



**PUBLIC STAFF OF THE  
NORTH CAROLINA  
UTILITIES COMMISSION**

October 3, 2022

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

Re: Docket No. EMP-108, Sub 0  
American Beech Solar LLC  
Application for Certificate of Public Convenience and Necessity

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](mailto:nadia.luhr@psncuc.nc.gov)

Attachment

cc: Parties of Record

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## BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. EMP-108, SUB 0

In the Matter of  
Application of American Beech Solar LLC for a )  
Certificate of Public Convenience and Necessity ) **PROPOSED ORDER**  
to Construct a 140-MW Solar Facility in ) **OF THE PUBLIC STAFF**  
Halifax County, North Carolina )

BY THE COMMISSION: On January 28, 2020, American Beech Solar LLC (American Beech 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 110-megawatt<sup>1</sup> (MW) solar photovoltaic (PV) electric generating facility in Halifax County, North Carolina. Also on January 28, 2020, in support of its application, American Beech filed the direct testimony and Exhibit A of Whitney Rubin.

On February 6, 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 March 12, 2020, the Commission issued an Order Scheduling Hearing, Requiring Filing of Testimony, Establishing Procedural Guidelines, and Requiring Public Notice. The March 12, 2020 procedural order: (1) scheduled a public hearing on Wednesday, May 20, 2020 at 7:00 p.m. at the Halifax County Historical Courthouse for the purpose of receiving public witness testimony regarding the proposed facility; (2)

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<sup>1</sup> In testimony filed on May 24, 2022, Applicant witness Michael Stanton explained that changes to the planned facility resulted in an increase from 110 MW to 140 MW.

scheduled an evidentiary hearing on Thursday, May 21, 2020, for the purpose of receiving expert witness testimony from the parties concerning the application; (3) provided that any person having an interest in this proceeding may file a petition to intervene on or before Thursday, April 16, 2020; (4) required the Public Staff and other intervenors to file direct testimony and any exhibits on or before Thursday, April 16, 2020; (5) provided that the Applicant may file rebuttal testimony and exhibits on or before Thursday, May 7, 2020; and (6) required the Applicant to publish public notice of the application once a week for four successive weeks, and to file affidavits of publication on or before Thursday, May 7, 2020.

On April 15, 2020, the Public Staff filed the testimony of Jay B. Lucas.

On April 20, 2020, the State Clearinghouse filed comments. The cover letter indicated that, because of the nature of the comments, no further State Clearinghouse review action by the Commission was required for compliance with the North Carolina Environmental Policy Act.

On May 6, 2020, the State Clearinghouse filed additional comments. The cover letter indicated that the attached comments should be taken into consideration in project development.

On May 13, 2020, the Applicant filed a letter notifying the Commission that due to an administrative error, notice of the application had been published only once, rather than each week for four successive weeks as required by the Commission. The Applicant requested that the Commission reschedule the public hearing and evidentiary hearing so that adequate public notice could be provided.

On May 15, 2020, the Commission issued an Order Cancelling Hearings, Rescheduling Public Witness Hearing, and Requiring Public Notice. The May 15, 2020 procedural order: (1) rescheduled the public witness hearing for Wednesday, June 24, 2020 at 7:00 p.m. at the Halifax County Historical Courthouse; (2) cancelled the evidentiary hearing; and (3) required the Applicant to publish public notice of the application and rescheduled hearing once a week for four successive weeks, and to file affidavits of publication.

On June 9, 2020, the Applicant filed an Affidavit of Publication.

On June 15, 2020, the Applicant filed a Motion to Cancel Hearing, requesting that the Commission cancel the public hearing scheduled for Monday, June 24, 2020. In support of its motion, the Applicant stated that no written complaints had been received regarding the proposed facility.

On June 19, 2020, the Commission issued an Order Cancelling Public Witness Hearing.

On June 22, 2020, the Commission issued an Order Requiring Additional Testimony, providing: (1) that the Applicant shall file testimony and exhibits addressing the questions set forth in the order on or before Wednesday, July 8, 2020; (2) that the Public Staff shall file testimony and exhibits addressing the questions set forth in the order on or before Wednesday, July 22, 2020; and (3) that the Applicant may file rebuttal testimony and exhibits on or before Wednesday, July 29, 2020.

