



**Fox Rothschild** LLP  
ATTORNEYS AT LAW

434 Fayetteville Street  
Suite 2800  
Raleigh, NC 27601  
Tel (919) 755-8700 Fax (919) 755-8800  
www.foxrothschild.com

KAREN M. KEMERAIT  
Direct No: 919.755.8764  
Email: kkemerait@foxrothschild.com

December 11, 2019

Ms. Kimberley A. Campbell, Chief Clerk  
North Carolina Utilities Commission  
430 N. Salisbury Street  
Raleigh, NC 27603

**RE: Motion for Extension of Waiver by Fair Bluff Solar, LLC and Homer Solar, LLC  
NCUC Docket Nos. E-100, Sub 101, E-2, Sub 1159, and E-7, Sub 1156**

Dear Ms. Campbell:

On behalf of Fair Bluff Solar, LLC and Homer Solar, LLC, we herewith submit the attached Motion for Extension of Waiver by Fair Bluff Solar, LLC and Homer Solar, LLC in the above-referenced dockets. The Commission had previously granted a waiver to these projects in its December 6, 2018 *Order Granting Limited Waiver*, and the current waiver will expire on December 31, 2019. We have confirmed with counsel for Duke Energy, the Public Staff, the North Carolina Sustainable Energy Association, and the North Carolina Clean Energy Business Alliance that they support the extension of the waiver. Since the current waiver will expire on December 31, 2019, *we respectfully request expedited consideration of this request.*

Should you have any questions about this request, please do not hesitate to contact me.

Sincerely,

*/s/ Karen M. Kemerait*

Karen M. Kemerait

CC: All Parties of Record  
Enclosure

A Pennsylvania Limited Liability Partnership

California	Colorado	Delaware	District of Columbia	Florida	Georgia	Illinois	Minnesota
Nevada	New Jersey	New York	North Carolina	Pennsylvania	South Carolina	Texas	Washington

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-100, SUB 101  
DOCKET NO. E-2, SUB 1159  
DOCKET NO. E-7, SUB 1156

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION:

DOCKET NO. E-100, SUB 101	)	
	)	
In the Matter of	)	
Petition for Approval of Generator	)	
Interconnection Standard	)	
	)	
DOCKET NO. E-2, SUB 1159	)	MOTION FOR EXTENSION OF
	)	WAIVER BY FAIR BLUFF SOLAR, LLC
	)	AND HOMER SOLAR, LLC
DOCKET NO. E-7, SUB 1156	)	
	)	
In the Matter of	)	
Joint Petition of Duke Energy Carolinas,	)	
LLC, and Duke Energy Progress, LLC,	)	
for Approval of Competitive Procurement	)	
of Renewable Energy Program	)	
	)	

**MOTION FOR EXTENSION OF WAIVER**

NOW COME Fair Bluff Solar, LLC ("Fair Bluff Solar") and Homer Solar, LLC ("Homer Solar"), pursuant to Commission Rule R1-7, and respectfully move the North Carolina Utilities Commission ("Commission") for an extension of the limited waiver that the Commission granted in its *Order Granting Limited Waiver* entered in these dockets on December 6, 2018 (the "December 6, 2018 Order"). Fair Bluff Solar and Homer Solar continue to be uniquely and adversely affected by Ordering Paragraph 2 of the Commission's *Order Approving Interim*

*Modifications to North Carolina Interconnection Procedures for Tranche 1 of CPRE RFP* issued on October 5, 2018 (the “October 5, 2018 Order”) and Section 4.3.9 of the North Carolina Interconnection Procedures (“NCIP”).

This purpose of this motion is to extend the waiver of payment of the Milestone Payments pursuant to Section 4.3.9 of the NCIP, and require instead that Fair Bluff Solar and Homer Solar provide the Milestone Payments within ten (10) business days following the earlier of (i) Friesian Solar, LLC (“Friesian”) having made a contractual commitment to fund the Interdependent Upgrades that is irrevocable and not subject to any contingencies, (ii) Friesian having been removed from the queue, (iii) the execution of the Interconnection Agreements for Fair Bluff Solar and Homer Solar, or (iv) December 31, 2020.

