

STATE OF MARYLAND
PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION
OF MD SOLAR 1, LLC FOR A
CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY TO CONSTRUCT A
32.5 MW SOLAR PHOTOVOLTAIC GENER-
ATING FACILITY IN CHARLES COUNTY,
MARYLAND.

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BEFORE THE
PUBLIC SERVICE
COMMISSION
OF MARYLAND

CASE NO. 9464

August 22, 2018

PROPOSED ORDER OF PUBLIC UTILITY LAW JUDGE

Appearances:

Todd R. Chason, Esquire and David W. Beugelmans, Esquire, on behalf of
Jones Farm Lane Solar, LLC.

Steven M. Talson, Esquire, and Sondra S. McLemore, Esquire, on behalf
of Department of Natural Resources, Power Plant Research Program.

Mikhail Raykher, Esquire, on behalf of Maryland Office of People's
Counsel.

Peter A. Woolson, Esquire, and Kenneth M. Albert Esquire on behalf of
the Technical Staff of the Maryland Public Service Commission.

I. Procedural History

On September 26, 2017, MD Solar 1, LLC ("Company" or "Applicant")
filed an application for a Certificate of Public Convenience and Necessity ("CPCN")
seeking authorization for the construction of the Shugart Valley Place Solar Project



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("Project" or "Facility") in Charles County, Maryland ("Application").¹ Accompanying the Application was an Environmental Review Document ("ERD") for the Project dated September 22, 2017 prepared by H&B Solutions, LLC, on behalf of the Applicant.²

On September 27, 2017, the Public Service Commission of Maryland ("Commission") initiated this matter to consider the Application and delegated the proceedings to the Public Utility Law Judge Division.

On October 11, 2017, the Applicant submitted copies of the notices it provided to members of the General Assembly pursuant to Public Utilities Article, *Annotated Code of Maryland* ("PUA"), §7-207(c)(1)(iv)-(v).³

On October 26, 2017, a prehearing conference was held, at which time a procedural schedule was adopted for the matter.⁴

On December 11, 2017, the Applicant filed the Direct Testimonies of Edwin Moses, Vice President of Project Development at Origis Energy USA, Inc.,⁵ and Dane S. Bauer, Vice President of H&B Solutions, LLC.⁶ Mr. Moses stated that he has been involved in the Project since its inception, and is familiar with "all aspects" of the Project. Mr. Bauer assisted in drafting the Applicant's ERD, and sponsored specific sections of it.⁷

¹ Applicant ("Appl.") Exhibit ("Ex.") 2.

² Appl. Ex. 3.

³ Appl. Ex. 1.

⁴ Notice and Certificates of Publication for the Pre-Hearing Conference were entered into the record as Appl. Ex. 4.

⁵ Appl. Ex. 12 ("Moses Direct"), *see also* Appl. Ex. 13, ("Moses Supplemental Direct"), filed April 4, 2018

⁶ Appl. Ex. 1, Direct Testimony of Dane S. Bauer filed on December 11, 2017 ("Bauer Direct").

⁷ Bauer Direct at 1.



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On March 20, 2018 an evening hearing for public comment was held in La Plata, Maryland.

On April 4, 2018, the Applicant filed the supplemental Direct Testimony of Edwin C. Moses.⁸

On May 24, 2018, the Department of Natural Resources ("DNR"), Power Plant Research Program ("PPRP"), filed the following: the Direct Testimony of Frederick S. Kelley,⁹ the PAR Report ("PAR") for MD Solar 1 (Shugart Valley Place Solar),¹⁰ and the State Secretarial Letter.¹¹

On May 25, 2018, Staff filed the Direct Testimony of Roger Austin, an Engineer in the Commission's Division of Engineering.¹² Mr. Austin's testimony addressed the engineering requirements for the Project's interconnection with Southern Maryland Electric Cooperative ("SMECO") and PJM Interconnection, LLC ("PJM").

On June 5, 2018 an evening hearing for public comment was held in La Plata, Maryland.

