

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. EMP-116, Sub 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of the Application of
Juno Solar, LLC for a Certificate of
Public Convenience and Necessity

APPLICATION FOR A
CONDITIONAL CERTIFICATE
OF PUBLIC CONVENIENCE
AND NECESSITY
FOR A MERCHANT PLANT

Juno Solar, LLC ("Juno Solar" or "Applicant"), through counsel, hereby applies to the North Carolina Utilities Commission ("Commission") pursuant to N.C. Gen. Stat. § 62-110.1 and Commission Rule R8-63 for a Conditional Certificate of Public Convenience and Necessity ("CPCN") authorizing construction of a solar photovoltaic ("PV") facility with a capacity of 275-MW_{AC} in Richmond County, North Carolina ("Facility").

I. Information and Exhibits Required by Commission Rule R8-63

In support of this conditional application, Juno Solar provides the below information and attached exhibits in compliance with Commission Rule R8-63.

II. Conditional CPCN Application

As background to Juno Solar's Application for a Conditional CPCN, Duke Energy Progress, LLC ("DEP") and Duke Energy Carolinas, LLC's (together, "Duke Energy") filed their proposed revisions to Attachment J (Standard Large Generator Interconnection Procedures ("LGIP")) to their Joint Open Access Transmission Tariff with the Federal Energy Regulatory Commission ("FERC") in Docket No. ER-21-1579-000 on April 1, 2021 ("FERC Queue Reform Proposal"). In their filing, Duke Energy requested that FERC approve their FERC Queue Reform Proposal by June 1, 2021 so

that Duke Energy could immediately reform their generator interconnection queueing, study process, and cost allocation process by transitioning to a Definitive Interconnection Study Process (“DISIS”), and align the FERC-jurisdictional LGIP with queue reform revisions to the state-jurisdictional generator interconnection procedures recently approved by the North Carolina Utilities Commission and the Public Service Commission of South Carolina. To date, FERC has not yet issued a decision as to Duke Energy’s FERC Queue Reform Proposal.¹

Once FERC approves Duke Energy’s FERC Queue Reform Proposal and the revised LGIP becomes effective, Juno Solar intends to enter the Transitional Cluster in which Juno Solar and other Interconnection Customers will be grouped together for the Transitional Cluster study process and will be able to share any required System Upgrade costs.

There are substantial financial security requirements for both “ready” and “non-ready” Interconnection Customers to enter the Transitional Cluster and proceed through the Transitional Cluster study process. The Transitional Cluster study process involves a Phase 1 power flow and voltage study, a Phase 2 stability and short circuit study, and a Facilities Study. To demonstrate “readiness” (or to establish security in lieu of readiness) for Phase 1 of the Transitional Cluster, an Interconnection Customer must provide one of the following:

- a. Executed term sheet (or comparable evidence) related to a contract, binding upon the parties to the contract, for sale of the Generating

¹ On May 26, 2021, FERC issued a deficiency letter to Duke Energy regarding its FERC Queue Reform Proposal. The issues raised in the deficiency letter are not germane to matters before the Commission in this proceeding.

Facility's energy, or the entire constructed Generating Facility, where the term of sale is not less than five (5) years, or

b. Reasonable evidence that the Generating Facility is included in a Resource Planning Entity's Resource Plan or Resource Solicitation

Process, or

c. An executed Provisional Large Generator Interconnection Agreement ("LGIA") filed with FERC that is not in suspension with 1) a commitment to construct the facility, 2) a Commercial Operation Date no later than 2024, and 3) a security deposit in addition to amount required under Section 4.1.2 where the total security deposit represents a reasonable estimation of the potential costs that could be ultimately allocated to the project in the Transitional Cluster Study, or

d. Security equal to three million dollars (\$3,000,000). *See* Revised LGIP, § 7.2.1.e.

There is significant, and increasing, security required for both "ready" and "non-ready" Interconnection Customers progressing through Phase 1 and Phase 2 of the Transitional Cluster study process. Duke Energy informed FERC that these "meaningful" financial readiness requirements are intended to incent only "ready" or "near-ready" projects to enter the Transitional Cluster. *See* Duke FERC Queue Reform Proposal, p. 53. The total security required for the Transitional Cluster study process if "readiness" is provided is as follows: (1) 1 times the Study Deposit to enter Phase 1, and (2) \$3 million to enter Phase 2. The total security for the study process if "readiness" is not provided is as follows: (1) 1 times the Study Deposit, plus \$3 million to enter Phase

1, and (2) an additional \$2 million (for a total of \$5 million) to enter Phase 2. *See* Revised LGIP, § 7.2.3. Therefore, “ready” projects will have to pay in excess of \$3 million to enter the Phase 2 study, and “non-ready” projects will have to pay in excess of \$5 million to be studied in Phase 2.