In support of this Motion, Fair Bluff Solar and Homer Solar state the following:

1. The October 5, 2018 Order called for application of the Milestone Payment requirement to Interconnection Customers in the Facilities Study stage, stating in Ordering Paragraph 2:

That Interconnection Customers affected by Section 4.3.9 that are currently in the facilities study stage of the NCIP shall have 30 business days from the date of this Order to submit a prepayment for Network Upgrades. For a given Interconnection Request, if no such payment is received, the Interconnection Request shall be removed from the interconnection queue.

2. Fair Bluff Solar and Homer Solar continue to be uniquely and negatively impacted by this aspect of the October 5, 2018 Order. Fair Bluff Solar and Homer Solar are transmission solar projects. Fair Bluff Solar signed a Facilities Study Agreement on February 27, 2018, and Homer Solar signed a Facilities Study Agreement on September 18, 2017.

3. Fair Bluff Solar and Homer Solar were identified in the System Impact Studies as being interdependent with Friesian, an earlier-queued FERC-jurisdictional Interconnection

Customer. Friesian has triggered substantial Network Upgrades at a cost in excess of \$200 million. Friesian has submitted an application for a Certificate of Convenience and Public Necessity ("CPCN") in Docket No. EMP-105, Sub 0 that is pending before the Commission. The Commission has scheduled an evidentiary hearing for the application on December 18, 2019.

4. Fair Bluff Solar and Homer Solar both require substantial Network Upgrades ("the Interdependent Upgrades") that are also required by the earlier-queued Friesian project. As the earlier-queued project, Friesian is responsible for paying for the Network Upgrades. In addition to allowing Friesian to interconnect, those Network Upgrades will increase the capacity of the grid in that area of the state.

5. Fair Bluff Solar and Homer Solar also require other Network Upgrades ("the Independent Upgrades") that are independent of the Network Upgrades required for Friesian. The total estimated cost of the Independent Upgrades, which will be borne solely by Fair Bluff Solar and Homer Solar, is approximately \$9.6 million.

6. The December 6, 2018 Order temporarily waived the requirement pursuant to Section 4.3.9 as to Fair Bluff Solar and Homer Solar and requires instead that Fair Bluff Solar and Homer Solar "provide Milestone Payments for the Independent Upgrades upon the earlier of: (i) Friesian Solar having made a contractual commitment to fund the Interdependent Upgrades that is irrevocable and not subject to any contingencies, (ii) Friesian Solar having been removed from the queue, or (iii) December 31, 2019.

7. The Friesian project -- which is subject to the FERC Large Generator Interconnection Procedures and is therefore not required to make a Milestone Payment -- has not yet made an irrevocable commitment to fund the Interdependent Upgrades and will not do so before December 31, 2019. If Friesian ultimately does not irrevocably commit to paying for its

Network Upgrades, and thus is forced out of the queue, Fair Bluff Solar and Homer Solar will become responsible for paying for the Interdependent Upgrades. That additional cost, which will be in excess of \$200 million, would make Fair Bluff Solar and Homer Solar non-viable and cause them to exit the queue. In that event, Fair Bluff Solar and Homer Solar would be required to forfeit to Duke the \$9.6 million Milestone Payments for Network Upgrades that would never be constructed.

8. Given the financial uncertainty that arises from this situation, if Fair Bluff Solar and Homer Solar were required to make the \$9.6 Milestone Payment on December 31, 2019, they would be forced to withdraw from the queue, resulting in the loss of all investment and existing economic value in those projects. This would result in irreparable harm to the projects.

