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February 6, 2017

## VIA ELECTRONIC FILING

Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4325

**Re: Application of Pecan Solar, LLC for a Certificate of Public Convenience and  
Necessity to Construct a 74.9-MW Solar Facility in Northampton County,  
North Carolina  
Docket No. SP-5273, Sub 0**

Dear Chief Clerk:

Pursuant to Julie Kennedy's January 4, 2017 Notice of Due Date for Recommendation and Proposed Order, I am submitting the Proposed Order of Pecan Solar, LLC in the above-referenced docket.

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

Sincerely,

Electronically submitted  
s/ Molly McIntosh Jagannathan  
molly.jagannathan@troutmansanders.com

Attachment

cc: Parties of Record

OFFICIAL COPY

Feb 06 2017

## BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. SP-5273, SUB 0

In the Matter of	)	
Application of Pecan Solar, LLC for	)	
a Certificate of Public Convenience	)	PROPOSED ORDER OF
and Necessity to Construct a 74.9-MW	)	PECAN SOLAR, LLC
Solar Facility in Northampton County,	)	
North Carolina	)	

HEARD: Wednesday, December 7, 2016 at 6:00 p.m. in the Northampton County Courthouse, 102 West Jefferson Street, Jackson, North Carolina

BEFORE: Hearing Examiner Patrick Buffkin

## APPEARANCES:

For Pecan Solar, LLC:

Kiran H. Mehta, Troutman Sanders LLP, 301 South College Street, Suite 3400, Charlotte, North Carolina 28202

BUFFKIN, HEARING EXAMINER: On August 24, 2015, the North Carolina Utilities Commission (“Commission”) issued an Order Issuing Amended Certificate and Accepting Registration of New Renewable Energy Facility, approving the amended application filed by Pecan Solar, LLC (“Pecan Solar” or “Applicant”) for a certificate of public convenience and necessity (“CPCN”) for construction of a 74.9 megawatt (“MW”) solar photovoltaic electric generating facility to be located east and west of Bethel Church Road approximately 0.6 to 2 miles north of the intersection of Bethel Church Road and Highway 186 in an unincorporated area approximately two miles west of the town of Seaboard, Northampton County, North Carolina (the “Facility”). Pecan Solar plans to sell the electricity generated at the Facility to Virginia Electric and Power

Company, d/b/a Dominion North Carolina Power (“DNCP”), to one or more wholesale or retail customers in deregulated states that allow for such sales, or to the PJM market.

On July 27, 2016, Pecan Solar filed an application seeking an amended CPCN for the Facility pursuant to N.C. Gen. Stat. § 62-110.1(a). Pecan Solar stated that it has decided to add additional parcels of land to be used in the construction of the Facility and that the location has been assigned an E911 address of 289 Bethel Church Road, Pleasant Hill, Seaboard, North Carolina in Northampton County. Pecan Solar also filed a site plan map showing the additional parcels of land adjacent to the original project site and a proposed substation.

On July 28, 2016, the Commission issued a Second Amended Order Requiring Publication of Notice in response to the additional land added to the Facility site.

On August 25, 2016, Verlene Stephenson filed a letter of complaint in this docket.

On September 9, 2016, the State Clearinghouse filed comments relating to the amended application. Because of the nature of the comments, the cover letter indicated that no further State Clearinghouse review action by the Commission was required for compliance with the North Carolina Environmental Policy Act.

On September 23, 2016, Pecan Solar filed another amendment to its application for CPCN, stating that Pecan Solar has decided to add additional parcels of land to be used in the construction of the Facility. Pecan Solar also filed a site plan map showing the additional parcels of land adjacent to the project site.

On October 4, 2016, in response to the additional land added to the Facility site, the Commission issued a Third Amended Order Requiring Publication of Notice requiring Pecan Solar (1) to publish notice of the application in the manner required by

N.C. Gen. Stat. § 62-82(a) and file an affidavit of publication with the Commission, and (2) to mail a copy of the application and notice to the electric utility to which Pecan Solar plans to sell and distribute the electricity and file a signed and verified certificate of service that the application and notice have been provided to the utility.

