

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. EMP-101, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Application of Edgecombe Solar, LLC for a            ) ORDER ALLOWING LIMITED  
Certificate of Public Convenience and Necessity    ) CONSTRUCTION WITH  
to Construct a 75-MW Solar Facility in             ) CONDITIONS  
Edgecombe County, North Carolina                 )

BY THE CHAIR: On October 5, 2018, Edgecombe Solar, LLC (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 75-MW<sub>AC</sub> solar photovoltaic (PV) electric generating facility in Edgecombe County, North Carolina. The Applicant also filed a registration statement pursuant to Commission Rule R8-66, seeking registration of the facility as a new renewable energy facility.

On October 16, 2018, the Public Staff filed a Notice of Completeness stating that the Public Staff has reviewed the application as required by Commission Rule R8-63(d) and that the Public Staff considers the application to be complete. In addition, the Public Staff requested that the Commission issue a procedural order setting the application for hearing, requiring public notice pursuant to N.C.G.S. § 62-82, and addressing other procedural matters.

On November 8, 2018, the Commission issued an Order Scheduling Hearing, Requiring Testimony, Establishing Procedural Guidelines and Requiring Public Notice (Scheduling Order). The Scheduling Order, among other things, scheduled a public witness hearing and an expert witness hearing for the purpose of receiving testimony regarding the application.

On December 18, 2018, the Applicant filed an affidavit of publication, evidencing that the Applicant caused to be published notice of the hearing in the Rocky Mount Telegram as required by the Scheduling Order.

On January 2, 2019, based upon no complaints having been filed in this docket, the Commission issued an Order cancelling the public hearing.

On January 3, 2019, based upon no petitions to intervene having been filed in this docket, and the Public Staff being the only parties to this proceeding, the Commission issued an Order cancelling the expert witness hearing. In that Order, the Commission noted that the Clearinghouse Coordinator of the Office of Policy and Planning of the Department of Administration filed comments from the State Historic Preservation Office (SHPO) of the

North Carolina Department of Natural and Cultural Resources (NCDNCR). These comments reflect that the proposed site of the Applicant's facility is located in an area that has a "high probability for containing precolonial American Indian archeological sites" and that "archeological sites associated with the plantation of General William Ruffin Cox are likely present in the parcel." Therefore, NCDNCR recommends that prior to the initiation of any ground disturbing activities within the project area, a comprehensive archaeological survey of the project area be conducted by an experienced archeologist. On November 19, 2019, the Applicant filed a motion requesting that the Commission permit the Applicant to proceed with limited construction activities, including the construction of minimal pile installations and associated erosion control measures on portions of the site of the proposed facility. More specifically, the Applicant describes the archeological study activity that has occurred to date, which, in summary, identified 30 sites of potential archeological interest, 12 of which were determined to be ineligible for listing in the National Register of Historic Places. In addition, the Applicant and the SHPO of NCDNCR have agreed that there are no concerns with proceeding to limited construction activity on the 12 sites that have been studied to date. Included in the Applicant's filing are maps that more particularly identify the areas that have been studied, the areas that remain under study, and the areas where the proposed limited construction would be appropriate at this time. In support of its motion, the Applicant states that beginning construction in 2019 is critical to fulfill the Applicant's contractual obligations and for federal tax purposes. The Applicant further states that the limited construction activities would consist of minimal pile installations and associated erosion control measures related to the four inverter locations as shown in the map included as Exhibit B to the Applicant's filing, that each inverter location is within the project area, but outside of the areas still under archeologist study, and that the Applicant will mark off all areas still under study to ensure that the limited construction activity will not encroach on any of those areas. In addition, the Applicant commits that any construction undertaken would be without prejudice to any Commission action concerning the pending application and that the Applicant would assume all risks regarding the Commission's disposition of the application. The Applicant argues that the granting of the requested limited construction authority is in the public interest, will lead to the timely construction of a new renewable energy generation facility and increased investment in North Carolina, and that no risk to North Carolina utility ratepayers or the environment will result from granting the requested relief, as the Applicant commits to proceed with limited construction at its own risk subject to future Commission action. Finally, the Applicant states that the Public Staff has no objection to granting the limited construction authority requested by the Applicant. Based upon the foregoing and the entire record herein, the Chair finds good cause to grant the Applicant the authority to engage in construction of minimal pile installations and associated erosion control measures on portions of the site of the proposed facility that have been determined to be ineligible for inclusion on the National Register of Historic Places, as more particularly described in the Applicant's motion and depicted in Exhibit B of the Applicant's motion. The granting of this limited construction authority is subject to the conditions set forth in the ordering paragraphs below.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant is hereby granted the authority to engage in construction of minimal pile installations and associated erosion control measures on portions of the site of the proposed facility, as requested in the Applicant's November 19, 2019 motion;
2. That the Applicant shall adhere to all applicable North Carolina Division of Environmental Quality erosion and sedimentation control guidelines;
3. That the Applicant shall implement the measures proposed in its November 19, 2019 motion for the fencing-off and non-disturbance of those portions of the site of the proposed facility that have not been subject of an archeological study or review by State Historic Preservation Office of the North Carolina Department of Natural and Cultural Resources;
4. That the Applicant shall bear all costs and other risks of the limited construction activities, and, specifically, the risk that the Commission may deny the Applicant's application for an amended certificate of public convenience and necessity to construct the proposed facility; and
5. That this Order is based on the unique facts and circumstances involved in this docket and shall not be cited by the Applicant or any other party as precedent in support of a request for future Commission action.

ISSUED BY ORDER OF THE COMMISSION.

This the 2<sup>nd</sup> day of December, 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Kimberley A. Campbell". The signature is written in a cursive, flowing style.

Kimberley A, Campbell, Chief Clerk