On June 14, 2018, PPRP filed a Revised Condition 9 regarding wetland and waterway impacts.¹³

On June 18, 2018, the Applicant filed Determinations from the Federal Aviation administration ("FAA") for both the Project in this matter (Shugard Valley

⁸ Appl. Ex. 13.

⁹ PPRP Ex. 1 ("Kelley Direct").

¹⁰ PPRP Ex. 3 ("Project Assessment Report").

¹¹ PPRP Ex. 2 ("State Secretarial Letter").

¹² Staff Ex. 1 ("Austin Direct").

¹³ PPRP Ex. 4 ("Revised Condition 9").



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Place Solar Project) and the Ripley Road Solar Project in Case No. 9463.¹⁴

On June 19, 2018, the Applicant filed a copy of the approved minutes of the Charles County (“the County”) Board of Appeals (“BOA”) regarding this matter and Case No. 9463 noting approval of the Applicants’ requests for special exemptions for both Projects.¹⁵

On June 20, 2018, an evidentiary hearing was held at which time the Parties each indicated their agreement to and acceptance of the Project and the specific licensing conditions recommended by both PPRP and Staff, with the exception of Staff Condition 3. Mr. Moses, Mr. Bauer, Mr. Kelley, and Mr. Austin offered testimony regarding the single matter remaining in dispute, and to respond to questions on the Project as a whole from the Public Utility Law Judge. Arguments in this hearing were taken in a combined transcript with Case No. 9463.

On June 26, 2018, the Applicant filed a letter consenting to Staff Proposed Condition 3, thereby notifying the Commission that the Parties had reached an agreement in full to the Project and to the Conditions proposed by PPRP and Staff, including Staff’s Revised Condition 3.¹⁶

On June 27, 2018, Staff filed the supplemental testimony of Roger Austin.¹⁷

¹⁴ Appl. Ex. 8.

¹⁵ Appl. Ex. 10.

¹⁶ Applicant Consent Letter, Maillog No. 221047.

¹⁷ Staff Ex. 2 ("Lo Supplemental Direct").



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II. Overview of the Project

The Applicant seeks a CPCN to construct a 32.5 MW alternating current ("AC") solar photovoltaic ("PV") generating facility inside a parcel of approximately 249 acres of a total 537 acres, located at 4850 Shugart Valley Place, La Plata, Maryland.¹⁸ The property is described as Charles County Tax Map 41, Parcel 24.¹⁹

The Application stated that the Project will cost between \$31 million and \$34 million, and, at the height of construction, will create between 60 and 80 temporary jobs.²⁰ The Project will interconnect with the PJM system through a new 69 kV switching station via the SMECO distribution system which is to be built adjacent to the Grayton-Ripley SMECO 69 kV circuit.²¹

In its Application and subsequent submissions, the Applicant addressed the requirements of PUA § 7-207 (e), as well as several environmental and public-safety-related topics not specifically required by the statute.

III. Public Comments

At the March 2018 hearing, many of the persons commenting were concerned with another solar photovoltaic generating facility to be located in Charles County due to environmental considerations. Kevin Grimes expressed concern about the environmental impact on nearby streams, including Wards Run and the Nanjemoy Watershed. Mr. Grimes lamented the possibility of increased runoff and degradation of stream quality. Linda Redding expressed concern about cutting down trees to grade for

¹⁸ Application at 1; ERD at 1.

¹⁹ Application at 2.

²⁰ *Id.*

²¹ ERD at 1.



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solar farms, including impacts to nearby waters, land impact and drainage, along with compliance with the Forest Conservation Act (“FCA”). Ms. Redding submitted several documents, including “Accounting for Charles County’s Ecosystem Services from the Integrated Policy and Review of the Maryland Department of Natural Resources, “Land Preservation Parks and Recreation Plan’, “Designated Use Classes for Maryland Surface Waters”, and “Nanjemoy Naturally, a Shared Vision 2002 – 2032”.