On October 19, 2016, Pecan Solar filed a verified certificate of service stating that copies of the application and notice were provided to DNCP on October 4, 2016.

On November 1, 2016, Pecan Solar filed an affidavit of publication from *The Daily Herald* stating that notice of the application had been published.

On November 2, 2016, based upon the complaint from Ms. Stephenson and the record herein, the Commission issued an Order Scheduling Hearing and Requiring Public Notice, setting this docket for hearing on December 7, 2016.

On November 4, 2016, Pecan Solar filed a verified certificate of service stating that a copy of the notice of hearing was provided to DNCP on November 3, 2016.

On November 14, 2016, Pecan Solar filed an affidavit of publication from *The Daily Herald* stating that notice of the hearing had been published.

On November 14, 2016, the State Clearinghouse filed comments relating to the amended application. Because of the nature of the comments, the cover letter indicated that no further State Clearinghouse review action by the Commission was required for compliance with the North Carolina Environmental Policy Act.

On November 18, 2016, Pecan Solar filed the direct testimony and exhibits of Doug Copeland.

On November 29, 2016, the State Clearinghouse filed additional comments and indicated that the North Carolina Department of Natural and Cultural Resources required additional information prior to its concurrence with the application.

The intervention of the Public Staff – North Carolina Utilities Commission has been recognized pursuant to N.C. Gen. Stat. § 62-15(d) and Commission Rule R1-19(e). No other parties have intervened in this matter.

This matter came on for hearing as scheduled on December 7, 2016. Pecan Solar presented the testimony of Mr. Copeland. Four public witnesses testified regarding the proposed Facility.

On February 6, 2017, Pecan Solar filed its proposed order, as allowed by the Commission.

Based upon consideration of Pecan Solar's Application, the pleadings, the testimony and exhibits received into evidence at the hearing, and the record as a whole, the Commission now makes the following:

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. In compliance with N.C. Gen. Stat. § 62-110.1(a) and Commission Rule R8-64, Pecan Solar filed with the Commission amended applications for a CPCN authorizing construction of a 74.9-MW solar photovoltaic electric generating facility to be located at 289 Bethel Church Road, Pleasant Hill, Seaboard, North Carolina in Northampton County.

2. Pecan Solar intends to produce renewable energy certificates ("RECs") that can be used to satisfy North Carolina's Renewable Energy Portfolio Standard

(“REPS”) and has self-certified as a qualifying facility (“QF”) with the Federal Energy Regulatory Commission.

3. Pecan Solar has demonstrated the need for the proposed Facility based on the public benefits of solar powered generation and State and federal policy encouraging private investment in renewable energy.

4. Pecan Solar has demonstrated that construction of the proposed Facility is in the public convenience based on the economic benefits of the proposed Facility and State and federal policy encouraging private investment in renewable energy.

5. No party presented evidence that the applications were not prepared and filed in accordance with N.C. Gen. Stat. § 62-110.1(a) or were deficient in any manner.

6. It is reasonable and appropriate to grant the requested amended CPCN.

#### **DISCUSSION OF EVIDENCE AND CONCLUSIONS**

The evidence in support of these findings and conclusions can be found in the direct testimony and exhibits of Pecan Solar’s witness, Doug Copeland, including the amended application filed on July 27, 2016 and the amended application filed on September 23, 2016, as well as the testimony of the public witnesses.

At the December 7, 2016 hearing, four public witnesses testified regarding the proposed Facility: Steve Garner, Verlene Stephenson, Lena Davis, and Tony Mumford. No one asserted that the amended applications were not prepared and filed in accordance with N.C. Gen. Stat. § 62-110.1(a) or were deficient in any manner. The public witnesses expressed concerns about potential loss of farmland, wetlands, and wooded areas as a result of the project; the aesthetics of the proposed Facility; and impacts on property values. In addition, Mr. Garner and Mr. Mumford stated that they were worried about the

fence from the Facility obscuring the ability to see around a curve in Bethel Church Road and presenting a safety hazard. Ms. Stephenson also raised a question as to whether solar power would result in cost savings given that a solar facility is only able to generate electricity during the daytime.

