

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. EMP-110, SUB 0
DOCKET NO. EMP-111, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Sumac Solar, LLC, for a Certificate of Public Convenience and Necessity to Construct a 120-MW Solar Facility in Bertie County, North Carolina)	
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In the Matter of Application of Sweetleaf Solar LLC for a Certificate of Public Convenience and Necessity to Construct a 94-MW Solar Facility in Halifax County, North Carolina)	APPLICANTS’ MOTION FOR FURTHER EXTENSION OF TIME
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NOW COME Sumac Solar, LLC (“Sumac Solar”) and Sweetleaf Solar, LLC (“Sweetleaf Solar,” and together with Sumac Solar, “Applicants”), by and through counsel, and pursuant to Commission Rule R1-7, move the North Carolina Utilities Commission for an extension of the procedural schedule in these dockets until February 2021, so that the parties and the Commission may have the benefit of additional interconnection-related information regarding Applicants’ projects prior to filing additional testimony or conducting any evidentiary hearings.

In support of its motion, Applicants show the following:

1. On April 16, 2020, in Docket No. EMP-110, Sub 0, Sumac Solar filed an application pursuant to N.C.G.S. § 62-20.1 and Commission Rule R8-63 for a CPCN to construct a 120-MWAC solar PV electric generating facility to be located in Bertie County, North Carolina, and to be operated as a merchant generating facility. The Public Staff filed a Notice of Completeness on April 23, 2020. On May 29, 2020, the Public Staff filed the testimony of Evan

D. Lawrence. On June 22, 2020, the Commission issued an *Order Cancelling Expert Witness Hearing and Requiring Additional Testimony* (Order for Additional Testimony) which, among other things, directed the Applicant to file additional testimony and exhibits addressing a number of questions posed by the Commission on or before July 22, 2020. The Order for Additional Testimony also directed the Public Staff to file testimony and exhibits addressing the questions posed by the Commission on or before August 5, 2020. On July 22, 2020, the Commission issued an Order granting the Applicant's request for extension of time to file its testimony and exhibits to August 12, 2020. Pursuant to that Order, the Public Staff's deadline to file its testimony and exhibits was extended to August 26, 2020. On August 12, 2020, the Applicant filed the additional testimony and exhibits of Donna Robichaud. On August 25, 2020, the Public Staff requested a further extension of time to five business days following the conclusion of the hearings in the Duke Energy Carolinas, LLC (DEC), and Duke Energy Progress, LLC (DEP), rate cases to file its testimony. On August 26, 2020, the Applicant filed a letter proposing an alternative extension schedule whereby the Public Staff would file its testimony by September 25, 2020. On August 27, 2020, the Commission issued an Order granting an extension of time to on or before September 25, 2020, for the Public Staff to file its testimony. On September 25, 2020, the Public Staff filed a motion for a further extension of time to file its testimony to October 26, 2020. In its motion, the Public Staff noted that DEP anticipated completing affected system studies for Clusters AC2, AD1, and AD2, on October 1, 2020, and that the Applicant's facility was being studied as part of Cluster AD1. The Public Staff further noted that the Commission had issued an *Order Requiring Comments and Reply Comments Regarding Affected System Study Process and Cost Allocation* in Docket No. E-100, Sub 170, on September 16, 2020, to investigate and receive comments regarding the affected system study process and electric merchant generation. The Public Staff

indicated that it and Sumac Solar believed it would be beneficial to allow additional time prior to filing testimony to review DEP's affected system study and the comments due to be filed by the electric utilities by October 7, 2020, and reply comments filed by other interested parties due by October 14, 2020, in Docket No. E-100, Sub 170. The Commission issued an Order granting the Public Staff's motion on September 25, 2020. On October 15, 2020, the Applicant filed a letter in Docket No. EMP-110, Sub 0, notifying the Commission pursuant to Commission Rule R8-63(e)(4) of the sale of the facility seeking the CPCN in the docket to EDF Renewables Development, Inc. (EDF). Sumac Solar indicated in the letter that it would provide supplemental testimony concerning EDF, and that Sumac Solar and Public Staff had conferred and would inform the Commission as to whether they believed any further changes to the deadlines for filing testimony would be necessary. Sumac Solar filed Supplemental Application and Testimony relating to the EDF acquisition on November 16, 2020.