At the second public hearing held in June 2018, Mr. Grimes and Ms. Redding spoke again, renewing their arguments.

Kevin Grimes and Linda Redding also submitted written comments in the matter.²²

IV. Applicable Law

The currently effective PUA § 7-207(e) mandates the Commission to take final action on a CPCN application only after due consideration of the following:

- (1) the recommendation of the governing body of each county or municipal corporation in which any portion of the construction of the generating station, overhead transmission line, or qualified generator lead line is proposed to be located;
- (2) the effect of the generating station, overhead transmission line, or qualified generator lead line on:
 - (i) the stability and reliability of the electric system;
 - (ii) economics;
 - (iii) esthetics;

²² Both sets of comments were submitted on June 18, 2018. Linda Redding submitted her comments under Maillog No. 220939. Kevin Grimes submitted his comments under Maillog No. 220941.



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- (iv) historic sites;
 - (v) aviation safety as determined by the Maryland Aviation Administration and the administrator of the Federal Aviation Administration;
 - (vi) when applicable, air and water pollution; and
 - (vii) the availability of means for the required timely disposal of wastes produced by any generating station; and
- (3) for a generating station:
- (i) the consistency of the application with the comprehensive plan and zoning of each county or municipal corporation where any portion of the generating station is proposed to be located; and
 - (ii) the efforts to resolve any issues presented by a county or municipal corporation where any portion of the generating station is proposed to be located.

V. Analysis and Findings

The Applicant has accepted the licensing conditions as recommended by each of PPRP and Staff, including the modifications to PPRP Condition 9 and Staff Condition 3. PPRP and Staff have both recommended that the CPCN be granted, as long as it is subject to the recommended license conditions from PPRP and Staff. Despite the agreement among the parties that a CPCN, subject to the recommended license conditions, should be granted, the Commission still must give due considerations to the factors in PUA § 7-207(e). Below I consider each of the PUA § 7-207(e) factors as well as the additional factors identified by the Applicant, PPRP, and Staff in their analyses.



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A. Consideration of PUA § 7-207(e) Factors

1. Recommendations of Charles County

Charles County did not intervene as a Party to this matter. The Charles County BOA approved the Applicant's request for a special exception for this Project on May 8, 2018 by a unanimous vote.²³ PPRP's recommended Conditions Nos. 14, 19, 20, and 21 require the Applicant to comply with the provisions of the applicable County ordinances. Consequently, I find that the Applicant's compliance with the identified conditions, as well as other PPRP conditions requiring the Applicant to submit certain items to the County for approval, addresses any concerns or objections the County may have in the grant of the CPCN, subject to Final License Conditions.

2. Stability and Reliability of the Electric System

The Applicant reported that the Project has been assigned Queue Position AC2-101 by the PJM, the regional transmission operator.²⁴ The Applicant intends to interconnect its Project with the PJM system through a new 69 kV switching station to be built adjacent to the Grayton-Ripley 69kV circuit.²⁵ According to the Applicant, PJM has completed the applicable Generation Feasibility Report for the Project.²⁶ In his initial testimony, Staff Witness Austin addressed the Project's effect on the stability and reliability of the electric system. He provided an overview of the PJM interconnection process and described the studies conducted during the process. He explained the term

²³ See Appl. Ex. 10, June 19, 2018 Letter from the Applicant.

²⁴ ERD at 10.

²⁵ ERD at 1.

²⁶ ERD at 2, 10.



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"capacity resource"²⁷ and identified other studies and agreements required as part of the interconnection process.