Doug Copeland, Regional Project Development Manager for EDF Renewable Energy, Inc. (“EDF”), the parent company of Pecan Solar, testified on behalf of the Applicant. Mr. Copeland provided testimony in support of Pecan Solar’s application to amend the CPCN and explained the purpose for the proposed amendments.

Mr. Copeland testified that EDF acquired the site from Geenex in March 2016. Geenex chose the site based on proximity to power lines, interest from landowners, open land, and fairly flat topography. According to Mr. Copeland, during the Applicant’s analysis of the project site, it found that to design the project to most efficiently produce electricity, additional land was needed to maximize the output, while keeping the overall project nameplate size the same. He stated that Pecan Solar also determined that while some of the potential land in the original CPCN could be used, it was better to not use certain portions of that land to avoid impacting wetlands. He pointed out that while the addition of new land helps Pecan Solar to optimize the layout of the project and to avoid wetlands, the Applicant does not plan to build out all the project areas covered in the proposed amended CPCN.

Mr. Copeland testified that in order to minimize disturbance to neighbors during the construction of the Facility, the Applicant will follow all local permits and rules regarding construction schedules and vehicle movement. In particular, Pecan Solar will work to minimize the impact of traffic on local roads, use site screening measures, limit

work to daylight hours where possible, and implement a notification process to adjacent landowners. Appropriate dust control and water runoff measures will also be used. Mr. Copeland indicated that once the Facility is built, the Applicant has trained field staff who will monitor and maintain the project, along with 24/7 monitoring from EDF's Operations Center. Pecan Solar will also hire locally to assist with the operations and maintenance of the Facility.

Northampton County considers solar to be an approved and compatible use on farmland. Mr. Copeland stated that the Applicant will work with the local jurisdiction to secure any and all land use approvals and permits necessary to construct the Facility on the parcels outlined in the proposed amendments. He confirmed that the Facility will be constructed in strict accordance with all applicable laws and regulations, including any local and county zoning ordinances. In accordance with zoning requirements, the Facility will be set one hundred (100) feet back from all roads and non-participating landowners, and an evergreen screen will be planted around all exterior portions of the project, unless an existing tree buffer exists. Mr. Copeland explained that these measures will help shield the project from the sightline, including the view from Bethel Church Road.

Mr. Copeland testified that the community will benefit from this Facility in a number of ways. The project will provide over 190,000 MW hours of clean energy every year, some of which will be consumed locally. The Facility will also involve significant economic development benefits in Northampton County, including the creation of 20-50 local construction jobs for approximately six months and the addition of tax base to local governments resulting in approximately \$300,000 of additional personal property tax revenue annually.



Additionally, Mr. Copeland testified that the facility will produce RECs that can be used to satisfy the State's REPS requirements and that the Facility has self-certified as a QF for purposes of the Public Utility Regulatory Policies Act of 1978 ("PURPA"). PURPA established federal policy to encourage the development of QFs and required that the electrical output from QFs be purchased by public utilities. In addition, REPS, passed by the General Assembly as Session Law 2007-397 ("Senate Bill 3"), established state policy that the State's investor-owned utilities, electric membership corporations, and municipalities obtain a certain percentage of their electricity from renewable energy resources, of which solar energy is one of the qualifying resources. Senate Bill 3 further declares it to be the public policy of the State to promote the implementation of REPS and to encourage private investment in renewable energy. Mr. Copeland testified that the Facility is anticipated to provide over 190,000 RECs annually for use by electric power suppliers to comply with their REPS obligations.