2. On June 2, 2020, in Docket No. EMP-111, Sub 0, Sweetleaf Solar filed an application pursuant to N.C.G.S. § 62-110.1 and Commission Rule R8-63 for a CPCN for a 94-MW solar photovoltaic electric generating facility to be located in Halifax County, North Carolina, and to be operated as a merchant generating facility. The Public Staff filed a Notice of Completeness on June 15, 2020. On July 8, 2020, the Commission issued a Procedural Order which, among other things, directed the Applicant and the Public Staff to file additional testimony addressing questions posed by the Commission on various topics, including network upgrade costs, by July 21, 2020, and August 10, 2020, respectively. On July 21, 2020, the Applicant requested a three-week extension of the time of the deadlines for supplemental testimony noting that the complexity of the underlying issues related to the PJM interconnection process and that the parent company, Geenex Solar LLC, was simultaneously preparing supplemental testimony in

Docket No. EMP-110, Sub 0. On July 22, 2020, the Commission issued an Order granting the request and extending the deadlines for filing the Applicant's additional testimony and exhibits to August 11, 2020, and for the filing of the Public Staff's testimony and exhibits to August 31, 2020. On August 11, 2020, the Applicant filed the additional testimony and exhibits of Donna Robichaud. On August 24, 2020, the Commission held the public witness hearing remotely via WebEx. On August 25, 2020, the Public Staff requested a further extension of time to five business days following the conclusion of the hearings in the DEC and DEP rate cases to file its testimony. On August 26, 2020, the Applicant filed a letter proposing an alternative extension schedule whereby the Public Staff would file its testimony by September 18, 2020. On September 1, 2020, the Commission issued an Order granting an extension of time to on or before September 18, 2020, for the Public Staff to file its testimony. On September 18, 2020, the Public Staff filed the testimony and exhibits of Jay B. Lucas. Witness Lucas concluded in his testimony that there was insufficient information regarding the total costs to construct the Applicant's facility, including costs related to interconnection and construction of any necessary transmission network upgrades, to recommend approval of the CPCN for the facility. Witness Lucas noted that DEP anticipated completing affected system studies for Cluster AD1, the cluster in which Applicant's facility is included, on October 1, 2020, and that the Commission had issued an *Order Requiring Comments and Reply Comments Regarding Affected System Study Process and Cost Allocation* in Docket No. E-100, Sub 170, on September 16, 2020, directing the electric utilities to file comments by October 7, 2020, and other interested parties to file reply comments by October 14, 2020. Witness Lucas recommended that the Commission hold Sweetleaf Solar's application in abeyance until such time as the affected system study costs for Cluster AD1 and the filings in Docket No. E-100, Sub 170 could be reviewed and evaluated. On September 28, 2020, Sweetleaf Solar filed a motion

requesting that the Commission issue an order amending and extending the procedural schedule in the case to allow the parties to review and provide testimony concerning the affected system study costs for Cluster AD1 and the filings in Docket No. E-100, Sub 170. Sweetleaf Solar further requested that the Commission issue an order directing, among other things, that the Public Staff file supplemental testimony and a recommendation on the Applicant's application on or before October 23, 2020. On September 29, 2020, the Commission issued an Order directing the Public Staff to file additional supplemental testimony and exhibits on or before October 23, 2020, directing the Applicant to file reply testimony and exhibits on or before October 30, 2020, and cancelling the expert witness hearing scheduled for October 29, 2020. On October 13, 2020, the Commission issued an Order rescheduling the expert witness hearing for December 8, 2020. On October 15, 2020, the Applicant filed a letter notifying the Commission, pursuant to Commission Rule R8-63(e)(4), of the sale of the facility seeking the CPCN in the docket to EDF. The Applicant indicated in the letter that it would provide supplemental testimony concerning EDF, and that the Applicant and Public Staff had conferred and would inform the Commission as to whether they believed any further changes to the deadlines for filing testimony would be necessary. Sweetleaf Solar filed Supplemental Application and Testimony relating to the EDF acquisition on November 12, 2020.

3. On October 22, 2020, the Public Staff filed a Motion for Extensions of Time to file supplemental testimony and exhibits in dockets EMP-110, Sub 0, and EMP-111, Sub 0, due to delays in the availability of information related to including costs related to interconnection and construction of any necessary transmission network upgrades for the Sumac Solar and Sweetleaf Solar projects. In its Motion, the Public Staff reported that it had requested from DEP but had not yet received affected system studies for a number of clusters, including Cluster AD1, which was

originally scheduled to be completed on October 1, 2020. On October 21, 2020, DEP indicated that it could not provide an updated estimate regarding the schedule for completion of the affected system study for Cluster AD1. The Public Staff requested an extension of its deadlines for testimony and exhibits due to the unavailability of this information. The Commission granted the requested extension of time on October 26, 2020.