On July 9, 2020, in response to the Commission's June 22, 2020 Order Requiring Additional Testimony, the Applicant filed the Supplemental Testimony of Whitney Rubin and Attachments A – K.

On July 22, 2020, in response to the Commission's June 22, 2020 Order Requiring Additional Testimony, the Public Staff filed the Supplemental Testimony of Jay B. Lucas and Lucas Exhibit 1.

On July 29, 2020, the Applicant filed the Supplemental Reply Testimony of Whitney Rubin.

On September 8, 2020, the State Clearinghouse filed additional comments. The cover letter indicated that, because of the nature of the comments, no further State Clearinghouse review action by the Commission was required for compliance with the North Carolina Environmental Policy Act.

On November 17, 2020, the Public Staff filed a Motion for Leave to File Second Supplemental Testimony of Jay B. Lucas. The motion stated that the issues being addressed in Docket No. E-100, Sub 170 (Investigation of Interconnection Issues Related to Electric Merchant Generation Facilities) were relevant to American Beech's application and requested leave to file supplemental testimony in order to take into account recent filings in Docket No. E-100, Sub 170. On the same date, the Public Staff filed the Second Supplemental Testimony of Jay B. Lucas.

On December 9, 2020, the State Clearinghouse filed additional comments. The cover letter requested that a supplemental document providing the additional information

requested by the Department of Cultural Resources by submitted to the State Clearinghouse for further review and comment.

On December 16, 2020, the Applicant filed a letter stating that it had reviewed the Public Staff's Second Supplemental Testimony of Jay B. Lucas, and did not intend to file further testimony in response. The letter also stated that the Applicant would not object to the issuance of its CPCN subject to the conditions recommended in witness Lucas' testimony.

On January 27, 2021, the State Clearinghouse filed additional comments. The cover letter indicated that, because of the nature of the comments, no further State Clearinghouse review action by the Commission was required for compliance with the North Carolina Environmental Policy Act.

On June 25, 2021, the Applicant filed a Motion to Stay. In support of its motion, the Applicant explained that it had executed an Affected System Operating Agreement (ASOA) with Duke Energy Progress, LLC (DEP), providing for the construction of affected system upgrades associated with the AC1 cluster at a revised estimated total cost of approximately \$31 million; DEP's original estimate in May 2020 was approximately \$23 million. The Applicant further explained that DEP had filed the ASOA with the Federal Energy Regulatory Commission (FERC) on May 11, 2021, and that on May 12, 2021, Edgecombe Solar Energy LLC (Edgecombe), the developer of another merchant solar project in the AC1 cluster, filed a complaint with FERC challenging DEP's policy of refusing to reimburse interconnection customers for affected system upgrade costs. The Applicant filed comments with FERC in support of Edgecombe's complaint on June 1,

2021, and on June 10, 2021, filed further comments in the FERC docket requesting that FERC accept the ASOA subject to the outcome of Edgecombe's complaint proceeding. The Applicant further explained that FERC's decision in the pending proceeding "will provide clarity on an issue of critical significance to the Commission's decision-making in this matter," and requested that the Commission stay proceedings in the current docket until the issuance of an order by FERC resolving the complaint.

On August 9, 2021, the Commission issued an Order Denying Stay and Requesting Further Information. The order denied the Applicant's request to stay the proceedings and required the Applicant to provide additional testimony addressing the questions set forth in the order when such information becomes available.

On May 20, 2022, the Applicant filed a Consent Motion for Procedural Order, stating that it now had sufficient information to provide additional testimony addressing the questions set forth in the Commission's August 9, 2021 Order Denying Stay and Requesting Further Information. The Applicant further requested that the Commission issue an order adopting a procedural schedule agreed upon by the Applicant and the Public Staff.

On May 24, 2022, the Applicant filed the Supplemental Testimony and Exhibits A through E of Michael Stanton.

On June 8, 2022, the Commission issued an Order Scheduling Hearing and the Filing of Testimony, providing: (1) that the additional testimony of the Public Staff shall be filed on or before June 27, 2022; (2) that the reply testimony of the Applicant shall be filed

on or before July 15, 2022; and (3) that an evidentiary hearing shall be held on Tuesday, August 2, 2022.

