020, the Public Staff filed a letter recommending that
20 the Commission find the amended application to be incomplete and
21 that the Applicant be required to file a complete amended application

1 and testimony, including testimony regarding the need for the
2 additional capacity and the cost of any required system upgrades.

3 The Commission issued an Order Determining Amended Application
4 to be Incomplete on August 13, 2020, requiring that the Applicant
5 make additional filings on or before October 16, 2020.

6 On October 15, 2020, the Applicant filed a Motion for Stay in this
7 proceeding.

8 On October 20, 2020, the Commission issued an Order Granting
9 Motion to Stay Proceeding.

10 On March 27, 2024, the Applicant filed a Motion to Withdraw
11 Proposed Amendment, Lift Stay, and Amend CPCN. The motion
12 stated that the Applicant no longer plans to implement the changes
13 to the facility's footprint reflected in the January 1, 2020 filing and
14 therefore withdrew that proposed amendment. The motion also
15 stated that authorizing the Applicant to increase its AC capacity from
16 80 MW to 140 MW would allow the Applicant to generate and sell
17 more energy; would not cause any adverse impacts to PJM
18 Interconnection, Inc. (PJM), Duke Energy Progress, LLC (DEP), or
19 any other system; would not result in any costs being allocated to
20 North Carolina ratepayers; and would not increase the environmental
21 or other impacts of the Albemarle Beach facility. Along with the

1 motion, the Applicant filed the testimony of witnesses Kenny Habul
2 and Josh Hathcock.

3 On April 11, 2024, the Public Staff filed its Notice of Completeness
4 stating that the Public Staff considers the Application to be complete
5 and requesting that the Commission issue a procedural order.

6 On April 26, 2024, the Commission issued its Order Granting Motion
7 to Withdraw Proposed Amendment to Certificate of Public
8 Convenience and Necessity, Granting Motion to Lift Stay, and Setting
9 Procedural Schedule for Motion to Amend Certificate of Public
10 Convenience and Necessity.

11 **Q. Has the facility ever operated above 80 MW_{AC}?**

12 A. Yes. According to the Applicant's March 27, 2024 motion and the
13 testimony of witness Habul, the Applicant changed the transformer
14 and plant controller set points to increase the output of the facility to
15 140 MW in August 2023. Mr. Habul stated that the Applicant did not
16 request a CPCN amendment prior to making this change because
17 "the Uprate didn't involve any construction activity, addition of land,
18 or change to the layout of the facility, and had been thoroughly
19 studied by PJM."¹ He further stated that he and the personnel
20 responsible for regulatory compliance "did not understand that

Testimony of Kenny Habul, at 3 (Mar. 27, 2024).

1 approval from this Commission was necessary.”² Likewise, the
2 Applicant’s motion stated that “the SunEnergy1 personnel who were
3 at the time responsible for compliance with North Carolina regulatory
4 requirements did not appreciate that any increase in the Facility’s AC
5 capacity would require notice to this Commission as no land nor
6 equipment was added to the project, and did not file such notice.”³

7 **Q. Is the facility still operating at 140 MW_{AC}?**

8 A. No. According to the Applicant’s March 27, 2024 motion, the
9 Applicant identified the need to seek an amendment to its CPCN
10 allowing a change in AC capacity in December 2023, in connection
11 with a CPCN amendment for Aulander-Holloman Solar, LLC
12 (Aulander-Holloman Solar), which is discussed later in my testimony.
13 The Applicant subsequently limited output to the authorized capacity
14 of 80 MW_{AC}.

15 **Q. Was the Applicant operating the facility in a manner that**
16 **compromised the operations of the electric system?**

17 A. As far I can determine, no. Before increasing the output of its facility,
18 the Applicant requested that PJM study the additional 60 MW of
19 capacity through PJM’s interconnection study process. In July 2023,

² *Id.*

³ Motion to Withdraw Proposed Amendment, Lift Stay, and Amend Certificate of Public Convenience and Necessity, at 4 (Mar. 27, 2024).

1 the Applicant received the results of the PJM study, which indicated
2 that there were no additional network upgrades required for the
3 addition of this incremental capacity. DEP also studied the additional
4 capacity through its affected system study process. The affected
5 system study was completed in the first quarter of 2024, as noted in
6 DEP's May 1, 2024 filing in Docket No. E-100, Sub 170. It is the
7 Public Staff's understanding that the affected system study
8 determined that no affected system costs are attributable to the
9 Applicant based on its increase in output.

10 **Q. Did the Applicant construct the facility within the approved**
11 **footprint?**

12 A. Yes. Based on my review of the site maps filed with the March 28,
13 2019 direct testimony of witness Linda Nwadike, which I compared
14 to satellite imagery, the Applicant constructed the facility within the
15 approved footprint.