If an Interconnection Customer withdraws prior to Phase 2 of the Transitional Cluster study process commencing, no Withdrawal Penalty is imposed and the Interconnection Customer will only be assigned its allocated study costs. However, as noted above, to enter Phase 2 of the Transitional Cluster, an Interconnection Customer is required to either (a) make a significant financial commitment of \$3 million and demonstrate definitive “readiness,” or (b) provide significant additional security of \$2 million (for a total of \$5 million) if the Interconnection Customer cannot demonstrate definitive “readiness” prior to Phase 2 commencing. If the Interconnection Customer withdraws after entering Phase 2 and prior to executing an LGIA, Duke Energy will use the security as payment for (a) the final invoice for study costs and (b) the Withdrawal Penalty, after which any remaining amount of security shall be returned to Interconnection Customer. Therefore, an Interconnection Customer that enters Phase 2 of the Transition Cluster study process will be at significant financial risk in the event that it is required to withdraw from the study process. Among the reasons that an Interconnection Customer might need to withdraw from the study process is if the Commission were to deny a CPCN application or revoke an issued CPCN. As demonstrated by prior Commission decisions, the Commission could decide to deny a CPCN where it believes that the Levelized Cost of Transmission (“LCOT”) for any required System Upgrades assigned to the Interconnection Customer (which under Duke

Energy's FERC-approved Open Access Transmission Tariff and LGIA, are reimbursed in part by North Carolina retail customers) are too high.²

This situation creates a "catch 22" for FERC-jurisdictional Interconnection Customers, like Juno Solar, that have to enter the Transitional Cluster (or the eventual DISIS process) and, as discussed above, must make a substantial financial posting and face multi-million-dollar withdrawal penalties if they exit the study process. If, based on Juno Solar's LCOT, the Commission were to deny or revoke Juno Solar's CPCN after it enters Phase 2 of study, Juno Solar would be required to forfeit millions of dollars. But Juno Solar cannot determine the amount of its System Upgrade costs and its LCOT without first completing the study process. The solution to this patently unfair and unreasonable situation, which Pine Gate Renewables has discussed on multiple occasions with Duke Energy and the Public Staff, is for the Commission to issue a Conditional CPCN that will remain in effect so long as the LCOT for any required System Upgrades assigned to Juno Solar is at or below an acceptable defined amount.

While Duke Energy has not yet studied whether any System Upgrades will be required to interconnect Juno Solar and the other projects in the Transitional Cluster, and if so, the System Upgrade costs that will be assigned to Juno Solar, Juno Solar, in conjunction with a third-party engineering firm, has completed a robust injection analysis of the project to identify any transmission overloads and potential System Upgrade costs. The study modeled an array of planning and dispatch scenarios, and found minimal

² In the case of Friesian Holdings, LLC, the Commission denied a CPCN application on these grounds. See *Order Denying Certificate of Public Convenience and Necessity for Merchant Generating Facility*, issued on June 11, 2020 in Docket No. EMP-105, Sub 0. The Commission has also considered revoking CPCNs on similar grounds. See *Order Requiring Further Testimony*, issued on May 7, 2021 in Docket No. EMP-102, Sub 1; *Order Granting Motion, Reopening Record, Receiving Additional Evidence into the Record, Requiring Public Staff Recommendation, and Providing Notice of Timeline for Issuance of Final Order* issued on August 13, 2020 in Docket No. EMP-107, Sub 0.

System Upgrades needed under all but the most conservative planning scenarios (*e.g.*, the full volume of the interconnection queue coming into service). As previously stated, Juno Solar intends to enter the Transitional Cluster and will go through the interconnection study process with DEP to identify any specific System Upgrades needed to interconnect the project. Juno Solar believes that the LCOT for any required System Upgrades assigned to the project will be an amount that will be acceptable to the Commission (*i.e.*, no greater than \$4.00 per MWh). Therefore, Juno Solar is proposing a CPCN with a condition that the LCOT for any assigned System Upgrades be no greater than a specific defined amount of \$4.00 per MWh. With a Conditional CPCN, Juno Solar will be able to enter the Transitional Cluster and incur the associated financial exposure without an unacceptable level of uncertainty about whether the issued CPCN will remain in effect.

Juno Solar is therefore requesting that the Commission issue a CPCN with the following conditions: (1) the LCOT for any required System Upgrades assigned to Juno Solar will be no greater than \$4.00 per MWh; (2) if at any point in the study process, Juno Solar is informed by Duke Energy that its allocated System Upgrade costs are such that its LCOT will exceed \$4.00/MWh, Juno Solar shall promptly file with the Commission a report documenting the cost of any assigned System Upgrade costs and the LCOT for the System Upgrades; and (3) if the LCOT for any required System Upgrades assigned to Juno Solar is greater than \$4.00 per MWh, the CPCN will automatically terminate and be of no further force and effect unless Juno Solar requests further proceedings to consider whether the CPCN should not be terminated, in which case the CPCN will not be terminated unless so ordered by the Commission.

WHEREFORE, Juno Solar, LLC respectfully requests that the Commission issue a Conditional Certificate of Public Convenience and Necessity pursuant to N.C. Gen. Stat. § 62-110.1 and Commission Rule R8-63 for the Facility, as more specifically described herein.

