

**BEFORE THE PUBLIC SERVICE
COMMISSION OF MARYLAND**

IN THE MATTER OF THE APPLICATION OF *
ONEENERGY BLUE STAR SOLAR, LLC FOR *
A CERTIFICATE OF PUBLIC CONVENIENCE * Case No. 9387
AND NECESSITY TO CONSTRUCT A 6.0 MW *
SOLAR PHOTOVOLTAIC GENERATING *
FACILITY IN KENT COUNTY, MARYLAND *

IN THE MATTER OF THE APPLICATION OF *
ONEENERGY IBIS SOLAR, LLC FOR A *
CERTIFICATE OF PUBLIC CONVENIENCE * Case No. 9392
AND NECESSITY TO CONSTRUCT A 6.0 MW *
SOLAR PHOTOVOLTAIC GENERATING *
FACILITY IN SOMERSET COUNTY, *
MARYLAND *

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**REQUEST FOR IMMEDIATE ISSUANCE OF FINAL ORDERS BY
ONEENERGY BLUE STAR SOLAR, LLC AND ONEENERGY IBIS SOLAR, LLC**

OneEnergy Blue Star Solar, LLC and OneEnergy Ibis Solar, LLC (“OneEnergy”) file this request for the immediate issuance of Final Orders by the Commission, and in the support state as follows:

1. These two proceedings involve applications for certificates of public convenience and necessity (“CPCN”) to build utility-scale solar installations planned on Maryland’s Eastern Shore (the “Projects”).
2. After several months of project review, in December 2015 OneEnergy filed motions in both Case Nos. 9387 and 9392 requesting an expedited ruling the Projects are exempt from the Forest Conservation Act (“FCA”). (ML 181158 and ML 181335). OneEnergy accepted all PPRP and Staff licensing conditions in both cases, except PPRP’s Proposed Condition 2(e) regarding the Forest Conservation Act (“FCA”). Condition 2(e) requires full compliance with the

FCA under the relevant county forest conservation ordinance. OneEnergy argued that full FCA compliance was not required for the Projects.¹

3. On January 11, 2016, the Public Utility Law Judge (“PULJ”) issued revised procedural schedules setting a hearing date and briefing schedule to litigate the contested condition language. (ML 182285 and ML 182286).

4. On February 5, 2016, the PULJ conducted consecutive evidentiary hearings on the merits of the FCA dispute and, on April 6, 2016, the PULJ issued proposed orders finding PPRP’s Condition 2(e) in both cases appropriate for the Projects. (ML 118160 and ML 188161). The proposed orders established a 30-day appeal period, with May 7, 2016 the date on which the orders will become final without an appeal.

5. Based on these decisions, OneEnergy will not appeal either proposed order and is now prepared to proceed in full compliance with the FCA for the Projects.

6. PPRP and OPC have indicated that they will not appeal either decision. The Commission’s Technical Staff has indicated that it may pursue an appeal.

7. The Commission has the authority to vacate, suspend, modify, or supersede by a subsequent order a proposed order of a PULJ. Md. Public Utilities Article § 3-113(b). Furthermore, the Commission “has the implied and incidental powers needed or proper to carry out its functions,” which “shall be construed liberally.” *Id.* at § 3-112.

8. Exercising this substantial discretion, the Commission has issued final orders immediately where appropriate at the request of a project. *See e.g.*, Case No. 8901, Order No. 77842, 2 (June 18, 2002) (immediately finalizing a proposed order of a PULJ upon filing by party seeking ruling that actions would not constitute modification to generating station requiring

¹ OneEnergy filed a joint initial brief for the Projects under ML 184625 and a joint reply brief for the Projects under ML 185451.

CPCN); Case No. 9199, Order No. 83517, 4 (August 6, 2010) (immediately finalizing a proposed order of a PULJ at the request of a CPCN applicant).

9. The dispute over FCA applicability has already delayed the Projects for several months. Although OneEnergy is disappointed with the outcome of this dispute, it is now exclusively focused on completing State and local permitting processes and moving forward to construction and operation. To move forward, OneEnergy needs final CPCNs to allow for project financing and final local review. Neither financing nor local review (including FCA approvals required under the proposed order) can proceed until final CPCNs are issued.

10. With OneEnergy's decision against further litigation regarding the FCA there is no basis to delay issuance of final orders. Immediate issuance of final orders including the FCA conditions proposed by PPRP and now agreed to by OneEnergy will allow the Projects to move forward without prejudice to any party or person of interest.

11. Should Staff ultimately elect to pursue an appeal, the Commission should devise an appropriate administrative mechanism that allows Staff's appeal to be heard while also providing OneEnergy the needed finality in both Case Nos. 9387 and 9392. Placing OneEnergy in indefinite purgatory pending resolution of one or more appeals would only add insult to injury, jeopardize if not outright kill the Projects, and frustrate Maryland's renewable energy goals.²

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² Maryland has adopted a requirement that 2% of electricity sales be covered by Solar Renewable Energy Credits by 2020. Md. Public Utilities Article § 7-703.

WHEREFORE, OneEnergy respectfully requests that the Commission immediately finalize the proposed orders in Case Nos. 9387 and 9392.

Respectfully submitted,

A handwritten signature in black ink, reading "T.R. Chason / DWB". The signature is written over a horizontal line.

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