16 **Q. Are you aware of other instances in which SunEnergy1, LLC,**
17 **has operated outside the bounds of a Commission-issued**
18 **CPCN?**

19 A. Yes. SunEnergy1, LLC (SE1), the parent company of the Applicant,
20 was involved in a nearly identical situation with its Aulander-

1 Holloman Solar facility.⁴ In that proceeding, the facility operated over
2 the 80 MW capacity authorized in its CPCN (up to 100 MW_{AC})
3 beginning in June 2020. SE1 stated that it only became aware of its
4 obligation to notify the Commission of the increase in capacity in the
5 course of performing due diligence for a potential sale of the project
6 in 2023.⁵ Additionally, it is my understanding that there is one SE1
7 facility that extends beyond the footprint authorized in the CPCN.⁶

8 **Q. Are you aware of any actions SE1 is taking to address the**
9 **recurring issue of its facilities not being constructed or**
10 **operated as approved in their CPCNs?**

11 A. Yes. In a letter filed in Docket No. EMP-120, Sub 0, on December
12 13, 2023, SE1 stated that it planned to undertake a review of
13 compliance with Commission requirements across its portfolio of
14 North Carolina projects, implement procedures to insure continued
15 compliance going forward, and report the results of its compliance
16 review to the Commission. In a confidential filing⁷ made in Docket
17 No. EMP-120, Sub 0, on February 16, 2024, SE1 stated that it “has
18 completed its review of compliance with Commission requirements”

⁴ Docket No. EMP-120, Sub 0.

⁵ Motion to Amend and Reissue Certificate of Public Convenience and Necessity and Request for Limited Waiver, at 5-6 (Nov. 28, 2023).

⁶ See Docket No. SP-3775, Sub 0.

⁷ The Public Staff has confirmed with the Applicant that the information from the confidential filing presented in this testimony can be treated as non-confidential.

1 across its portfolio of North Carolina projects currently owned by
2 SE1, noting that it had identified several projects that required
3 updated contact or other administrative information, as well as one
4 project (SP-3775, Sub 0) for which the as-built layout of the facility
5 included an additional parcel that was not included in the CPCN
6 application.

7 In addition, in a recent meeting between the Public Staff and SE1,
8 SE1 stated that it is still in the process of conducting a
9 comprehensive review of every project it currently owns in the state
10 of North Carolina, and that it is attempting to do the same for projects
11 it no longer owns. My understanding is that this internal review is
12 ongoing, and I recommend that upon its completion, SE1 make a
13 filing in each docket for each facility for which it currently holds a
14 CPCN attesting that: 1) the facility has been constructed within the
15 approved site boundary, and 2) the maximum capacity does not
16 exceed what is provided for in the CPCN.

17 **Q. What is the Public Staff's recommendation in this proceeding?**

18 A. The Public Staff makes the following recommendations:

19 (1) That the Applicant's request to amend its CPCN to increase the
20 capacity of the facility from 80-MW_{AC} to 140-MW_{AC} be approved.

1 (2) That the Commission require SE1 to make a filing in each docket
2 for each facility for which it currently holds a CPCN, within 90 days
3 of the Commission's order in this proceeding, either attesting that: 1)
4 the facility has been constructed within the approved site boundary,
5 and 2) the facility is operating with a nameplate capacity no greater
6 than what has been approved in the CPCN.

7 (3) That, if for any facility, SE1 cannot make the attestations in the
8 foregoing paragraph, it be required to file with the Commission a
9 request to amend its CPCN for that facility.

10 **Q. Does this conclude your testimony?**

11 A. Yes.

QUALIFICATIONS AND EXPERIENCE

EVAN D. LAWRENCE

I graduated from East Carolina University in Greenville, North Carolina in May 2016, earning a Bachelor of Science degree in Engineering with a concentration in Electrical Engineering. I started my current position with the Public Staff in September 2016. Since that time, my duties and responsibilities have focused on reviewing renewable energy projects, rate design, and renewable energy and energy efficiency portfolio standards (REPS) compliance. I have filed an affidavit or testimony in DENC, DEP, and DEC REPS and fuel proceedings, testimony in New River Light and Power's 2017 rate case proceeding, testimony in Western Carolina University's 2020 rate case proceeding, and testimony in multiple dockets for requests for CPCNs. Additionally, I previously served as a co-chair of the National Association of State Utility and Consumer Advocates' Distributed Energy Resources and Energy Efficiency Committee from 2019 to 2021.

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing on all parties of record or to the attorney of record of such party in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 10th day of June, 2024.

Electronically submitted
/s/ Nadia L. Luhr
Staff Attorney