On June 27, 2022, the Public Staff filed the Third Supplemental Testimony of Jay B. Lucas.

On July 14, 2022, the Applicant filed the Supplemental Reply Testimony of Michael Stanton.

On July 27, 2022, the Applicant filed a Consent Motion to Cancel Expert Witness Hearing and Proceed on the Record.

On July 29, 2022, the Commission issued an Order Granting Motion to Cancel Expert Witness Hearing and Requiring Filing of Additional Evidence. The order: (1) canceled the evidentiary hearing scheduled for August 2, 2022 and accepted into the record all prefiled testimony and exhibits of the Applicant and the Public Staff; (2) directed the Applicant to file additional information as set forth in the order on or before August 5, 2022; and (3) provided that the Public Staff shall file any response to the Applicant's additional information on or before August 12, 2022.

On August 5, 2022, the Applicant filed Additional Comments Regarding Supplemental LCOT Calculations.

On August 12, 2022, the Public Staff filed a letter stating that it had reviewed the Applicant's comments and supporting documents filed August 5, 2022, and that the Public Staff did not disagree with the calculations presented therein.



On August 26, 2022, the Commission issued an Order Requiring Proposed Orders, providing that parties to the proceeding shall file proposed orders or briefs on or before thirty days from the issuance of the order.

On September 23, 2022, the Public Staff filed a Motion for Extension of Time, requesting that the deadline for the filing of proposed orders and briefs be extended to October 3, 2022.

On September 26, 2022, the Commission issued an Order Granting Extension of Time, extending the deadline for proposed orders and briefs to October 3, 2022.

### **FINDINGS OF FACT**

1. American Beech is a limited liability company registered to do business in the State of North Carolina. American Beech is wholly owned by BayWa R.E. Development, LLC (BayWa Development), a Delaware limited liability company. BayWa Development is wholly owned by BayWa R.E. Solar Projects, LLC (BayWa Solar). BayWa Development and BayWa Solar are wholly owned subsidiaries of the same parent company, BayWa Ag.

2. In compliance with N.C.G.S. § 62-110.1 and Commission Rule R8-63, the Applicant filed with the Commission an application for a CPCN authorizing the construction of a 140-MW solar PV electric generating facility outside of Scotland Neck in Halifax County, along portions of Thirteen Bridges Road, Sorietown Road, Old 125 Road, Bynum's Bridge Road, and Sand Pit Road.

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

4. The facility will be a 140-MW<sub>AC</sub> 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 first quarter of 2024, and the expected commercial operation date for the facility is the second quarter of 2025.
7. No further State Clearinghouse review action by the Commission is required for compliance with the North Carolina Environmental Policy Act.
8. American Beech is financially and operationally able to undertake the construction and operation of the facility.
9. American Beech has a fully executed Interconnection Service Agreement (ISA) and Interconnection Construction Service Agreement (ICSA) with PJM Interconnection, L.L.C. (PJM) and DENC, pursuant to which American Beech is responsible for \$7,260,942 in interconnection costs that will be funded by American Beech without reimbursement from PJM or DENC.
10. There are currently no affected system network upgrade costs assigned to this facility.
11. The facility has a Levelized Cost of Transmission (LCOT) of \$1.46 per megawatt-hour (MWh).
12. American Beech 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, projected load growth in PJM, and expected generation retirements in the region.

### **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.

### **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 April 20, 2020, the State Clearinghouse filed a letter in this docket that included comments from multiple state agencies. The letter stated that, because of the nature of the comments, no further State Clearinghouse review action was needed for compliance with the North Carolina Environmental Policy Act.

On May 6, 2020, the State Clearinghouse filed additional comments from the North Carolina Department of Natural and Cultural Resources, State Historic Preservation Office (Historic Preservation Office), requesting that the Applicant revise the archaeological report compiled for the project. The cover letter indicated that the attached comments should be taken into consideration in project development. On September 8, 2020, the State Clearinghouse filed additional comments from the Historic Preservation Office. The comments referred to a revised archaeological report transmitted to the Historic Preservation Office on August 7, 2020, and requested that additional information be submitted to the Historic Preservation Office. The cover letter indicated, however, that

because of the nature of the comments, no further State Clearinghouse review action was needed for compliance with the North Carolina Environmental Policy Act.

