

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. EMP 115, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of the Application of)	
Cherry Solar, LLC for a Certificate of Public)	
Convenience and Necessity to Construct a)	CONSENT MOTION TO EXCUSE
180-MW Solar Facility in Northampton)	WITNESSES, ADMIT TESTIMONY
County, North Carolina)	AND EXHIBITS, AND CANCEL
)	HEARING
)	

NOW COMES Cherry Solar, LLC, (the "Applicant"), by and through its undersigned counsel, and moves the Commission to excuse witnesses, admit into the record without cross-examination all of the pre-filed testimony and exhibits submitted by any party to this proceeding, cancel further hearings on the Applicant's application for a certificate of public convenience and necessity (the "CPCN"), and to issue the requested CPCN, subject to certain conditions. Accordingly, the Applicant shows unto the Commission the following:

1. On July 15, 2020, an application for a CPCN to construct a 300-MW (AC) solar renewable electric merchant plant was filed pursuant to N.C. Gen. Stat. § 62-110.1 and NCUC Rule R8-63 in NCUC Docket EMP-112, Sub 0, on behalf of Gaston Green Acres Solar, LLC. (The "GGAS Application"). The GGAS Application was supported by the pre-filed testimony and exhibits of Linda Nwadike filed with the Commission on the same day in accordance with NCUC Rule R8-63.

2. At the time the GGAS Application was filed, there was no contract to sell the output of the proposed 300-MW solar generation facility.

3. On July 29, 2020, the Public Staff filed a Notice of Completeness stating that the Public Staff had reviewed the GGAS Application as required by Commission Rule R8-63(d) and that the Public Staff considered the GGAS Application to be complete. In addition, the Public Staff requested that the Commission issue a procedural order setting the GGAS Application for hearing, requiring public notice pursuant to N.C.G.S. § 62-82, and addressing any other procedural matters.

4. On September 28, 2020, the Commission issued an *Order Scheduling Hearings, Requiring Filing of Testimony, Establishing Procedural Guidelines, and Requiring Public Notice*.

5. On October 19, 2020, the Applicant for the GGAS Application pre-filed the supplemental testimony of witness Nwadike, and pre-filed additional testimony of witness Nwadike addressing specific issues.

6. After the filing of the initial application in NCUC Docket EMP-112, Sub 0, the Applicant in this docket was organized, and entered an out-take contract for the output associated with a 180-MW solar facility; a separate out-take contract for the output associated with a 120-MW facility, representing the balance of the proposed 300-MW facility described in the original GGAS Application, was signed by Oak Solar, LLC.

7. In connection with the making of the two out-take contracts, the counterparty requested that the Applicant become the counterparty to the output contract associated with a 180-MW facility. The Applicant agreed to file a new application in this docket to seek authority to construct a 180-MW solar facility.

8. The Application in this docket was filed on November 13, 2020. The legal name of the Applicant is Cherry Solar, LLC. The application and caption in this proceeding conform with the size of the facility for which a CPCN is sought by the Applicant in this docket.

9. On November 24, 2020, the Public Staff filed a Notice of Completeness stating that the Public Staff had reviewed the Application as required by Commission Rule R8-63(d) and that the Public Staff considered 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 any other procedural matters.

10. On December 18, 2020, the Commission issued an *Order Scheduling Hearings, Requiring Filing of Testimony, Establishing Procedural Guidelines, and Requiring Public Notice*.

11. On April 14, 2021, the Public Staff filed the direct testimony of Mr. Jay B. Lucas, a Manager in the Electric Section of the Public Staff's Energy Division. The Public Staff, through witness Lucas, recommended that the Commission grant the requested CPCN, subject to certain conditions as set out on pages 14-16 of that testimony.

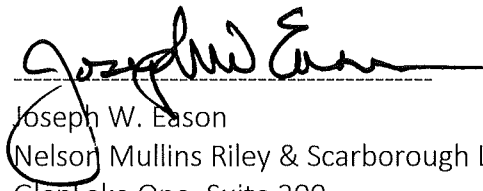
12. The Applicant is willing to accept a CPCN issued by this Commission, subject to the conditions as stated in the aforesaid testimony of Public Staff witness Lucas.

13. Since there are no disputed issues among the parties, the Applicant and the Public Staff have agreed to waive cross-examination of all witnesses in this matter and to request the admission into the record of all pre-filed testimony and exhibits, and the cancellation of the hearing in this docket.

14. The Public Staff reviewed this motion before it was filed, and has authorized the undersigned to state that the Public Staff consents to the Commission granting the relief requested by the Applicant, subject to the conditions recommended in the aforesaid testimony of Public Staff witness Lucas.

WHEREFORE, the Applicant respectfully prays that the Commission: (1) admit into evidence all of the pre-filed testimony, including all exhibits thereto, submitted on behalf of the Applicant or on behalf of the Public Staff in this docket, without cross examination; (2) excuse all of the witnesses from appearing at any scheduled hearings; (3) cancel any further hearings in this docket; and (4) issue the CPCN as requested by the Applicant, subject to the conditions identified in the aforesaid testimony of Public Staff witness Lucas.

Respectfully submitted this 10th day of May, 2021.

A handwritten signature in black ink, appearing to read "Joseph W. Eason", written over a horizontal dashed line.

Joseph W. Eason
Nelson Mullins Riley & Scarborough LLP
GlenLake One, Suite 200
4140 Parklake Avenue
Raleigh, North Carolina 27612

Tel: (919) 329-3800
joe.eason@nelsonmullins.com

Attorneys for the Applicant

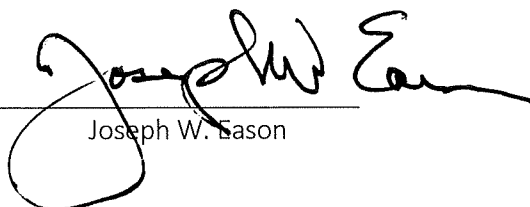
CERTIFICATE OF SERVICE

The undersigned certifies that the forgoing CONSENT MOTION TO EXCUSE WITNESSES, ADMIT TESTIMONY AND EXHIBITS, AND TO CANCEL HEARING was served upon the following by electronic mail:

Christopher Ayers, Esq.
Executive Director-NC Public Staff
Chris.Ayers@psncuc.nc.gov

Reita D. Coxton
NC Public Staff-Legal Division
reita.coxton@psncuc.nc.gov

This the 10th day of May, 2021.



Joseph W. Eason