Mr. Austin described the manner in which the Project will interconnect with the regional transmission system.²⁸ Mr. Austin said that the Applicant's compliance with SMECO's and PJM's interconnection requirements, which will be memorialized in the Interconnection Service Agreement ("ISA"), and the completion of the requisite facility upgrades and milestones established in the ISA will assure no adverse impact to the reliability and stability of the electric transmission system.²⁹ He added that the additional generation capability of the Project will be of benefit to Maryland and the PJM system.³⁰ Mr. Austin recommended six license conditions to which any grant of the CPCN should be subject.³¹

As Staff reported, PJM has studied the effect of a 32.5 MW injection into the SMECO system at the Hawkins Gate 69 kV substation.³² PJM has identified the upgrades necessary and system mitigation of reliability violations required based on the Project's interconnection with the SMECO system. Staff testified that the Project will be given Capacity Injection Rights ("CIRs") as it completes the milestones and requirements contained in the various agreements between the Applicant, PJM, and SMECO. Accordingly, in its Direct Testimony, Staff recommended as Staff Condition 3 that the Applicant file with the Commission prior to the commencement of construction, the

²⁷ Austin Direct at 5.

²⁸ Austin Direct at 7.

²⁹ Austin Direct at 10.

³⁰ Austin Direct at 10.

³¹ Austin Direct at 10-11; Austin Supplemental at 3-4; *see also* Attachment B hereto.

³² ERD, Ex. 1 at 2.



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signed ISA and Construction Services Agreement (“CSA”) executed by the Applicant, PJM, and SMECO. The timing requirement of this filing prior to the commencement of construction of the Project because “compliance with the ISA and CSA provides a level of assurance to the Commission and to the public, that the required facilities identified in the PJM studies will be completed and in place prior to the operation of the Project”.³³ Furthermore, Mr. Austin testified that “compliance with these agreements will also ensure that all required interconnection facilities shall be designed, procured, installed and constructed in accordance with Good Utility Practice.”³⁴

After having discovered that the generation interconnection of this Project is into distribution-level facilities, rather than transmission-level facilities, Staff realized that it was likely that the above-mentioned ISA and CSA would not be required, but rather, the Applicant would be required to execute an interconnection agreement (“IA”) and a Wholesale Market Participant Agreement (“WMPA”) obtaining approval by the Federal Energy Regulatory Commission (“FERC”). As such, Staff filed Supplemental Testimony on June 27, 2018, to amend Condition 3 and to the necessity for an IA and WMPA, in lieu of an ISA and CSA. Whether the ISA and CSA, or the IA and WMPA should be filed with the Commission “prior to the commencement of construction” or “prior to the commencement of construction of the interconnection facilities” became the nature of the Parties’ dispute as to Staff Condition 3. Staff later filed Revised Supplemental Testimony on June 13, 2018, further amending Staff Condition 3 to read:

(3) Require (a) the executed distribution Interconnection Agreement (“IA”) involving MD Solar 1 and the state regulated Southern

³³ Austin Direct at 11.

³⁴ *Id.* at 11-12.



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Maryland Electric Cooperative (“SMECO”) be filed with the Commission prior to the commencement of construction; and (b) the Wholesale Market Participant Agreement (“WMPA”) executed by MD Solar 1 and the regional transmission operator, PJM Interconnection, LLC (“PJM”) and SMECO be filed with the Commission prior to the commencement of construction.³⁵

Because the Applicant, in its June 26, 2018 letter, accepted the language above as Staff Condition 3, I do not need to rule on the alternate proposals submitted by the Parties in this case, taking into consideration the timing necessities of the Project and the definition of “Construction” as contained in PUA §7-207(a)(1)(ii).

I find that, subject to Staff Revised Condition No. 3 and the Applicant's compliance with all the agreements entered into with PJM or SMECO or both, the Project will have no adverse impact on the stability and reliability of the electric transmission system.

3. Economics

The Company described the economic benefits of the Project as including a capital cost of the Project of between \$31 million and \$34 million with approximately 60 to 80 design, management, and construction personnel working remotely or on the Project site at the height of construction.³⁶ It noted that it would employ significant local resources as part of the design, entitlement, construction, and startup process; thus, it

³⁵ Staff Revised Supplemental Testimony at 1.

³⁶ ERD at 8.