4. The Public Staff filed the supplemental testimony of witness Jay B. Lucas in Docket No. EMP-111, Sub 0 on November 13, 2020. Witness Lucas testified that in light of recent changes to Duke Energy's Affected System process, the lack of a completed Affected System Study for the proposed Sweetleaf project (or its PJM cluster), and other factors, so long as there is any possibility that affected system or other interconnection costs associated with the project might be imposed on ratepayers "too much uncertainty exists regarding the magnitude and responsibility of Affected System costs to make a determination as to whether the Facility is in the public convenience and necessity at this time." Mr. Lucas further testified that "in the event the Commission has already issued a CPCN for a facility and new costs are subsequently assigned to the facility that will ultimately be borne by North Carolina retail ratepayers . . . the Commission should reconsider the issuance of the CPCN after the Applicant has provided accurate updated cost estimates." The Public Staff recommended that the Commission grant the CPCN subject to certain conditions, including that the Applicant would provide any revised information about interconnection costs for the Project to the Commission; and that if the Commission were to grant the Application, it would reconsider such an order if the Applicant ever sought to be reimbursed for the costs of Affected System Upgrades.

5. The Public Staff filed the supplemental testimony of Evan D. Lawrence in docket no. EMP-110, Sub 0 on November 16, 2020. Witness Lawrence expressed similar concerns to

Mr. Lucas and recommended that the same conditions be imposed on any CPCN granted to Sumac Solar.

6. The current deadline for Sweetleaf Solar's reply testimony and exhibits in Docket No. EMP-111, Sub 0 is November 20, 2020; and an expert witness hearing is scheduled for December 8, 2020. The current deadline for Sumac Solar's reply testimony and exhibits in Docket No. EMP-111, Sub 0 is November 30, 2020.

7. PJM Interconnection recently informed the Applicants that DEP now expects to provide Affected System Study results relating to the AD1 cluster in late December 2020 or early January 2021. PJM also stated that it intends to revise the System Impact Studies for Sumac and Sweetleaf around the same time, and to provide executable Interconnection Service Agreements ("ISAs") for the projects in April or May 2021 (assuming the Affected System Studies have been completed).

8. These interconnection studies will generate information of critical importance to the Public Staff's recommendations and to the Commission's consideration of the Applications. Applicants submit that delaying any further factual development or evidentiary hearings in this matter until after these studies are finished would be the most efficient use of the parties' and the Commissions' resources.

9. Applicants therefore contend that it would be appropriate to extend the current schedule for testimony and an evidentiary hearing (in Docket No. EMP-111 Sub 0), and to authorize the filing of additional testimony (if necessary) by the Public Staff and the Applicant after the completion of interconnection studies, as follows:

Docket	EMP-110, Sub 0	EMP-111, Sub 0
Current Due Date for Applicant's Reply Testimony	Nov. 20, 2020	Nov. 30, 2020
Extended Due Date for Applicant's Suppl. Testimony (proposed)	Feb. 22, 2021	Feb. 15, 2021
Due Date for Public Staff Responsive Testimony (proposed)	Mar. 8, 2021	Mar. 1, 2021
Due Date for Applicant Reply Testimony (proposed)	Mar. 22, 2021	Mar. 15, 2021
Current Date for Expert Witness Hearing	N/A	Dec. 8, 2020
Revised Date for Expert Witness Hearing	N/A	Approx. Apr. 15, 2021

The Applicants will promptly inform the Commission if the expected dates for DEP Affected System Studies and/or revised PJM System Impact Studies for the Projects change and further revisions to this schedule may be required.

10. The undersigned counsel for the Applicants has contacted counsel for the Public Staff, and the Public Staff does not object to the extended deadlines described above.


WHEREFORE, the Applicants request that the Commission enter orders as follows:

1. In Docket No. EMP-110, Sub 0, an Order extending the Applicant's time to file its testimony and exhibits to and including February 22, 2021; establishing March 8, 2021 as a due date for the Public Staff's responsive testimony and exhibits; and establishing March 22, 2021, as a due date for the Applicant's reply testimony and exhibits (if any); and

2. In Docket No. EMP-111, Sub 0, an Order extending the Applicant's time to file its testimony and exhibits to and including February 15, 2021; establishing March 1, 2021 as a due date for the Public Staff's responsive testimony and exhibits; establishing March 15, 2021, as a due date for the Applicant's reply testimony and exhibits (if any); and rescheduling the expert witness hearing currently scheduled for December 8, 2020 until approximately April 15, 2021.

Respectfully submitted, this the 20th day of November, 2020.

KILPATRICK TOWNSEND & STOCKTON LLP

By: 

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing **MOTION FOR EXTENSION OF TIME** upon the following by electronic mail as follows:

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This the 20th day of November 2020.

/s/ _____
Benjamin L. Snowden