On December 9, 2020, the State Clearinghouse filed additional comments from the Historic Preservation Office. The comments referenced an archaeological report and site forms transmitted to the Historic Preservation Office on November 13, 2020, and requested additional information. The cover letter requested that a supplemental document providing the additional information be submitted to the State Clearinghouse for further review and comment. On January 27, 2021, the State Clearinghouse filed comments from the Historic Preservation Office referencing the receipt of a December 28, 2020 letter transmitting site plans for the project, as well as a revised archaeological report. The cover letter indicated that, because of the nature of the comments, no further State Clearinghouse review action was needed for compliance with the North Carolina Environmental Policy Act.

Based on the foregoing, the Commission concludes that the Applicant has resolved the concerns of the Historic Preservation Office and that no further State Clearinghouse review action is required for compliance with the North Carolina Environmental Policy Act.

#### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8**

The evidence supporting this finding of fact is located in the application and the testimony of American Beech witness Rubin.

American Beech is wholly owned by BayWa Development, which is wholly owned by BayWa Solar. BayWa Development and BayWa Solar are wholly owned subsidiaries of the same parent company, BayWa Ag. Financial statements for BayWa AG were provided as Schedule 3 to the application.

According to American Beech witness Rubin, the development of the project is funded through intra-company loans between BayWa AG and BayWa Solar. A construction loan will be obtained through a third-party lender, and BayWa Solar will raise tax equity, additional cash equity, and term debt. Witness Rubin testified that BayWa Solar has the capability to arrange adequate financing, insurance, guarantees, security, and other assurances for the project's development, construction, and operation. She stated that BayWa Solar has successfully obtained third-party financing for loans on behalf of other solar PV projects that were similar to the third-party financing BayWa anticipates for this project.

Witness Rubin also testified regarding the managerial and technical capability of BayWa Solar. She stated that BayWa Solar has the experience to build, own, and operate solar power generation facilities, including the American Beech facility. She also testified that BayWa Solar operates, has developed or sold, or has in its development pipeline 46 solar facilities throughout the United States. She stated that with the completion of these additional projects and the American Beech facility, BayWa Solar expects to develop approximately 1.2 gigawatts of capacity across the country.

Based on the foregoing, the Commission concludes that American Beech 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 testimony and exhibits of American Beech witnesses Rubin and Stanton, the Additional Comments Regarding Supplemental LCOT Calculations filed August 5, 2022, and the testimony and exhibits of Public Staff witness Lucas.

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 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.<sup>2</sup> 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.”<sup>3</sup> In the E-100, Sub 85 Order, the Commission ordered the Public Staff to file a proposal for certification requirements for merchant plants.<sup>4</sup> 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.”<sup>5</sup>

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 Commission believes that a flexible standard for the showing of need is appropriate.”<sup>6</sup>

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

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<sup>2</sup> 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).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Public Staff’s Initial Comments, *Investigation of Certification Requirements for New Generating Facilities*, Docket No. E-100, Sub 85, at 8 (January 10, 2000).

<sup>6</sup> 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).

Upgrades, when determining the public convenience and necessity of a proposed new generating facility.”<sup>7</sup>

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.”<sup>8</sup> 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.”<sup>9</sup> 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 facilities, and thus that the Commission has the authority to consider all costs borne as a result of that siting decision.”<sup>10</sup>

The proposed American Beech facility holds three positions in the PJM interconnection queue: 80 MW of capacity in the AC1 cluster (queue positions AC1-098/AC1-099), and 60 MW of capacity in the AC2 cluster (queue position AC2-084).<sup>11</sup> American Beech witness Stanton testified that both phases of the facility share the same point of interconnection, and that American Beech plans to construct both phases at the same time. According to witness Stanton, American Beech had originally entered into an

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<sup>7</sup> 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).

<sup>8</sup> *Id.*

<sup>9</sup> *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).

<sup>10</sup> *Id.* at 17-18.

<sup>11</sup> The AC2-083 queue position, representing 20 MW of generating capacity, was dropped.