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would contribute to the local economy during the construction period.³⁷ The Applicant said that the tax revenue yield for the Project also would be significant.³⁸

The Applicant also noted that the Project will provide some measurable offsets to the approximate 41% of generation power imported into Maryland.³⁹ It stated that with the reduction in reliance on imposed power and given the nature of solar power generation, the Project will lead to reduced and more certain costs of electricity produced.⁴⁰ Additionally, the Company represented that the Project will increase the State's current solar electricity output and assist Maryland in reaching its Renewable Portfolio Standard ("RPS") goals;⁴¹ at the time the application was filed, the RPS mandated that 25% of Maryland's electricity⁴² be generated from renewable energy sources by 2022, which must include at least 2.5% solar energy.

PPRP evaluated the socio-economic impacts associated with the Project, which evaluation is summarized in the Project's PAR. PPRP agreed with the Applicant that the Project would result in construction jobs from the local labor pool, with the caveat that subcontractors in the area would have to bid the work.⁴³ Local construction jobs will have a positive effect on the local economy from construction worker payrolls and subsequent consumption expenditures, local purchases of common construction

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ ERD at 7, 22.

⁴¹ *Id.*

⁴² The RPS statute was changed in the 2017 General Assembly session to require 25% from Tier 1 renewable sources in 2020 and 2.5% derived from solar energy. *See Maryland Acts 2017*, Chapters 1 and 2, effective March 4, 2017, and March 9, 2017, respectively.

⁴³ PAR at 22.



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materials, and associated multiplier effects.⁴⁴ PPRP noted that not all the benefits will flow to Maryland because certain of the specialized components necessary to construct the Project are manufactured elsewhere and will be imported into the State.⁴⁵

PPRP also evaluated the fiscal benefits from taxes to the County, the State, and surrounding jurisdictions. He noted that the State's corporate income tax rate on Maryland taxable income is 8.25%; the State's sales and use tax rate is 6%; personal income tax rates in Maryland range from 2% to 5.75%, with a 3.03% County piggyback rate; and real property is taxed at \$0.8471 per \$100 valuation.⁴⁶ PPRP represented in the PAR that the County assesses a tax rate of \$3.0125 per \$100 valuation to utility personal property. Consequently, PPRP estimated that business personal property taxes from the Property could approach \$266,000 in the first full year of operation, declining to \$100,000 in Year 30, depending on the final design and equipment.⁴⁷

Because there will be no permanent operations and maintenance work force and most of the construction workforce will be within a daily commuting distance, PPRP determined that the Project will have a de minimus effect on the population and housing, or population-related public service provision.⁴⁸ Consequently, with public service levels largely unaffected, PPRP considered the net benefit of the Project's construction to be positive.⁴⁹

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ PAR at 22.

⁴⁷ PAR at 24.

⁴⁸ PAR at 2.

⁴⁹ *Id.*



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PPRP also considered the impact of the Project on nearby property value. It said that limited evidence from real estate appraisal methods has mostly supported the contention that solar farm development does not influence property value.⁵⁰ PPRP concluded that the Project, once constructed, will have a "moderately benign local presence" because it will not emit significant noise, air, or water pollutants, will not generate any hazardous waste, and will be largely out of sight from nearby properties.⁵¹ PPRP concluded that the Project will not affect property values.

Although the precise economic benefit to the County and State cannot be determined, the evidence reflects that there will be creations of jobs associated with the construction of the Project that will produce economic benefit to the County, State, and surrounding jurisdictions. Further, the County and State will receive tax revenues generated by the Project during its operations. The Project, however, will not result in any population or housing increase or increased needs for public services. I therefore find that the Project will have net economic benefit to the County, the State, and surrounding jurisdictions.

4. Esthetics

The Project is proposed to be constructed on approximately 249 acres of a 537 acre property located at 4850 Shugart Valley Place in La Plata, Maryland.⁵² The Applicant states that it has contracted to purchase the underlying 537 acreage from the

⁵⁰ PAR at 33.

⁵¹ *Id.* at 34.

⁵² ERD at 1.