9. Fair Bluff Solar and Homer Solar therefore request that the Commission extend the waiver of payment of the Milestone Payments, and require instead that Fair Bluff Solar and Homer Solar provide the Milestone Payments within ten (10) business days following the earlier of (i) Friesian having made a contractual commitment to fund the Interdependent Upgrades that is irrevocable and not subject to any contingencies, (ii) Friesian having been removed from the queue, (iii) the execution of the Interconnection Agreements for Fair Bluff Solar and Homer Solar, or (iv) December 31, 2020.

10. Moreover, to the best of the knowledge of Fair Bluff Solar and Homer Solar, there are no projects in the interconnection queue with Network Upgrades dependent on Fair Bluff Solar's and Homer Solar's Independent Upgrades. There are later-queued projects that are dependent on Friesian's Network Upgrades. However, neither those projects nor Fair Bluff Solar and Homer Solar will have certainty as to their required Network Upgrades until Friesian definitively commits (or declines to commit) to its interdependent Network Upgrades. Extending

the deadline for Fair Bluff Solar's and Homer Solar's Milestone Payments would not alter this situation or cause harm to any party.

11. Counsel for Fair Bluff Solar and Homer Solar has conferred with Duke Energy Progress, LLC, Duke Energy Carolinas, LLC, the North Carolina Clean Energy Business Alliance, the North Carolina Sustainable Energy Association, and the Public Staff, and each of these parties supports the further stay requested herein.

**WHEREFORE**, for the foregoing reasons, Fair Bluff Solar and Homer Solar respectfully request that the Commission extend the waiver of payment of the Milestone Payments pursuant to Section 4.3.9 of the NCIP, and require instead that Fair Bluff Solar and Homer Solar provide the Milestone Payments within ten (10) business days following the earlier of (i) Friesian having made a contractual commitment to fund the Interdependent Upgrades that is irrevocable and not subject to any contingencies, (ii) Friesian having been removed from the queue, (iii) the execution of the Interconnection Agreements for Fair Bluff Solar and Homer Solar, or (iv) December 31, 2020.

Respectfully submitted, this 11th day of December, 2019.

By: 

Karen M. Kemerait  
Fox Rothschild LLP  
434 Fayetteville Street, Ste. 2800  
Raleigh, NC 27601  
Telephone: 919-755-8764  
Email: [kkemerait@foxrothschild.com](mailto:kkemerait@foxrothschild.com)  
*Attorneys for Petitioners Fair Bluff Solar, LLC and  
Homer Solar, LLC*

## CERTIFICATE OF SERVICE

It is hereby certified that the foregoing MOTION FOR EXTENSION OF WAIVER has been served this day upon each party of record in this proceeding or their attorney by electronic mail or by depositing a copy thereof in the United States mail, postage prepaid.

This the 11th day of December, 2019.

By: Karen M. Kemerait  
Karen M. Kemerait  
Fox Rothschild LLP  
434 Fayetteville Street, Ste. 2800  
Raleigh, NC 27601  
Email: [kkemerait@foxrothschild.com](mailto:kkemerait@foxrothschild.com)  
*Attorneys for Petitioners Fair Bluff Solar, LLC and  
Homer Solar, LLC*

OFFICIAL COPY

Dec 11 2019

## VERIFICATION

I. Ben Catt, having been duly sworn, deposes and says:

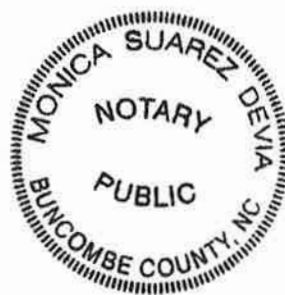
1. I am the Authorized Representative of Fair Bluff Solar, LLC and Homer Solar, LLC
2. I have read the foregoing Motion for Extension of Waiver and know its contents.
3. The matters stated in this instrument are true to the best of my knowledge.



Ben Catt

Sworn to and subscribed before me,

this 10<sup>th</sup> day of December, 2019.

  
Notary Public

My commission expires: Sept. 20, 2023