With respect to the issues raised in Ms. Stephenson's letter of complaint, Mr. Copeland testified that all of the land the Applicant is using for the project will be leased and returned to the landowners at the end of the project. He stated that Pecan Solar will use best practices in construction and maintenance of the Facility to ensure that the productive capabilities of the land for any future agricultural activity will be maintained. The overall grading of the land will not be changed. At the end of the project lifespan, all material from the solar project is removed from site, and the land is able to be farmed. He explained that the panels themselves are fully self-contained in glass and do not leak fluid or metals into the soil. The Facility will be required to meet environmental standards and obtain applicable permits from the North Carolina Department of

Environmental and Natural Resources, including a Stormwater Management Permit and an Erosion and Sedimentation Control Plan. He testified that, to the best of his knowledge, solar facilities such as the Facility that is the subject of this proceeding, do not create a potential for adverse impacts to the public health or environment.

Mr. Copeland also addressed the comments filed by the Department of Natural and Cultural Resources. In its letter filed by the State Clearinghouse on November 29, 2016, the Department indicated that a historic home site and cemetery was reported to be located on one of the parcels identified in the amended applications. The Department determined that the project as proposed will not have an effect on any historic structures, but recommended that Pecan Solar perform an archaeological survey and submit a report prior to construction or ground disturbance activities. At the time of the hearing, Mr. Copeland noted that Pecan Solar was planning to engage an archaeologist to locate the home site and cemetery, so that it could avoid disturbing either during construction. He mentioned that if the grave site is located inside the project boundary, Pecan Solar would provide access to descendants and others who wish to visit. Mr. Copeland indicated that once the Applicant received the report from the archaeologist, it would send the requested information to the Department and Clearinghouse and would file this information with the Commission.

In response to the concerns raised by the public witnesses and questions from the Hearing Examiner, Mr. Copeland reiterated that any farmland used for the Facility will be returned to the landowners at the conclusion of the project and will be able to be farmed again. He explained that Pecan Solar is obligated to remove all of the equipment from the project site. He also indicated that the Facility will not affect the permeability

of the land, which will continue to absorb water for the duration of the project. He added that the Applicant will use mowing for weed control and will not apply pesticides to the fields. As such, the land will be suitable for farming at the conclusion of the project.

With respect to the concern that wooded areas will be lost as a result of the project, Mr. Copeland explained that wooded areas make up only a portion of the site. For example, Mr. Mumford testified that the land he consented to lease to Pecan Solar was open land that was not wooded, and, according to Mr. Copeland, one of the reasons that Geenex originally chose the site was because it contained open land. Mr. Copeland testified that in those instances in which trees would need to be cleared for the Facility, the trees had been planted as crop timber that was intended to be cleared by the landowners in any event. At the conclusion of the project, the landowners would be free to replant this land with crop trees or any other trees or crops they wish to plant.

Mr. Copeland indicated that avoiding wetland areas is a very important issue to Pecan Solar, and in fact, is one of the primary reasons that the Applicant decided to secure the additional land for the Facility as outlined in the amendments. He testified that Pecan Solar has specifically designed the Facility to avoid wetlands, and as a result, no wetlands will be part of the project footprint.

Mr. Copeland also explained that the Applicant will design the project so that the surrounding fence and evergreen screen will not pose a safety issue by blocking motorists' view around the curve in Bethel Church Road. He testified that the project fence will be set back 100 feet from the road, which should alleviate both safety and aesthetic concerns. He added that the evergreen screen will be planted close to the fence so as to provide as much visibility around the curve as possible. The evergreen screen

should also mitigate the aesthetic concerns the public witnesses raised. He explained that as the project is developed, the Applicant will be mindful of residents' concerns about visibility and will minimize any impact to sightlines on Bethel Church Road.

Finally, Mr. Copeland rebutted Ms. Stephenson's suggestion that the cost of electricity may increase, not decrease, as a result of the Facility. He explained that this is not the case, as solar facilities produce power during peak demand times of day, which are typically the most expensive times of day. While there are peaker plants that produce power only during peak times, they are very expensive to run. Because there is no fuel cost associated with solar, and because solar is able to be used in lieu of these expensive peaking plants, it decreases the cost of power overall. In his pre-filed testimony, Mr. Copeland indicated that the addition of this renewable energy to the system has the potential to cause deferral of the addition of fossil fuel-fired generation. Mr. Copeland concluded that "solar is able to displace very expensive types and, often times, very dirty source of power."