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current property owner (the James B. Busler family).⁵³ The Project site is primarily forested land, which was used in the past for agricultural purposes, and then later, for selective timbering.⁵⁴ The Applicant proposes to erect an six-foot chain link fence around the Project and will provide screening of the Project through a buffer of indigenous shrubs, trees, and grass plantings consistent with the Charles County Code Bufferyard D.⁵⁵ As part of the landscaping, the Applicant intends to establish a pollinator habitat.⁵⁶

In its PAR, PPRP concurs with the Applicant's description of the Project site. The PAR concludes that forest blocks views of the interior of the site from the Project perimeter and that mature forest cover obstructs views from residential properties backing onto the northern boundary of the Project site.⁵⁷ PPRP concluded that the Project's site plan satisfies the 50 foot setback requirement of the Charles County Zoning Regulations. PPRP concluded that the landscaping buffer will "enhance the appearance of the Project and reduce incompatibilities between other land uses in the Project area."⁵⁸ PPRP recommended Condition No. 17 to mitigate any visual impacts that may result from the Project's construction.

As to lighting, PPRP determined that the Project will not create any new sources of substantial light disturbance as long as the Applicant complies with the County's lighting requirements. PPRP also addressed the issue of glare that may result

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ ERD at 20.

⁵⁶ ERD at 14.

⁵⁷ PAR at 28.

⁵⁸ PAR at 28.



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from the solar panels. It undertook its own glare analysis. For the single-axis tracking panels, PPRP determined that in "no case is glare cast upon any observation point."⁵⁹ PPRP recommended Condition No. 23 requiring the Applicant to develop a process to document and address complaints related to potential solar reflections.

Subject to the PPRP conditions related to visual impacts (Conditions Nos. 21, 22, 23, and 24), I find that the Project will not have a significant adverse visual impact on the adjacent and surrounding properties.

5. Historic Sites

The Applicant reported that the Maryland Historical Trust ("MHT") indicated that the Project is not located in an area of interest.⁶⁰

In its PAR, PPRP noted that there is no property on the National Register of Historic places within one mile of the Project site. Nor are there any properties on the Maryland Inventory of Historic properties within one mile.⁶¹ PPRP further noted that the County archeologist has determined no archeological work is required for the Site. PPRP recommended Condition Nos. 24 and 25 in the event that relics or unforeseen archeological sites are revealed and identified during construction. Pursuant to those Conditions, the Applicant must consult with MHT and have a plan for avoidance and protection, data recovery, or destruction without recovery of such relics or sites approved by MHT.⁶²

⁵⁹ PAR at 28.

⁶⁰ ERD at 29.

⁶¹ PAR at 32.

⁶² PAR at 9.



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PPRP also assessed the Project's impact on cultural resources of the Maryland Heritage Areas Program. The PAR noted that there are 13 Chesapeake Heritage Areas ("CHAs"), including the Southern Maryland Heritage Area ("SMHA").⁶³ The SMHA includes portions of Charles, St. Mary's and Calvert Counties. MD 225, MD 6, and MD425 are a SMHA-designated bicycle trails. PPRP concluded that, because of the low volume of truck traffic servicing the facility, and a construction schedule in the winter, when cycling activity declines, PPRP does not expect the additional traffic generated by the Project during construction to adversely affect cyclists or motorists following the Religious Freedom Tour, a Maryland Scenic Byway.⁶⁴

Accordingly, subject to Condition Nos. 24 and 25, I find that the Project will have no adverse effect on historic properties or cultural resources on or within one mile of the Project site.

6. Aviation Safety

The Applicant conducted a glare study based on the use of single axis rotation. The Project is near two small airports (MD83 and Finagin Airfield, which are 4.17 and 1.5 miles from the site, respectively. The study reflects that there would be no glare impact on the flight patterns associated with these airports. The Applicant filed FAA Aeronautical Studies for each of these airports, both of which determined that there would be no hazard to air navigation.⁶⁵

Accordingly, I find that the Project will not affect aviation safety.

⁶³ PAR at 31.

⁶⁴ PAR at 33.