Respectfully submitted this 12th day of July, 2021.

/s/ Karen M. Kemerait

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Telephone: 919-755-8764

Attorney for Juno Solar, LLC

I. Juno Solar, LLC Application Exhibit 1

(i) The Applicant's full and correct name, business address, and business telephone number are:

Juno Solar, LLC
880 Apollo St, Suite 333
El Segundo, CA 90245
(855) 969-3380
utility@birchcreekdev.com

The electronic mailing address for purposes of this filing is:

KKemerait@foxrothschild.com

(ii) Juno Solar is a North Carolina limited liability company that was formed on October 30, 2020. A true and correct copy of Juno Solar's Articles of Organization is included as Application Exhibit 1. Individuals at Pine Gate Renewables acting on behalf of Juno Solar and principal participants are: Piper Miller – Vice President of Development; Sean Andersen – Director of Project Management; Mak Nagle – Senior Vice President of Development; Steve Levitas – Senior Vice President of Regulatory & Governmental Affairs; Tripp McSwain – Senior Vice President of Construction; Brian Taddonio – Vice President of Engineering; and Jason Birn – Senior Vice President of Project Finance.

Correspondence, documents, and filings regarding this application should be provided as follows:

Juno Solar, LLC
880 Apollo St, Suite 333
El Segundo, CA 90245
(855) 969-3380
utility@birchcreekdev.com

with copies to:

Karen M. Kemerait
Fox Rothschild LLP
434 Fayetteville Street, Suite 2800
Raleigh, NC 27601
Telephone: 919-755-8764
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Telephone: 919-755-8764

(iii) A copy of the most recent balance sheet and income statement of Birch Creek Development, LLC (“Birch Creek”), the parent company of Juno Solar, are being provided confidentially and under seal because they constitute confidential and proprietary information within the scope of N.C. Gen. Stat. §132.1.2 and have been labeled as Confidential Application Exhibit 1(iii).

(iv) Birch Creek, Juno Solar’s parent company, has an ownership interest in and/or operates a number of solar generating facilities in the Southeastern Electric Reliability Council region that are listed in Confidential Application Exhibit 1(iv).

II. Juno Solar, LLC Application Exhibit 2

(i) Juno proposes to construct a 275-MW_{AC} solar photovoltaic (PV) facility to be constructed on twenty-five (25) parcels, or a portion thereof, collectively containing approximately two thousand five hundred eighty-six (2,586) acres of land, located along McFarland Road and Green Chapel Church Road in Marks Creek Township, Richmond County, North Carolina.

The nameplate generating capacity of the Juno Solar Facility will be 275-MW_{AC}. The Juno Solar Facility will connect to the 230 kV Richmond – Laurel Hill DEP transmission line located on-site.

The anticipated beginning date for construction is Q2 of 2023, and the expected commercial operation date is Q3 of 2024. The estimated construction costs are Three Hundred Seventy Million, Six Hundred Ninety Thousand Dollars (\$370,690,000). The expected service life of the Facility is forty (40) years.

(ii) Attached as Application Exhibits 2(i) and 2(ii) are color maps in compliance with the requirements for Rule R8-63(b)(2)(ii). The maps reflect the preliminary layout of the Facility, including the solar arrays, inverters, the collection system, access roads, interconnection facilities, and the Point of Interconnection.

(iii) Richmond County has not yet assigned the E911 street address to the Facility. The E911 Address will not be obtained until Juno Solar enters the construction stage. The GPS coordinates of the approximate center of the proposed Facility site to the nearest second or one thousandth of a degree are: 34.841037° Long: -79.634080°.

(iv) The Facility is not a natural gas fired facility.

(v) The following permits required for the Facility are: (1) NC Department of Environmental Quality Stormwater Permit and Sedimentation and Erosion Control Permit; (2) NC Department of Transportation Commercial Driveway Permit; (3) FAA Section 77.9 Notice; and (4) EIA-860 and EIA923.

III. Juno Solar, LLC Application Exhibit 3

Confidential Exhibit 3 provides a description of the need for the Facility in the state and/or the region.

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VERIFICATION

I, Piper Miller, being duly sworn, do hereby declare that I am duly authorized to act on behalf of the Applicant, that I am familiar with the facts, have reviewed the foregoing Application for a conditional Certificate of Public Convenience and Necessity for an Electric Merchant Plant and attest that the matters and statements contained therein are true to the best of my personal knowledge.

This the 12th day of July, 2021.


Piper Miller, VP of Development
Pine Gate Renewables, LLC

State of North Carolina

Buncombe County

Sworn to and subscribed before me
this 12th day of July, 2021.


Notary Public

My Commission Expires: 04.11.2024



CERTIFICATE OF SERVICE

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing Application for a conditional Certificate of Public Convenience and Necessity for an Electric Merchant Plant by first class mail deposited in the U.S. mail, postage pre-paid, or by e-mail transmission to all parties of record.

This the 12th day of July, 2021.

/s/ Karen M. Kemerait

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