ISA and ICSA for the AC1 cluster positions in March of 2020, but interconnection work under those agreements was suspended at American Beech's request while PJM conducted additional study of the AC2 queue positions. PJM completed its study of the AC2-084 queue position in early 2022, and American Beech entered into an updated ISA and ICSA to incorporate all three queue positions (AC1-098/AC1-099 and AC2-084) in March 2022 and May 2022, respectively. Witness Stanton stated that the 2022 ISA and ICSA, attached to his Supplemental Testimony as Exhibits B and C, superseded the 2020 agreements.

The ICSA identifies a total of \$7,260,942 in work that will be required to interconnect both phases of the facility, including \$587,538 in Attachment Facilities and \$6,673,402 in network upgrades. According to witness Stanton, these costs will be funded by American Beech without reimbursement from PJM or DENC. He further testified that American Beech has already paid \$2,911,509 in network upgrade costs for Phase I of the facility. The Public Staff does not dispute or raise any concerns regarding the costs of the facility.

In his Supplemental Testimony, American Beech witness Stanton explained that the Applicant had executed an Affected System Operating Agreement (ASOA) with DEP that provided for the construction of affected system upgrades associated with the AC1 cluster at an estimated total cost of approximately \$31 million, without reimbursement to American Beech. Witness Stanton further testified, however, that FERC had rejected the ASOA for deviating from FERC precedent requiring affected system operators to

reimburse interconnection customers for network upgrade costs.<sup>12</sup> Witness Stanton further explained that Edgecombe, another project in the AC1 cluster, has instead entered into an ASOA with DEP providing for the estimated \$31,285,275 upgrade. This ASOA, filed with both the Commission (Docket No. E-100, Sub 170) and FERC on May 6, 2022, provides for reimbursement to Edgecombe of the affected system costs. According to Public Staff witness Lucas, if this ASOA is approved by FERC, and DEP builds the affected system upgrades to interconnect Edgecombe, there will be no marginal cost to interconnect the American Beech facility or the other AC1 cluster projects. Therefore, the evidence before the Commission is that there are currently no affected system costs assigned to American Beech.

In its Additional Comments Regarding Supplemental LCOT Calculation, filed August 5, 2022, the Applicant provided LCOT calculations under a number of scenarios. Under Scenario C, which included costs for the PJM network upgrades and costs associated with Attachment Facilities, the Applicant calculated the LCOT as \$1.46/MWh. The Public Staff indicated in its August 12, 2022 letter that it had reviewed the comments and supporting documents and did not disagree with the LCOT calculations presented by the Applicant. This LCOT also falls within the range of benchmark LCOT values cited by Public Staff witness Lucas in his Supplemental Testimony, though he notes that LCOTs are “one way to evaluate the Network Upgrade costs of a project or projects in relation to the amount of energy they will produce.” In this case, American Beech will be responsible

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<sup>12</sup> *Order Rejecting Affected System Operator Agreement*, FERC Docket ER21-1955 (Oct. 1, 2021). As explained by Public Staff witness Lucas in his Third Supplemental Testimony, DEP filed a Request for Rehearing with FERC on November 1, 2021, requesting reconsideration of its Order Rejecting Affected System Operator Agreement. On December 2, 2021, FERC issued a Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration in FERC Docket ER21-1955. FERC’s decision is currently on appeal to the United States Court of Appeals for the District of Columbia Circuit.

for paying the interconnection-related costs, and North Carolina ratepayers will not bear any portion of the cost. For this reason, the estimated LCOT in this proceeding does not raise concerns for the Commission.

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 the CPCN application and the testimony of witness Rubin, 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. Witness Rubin explained that corporate purchases of energy and renewable energy credits from solar facilities in the southeast market of PJM are projected to increase over the next few years, and that demand for renewable energy is expected to increase in the Southeast over the expected lifetime of the project. 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, witness Rubin states that generation retirement also demonstrates the need for new sources of electricity in the region, and in North Carolina in particular.

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 a certificate of public convenience and necessity shall be, and is hereby, issued to American Beech Solar LLC for the construction of a 140-MW<sub>AC</sub> solar PV merchant generating facility to be located in Halifax County, North Carolina. This certificate is 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 ASOA with the Commission at the same time such filing is made at FERC (at least 61 days prior to commencing construction of the upgrades); and
  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