⁶⁵ Appl. 10 Applicant Letter submitting additional information, filed June 18, 2018.



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7. Air Quality and Water Pollution

a. Air Quality

The Applicant asserts that any air quality issues will occur during construction because, once operational, the Project will generate no air pollutions emissions.⁶⁶ During construction, the Applicant identified dust from non-point sources such as earthwork and construction traffic on unpaved roads (fugitive dust). According to the Applicant, the fugitive dust is expected to be less than normal construction Projects because the Project does not require excessive earthwork activities.⁶⁷ Additional sources of pollutants during construction are mobile combustion engines from earthwork equipment and an increase in vehicle traffic by workers.⁶⁸

In its PAR, PPRP agrees that once the Project is operational, as it is a non-combustion process relying on direct conversion of solar energy into electric energy, no air emissions will be produced.⁶⁹ PPRP reviewed the air emissions possible during construction and recommended Condition No. 4 to minimize any air quality impacts. Condition No. 4 requires the Applicant to comply with three Code of Maryland Regulations (“COMAR”): COMAR 26.11.06.03D (Particulate Matter from Materials); COMAR 26.11.06.08 (Nuisance); and COMAR 26.11.06.09 (Odors).

Subject to compliance with Condition No. 4, I find that the Project will result in a slight temporary increase in air emissions, but once operational, the Project

⁶⁶ ERD at 31-32.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ PAR at 9-10.



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will not have any impact on air quality in any attainment or nonattainment areas of the State.

b. Water Quality

Applicant reported that the Project site is located in the Lower Potomac River watershed, which covers 730 square miles in Maryland, including portions of Charles, St. Mary's, and Prince George's Counties.⁷⁰ The Applicant described the Lower Potomac River Watershed as containing 5 larger water bodies, including Mattawoman Creek, Breton Bay, Nanjemoy Creek, the Wicomico River and Saint Mary's River.⁷¹ Of these, the Project as proposed is within the Wards Run watershed which flows into the Nanjemoy Creek and ultimately discharges into the Lower Potomac River. According to the Critical Area Commission, the Project is not located in the Critical Area.⁷² The Applicant asserts that there is no activity proposed on the site that would contribute to the impairment of these waterways and receiving streams.⁷³

The Applicant stated that it will be required to obtain a National Pollutant Discharge Elimination ("NPDES") General Permit, which the Application will obtain by submitting a completed Notice of Intent ("NOI") from the Maryland Department of the Environment, Water Management Administration ("MDE/WMA").⁷⁴ The Applicant represented that the submission of the NOI is considered the application and reflects the

⁷⁰ ERD at 1.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ ERD at 10.



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Applicant's intent to comply with the terms of the General Permit.⁷⁵ The Applicant said it will submit the NOI to MDE during the construction drawing plan review phase.⁷⁶

The Applicant described the Project site as containing soils that have high sand content, are moderately to well-draining and compact easily, meeting State Environmentally Sensitive Design ("ESD") Best Management Practices ("BMP") for stormwater management.⁷⁷ The Applicant said that the land disturbance for the Project will mostly be associated with the cutting and clearing of trees as well as associated mass grading and that 15.80% or less of impervious surface will be added.⁷⁸ These impervious areas are associated with some paving at the entrance of the property, the approximate 14 inverter pads, piles for the solar panel and fencing, and associated improvements.⁷⁹ According to the Applicant, the proposed ESD practices, screening, and other vegetative cover are expected to more than offset these minor increases to impervious areas.⁸⁰

The Applicant reported that the Project site is not within a mapped flood plain according to FEMA Firm Map.⁸¹ The jurisdictional waters identified on site are not within the areas where solar panels will be located. The Applicant represented that it has agreed to keep the limit of disturbance 35 feet away from these jurisdictional waters. The Applicant pointed out that MDE has concurred with the wetland locations as identified in a report by Environmental Resources, Inc., which indicated the site configuration avoids

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ ERD at 15-16.

⁷⁸ ERD at 16.