The Hearing Examiner notes that the majority of the testimony opposing the Facility related to the appropriateness of the site and the additional land added to the site footprint by virtue of the amendments. The Commission's April 24, 2008 Order in Docket No. SP-231, Sub 0, stated, regarding local authority over the siting of facilities, that:

[S]uch decisions are, in most instances, best left to the local community through the exercise of its zoning authority rather than made by the Commission. Local governing bodies are, generally speaking, in a better position than the Commission to make local land use planning decisions (so long as those decisions do not operate to thwart controlling State policy).

The Hearing Examiner concludes that in this case, any decisions relating to the siting of the Facility and its compatibility with the surrounding land uses are best left to the local government and the local zoning process. The Applicant affirmed several times in its pre-filed testimony and during the hearing that it was committed to meeting all of the applicable zoning requirements.

Additional concerns regarding property values and environmental concerns were also raised. However, no credible evidence was provided to support claims that the Facility would adversely affect the property values of adjoining properties or pose an environmental threat. In addition, Pecan Solar has taken appropriate measures to address the concerns raised in Ms. Stephenson's complaint and by the public witnesses, such as preserving the ability of the project land to be used for future farming or woodlands, avoiding wetlands, taking steps to prevent lack of visibility around the curve on Bethel Church Road, and mitigating aesthetic issues.

Therefore, after careful consideration of the entire record in this proceeding, based on federal and State policy and the demonstrated economic benefits of such facilities, the Hearing Examiner finds that construction of the proposed 74.9-MW solar photovoltaic electric generating Facility, as amended by Pecan Solar's July 27, 2016 and September 23, 2016 applications in this docket, is in the public interest and justified by the public convenience and necessity as required by N.C. Gen. Stat. § 62-110.1.

IT IS, THEREFORE, ORDERED as follows:

1. That the amended CPCN applications filed by Pecan Solar on July 27, 2016 and September 23, 2016 shall be, and are hereby, approved;

2. That Appendix A shall constitute the CPCN issued to Pecan Solar for construction of a 74.9-MW solar photovoltaic electric generating facility to be located at 289 Bethel Church Road, Pleasant Hill, Seaboard, North Carolina in Northampton County; and

3. That the Facility shall be constructed in strict accordance with all applicable laws and regulations, including any local and county zoning ordinances.

This \_\_\_\_ day of \_\_\_\_\_, 2017.

THE NORTH CAROLINA UTILITIES COMMISSION

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M. Lynn Jarvis, Chief Clerk

## APPENDIX A

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. SP-5273, SUB 0

Pecan Solar, LLC  
1925 Isaac Newton Square, Suite 280  
Reston, Virginia 20190

is hereby issued this amended

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
PURSUANT TO G.S. 62-110.1**

for a 74.9-MW<sub>AC</sub> solar photovoltaic electric generating facility

to be located at 289 Bethel Church Road, Pleasant Hill, Seaboard, North Carolina  
in Northampton County

subject to all orders, rules, regulations and conditions as are now or may  
hereinafter be lawfully made by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This \_\_\_\_ day of \_\_\_\_\_, 2017.

THE NORTH CAROLINA UTILITIES COMMISSION

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M. Lynn Jarvis, Chief Clerk

**CERTIFICATE OF SERVICE**

I certify that Pecan Solar, LLC's Proposed Order has been served by electronic mail (e-mail), hand-delivery or by depositing a copy in the United States Mail, first class postage prepaid, properly addressed to the parties of record.

This the 6th day of February 2017.

s/ Molly McIntosh Jagannathan  
Molly McIntosh Jagannathan  
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ATTORNEYS FOR PECAN SOLAR, LLC