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ ERD, Appendix 4.



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any wetlands/jurisdictional waters. MDE confirmed these determinations following a site visit on October 28, 2017.⁸²

The Applicant stated that it will employ non-rooftop disconnection to comply with COMAR 26.17.02.01-1B(1) and mitigate any impacts to stormwater quality and quantity during construction and operation of the Project.⁸³ It indicates the disconnect credit will be the primary practice used to demonstrate compliance with treatment and ESD requirements.⁸⁴ In an ESD Storm Event, the Applicant described the Project site as mimicking a forested site in good conditions under the post-development scenario.⁸⁵ The Applicant asserted the practices will improve the water quality leaving the Project site through grasses, pollinators, and buffer plantings which will provide an enhanced filtering process.⁸⁶

The Applicant further reported that the facility will need limited water and has no sewer requirements.⁸⁷ The Applicant explained that normal rain events will keep manual cleaning of the solar panels to a minimum.⁸⁸ It also said that water tanker trucks may be used to manage dust during construction, if required.⁸⁹

In its PAR, PPRP explained that the State has comprehensive programs for stormwater management, and erosion and sediment control, to reduce adverse impacts of development on stormwater runoff. PPRP listed the four types of permits that the

⁸² ERD, Appendix 8.

⁸³ ERD at 18.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ ERD at 32.

⁸⁸ *Id.*

⁸⁹ *Id.*



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Applicant must obtain: the NPDES General Permit, Soil Erosion and Sediment Control, grading permit, and building permits.⁹⁰ These permits agree with the permits identified by the Applicant in its ERD. PPRP agreed with the Applicant that water and sewer utilities are not required at the Project site as there will be no operations and/or maintenance facilities at the site as part of the Project and no full-time personnel at the site.⁹¹

According to the PAR, MDE has reviewed the Project site and determined no wetlands will be impacted due to the proposed 35-foot setback.⁹² MDE determined ditches internal to the site were non-jurisdictional and would not need to be filled to support solar arrays.⁹³

PPRP reviewed the EDS practices proposed by the Applicant. PPRP agreed with the Applicant that the water quality leaving the site will be improved compared to that resulting from the current agricultural use of the site.⁹⁴ PPRP described the area as more likely performing more like a grassland or meadow than a forest, with slower runoff and less surface evaporation than with an agricultural field, but not the deeper, longer water storage associated with tree root systems.⁹⁵

PPRP identified Wards Run, located near to the Project site, as a designated Tier II water, which is defined as high quality streams where water quality is

⁹⁰ PAR at 6.

⁹¹ PAR at 8.

⁹² PAR at 17.

⁹³ *Id.*

⁹⁴ PAR at 17.

⁹⁵ *Id.*



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better than the minimum standards specified by State water quality standards.⁹⁶ It said that Tier II streams require an anti-degradation review by the State. PPRP determined that the Applicant's overall ESD, including use of standard BMPs, such a silt fence and super silt fence, will comply with the 200 Maryland Stormwater Design Manual, Volumes I and II (200) with Supplement No 1 (MSD, page 25), but recommended the Applicant pay special attention to stormwater controls associated with the drainage to the Tier II stream, Wards Run.⁹⁷

Subject to the Condition Nos. 4, 7, 8, 9, 13 and 14, I find that the Project will not adversely impact water quality onsite or on streams, watersheds, and jurisdiction waters on or surrounding the Project site.

8. Timely Disposal of Wastes Produced

The Applicant described the manner in which materials will be collected and removed from the Site during construction, operations, and decommissioning of the Project. During construction, the Applicant does not anticipate large amounts of waste being produced; for the waste produced, its contractor will collect the waste and remove it from the Site to an approved waste handling facility.⁹⁸ During operations, the Applicant expects little or no waste to be produced; any waste generated during maintenance or repair operations will be removed from the site and disposed at an approved waste handling facility. No sanitary sewer waste will be generated at the site,

⁹⁶ *Id.*

⁹⁷ *Id.*; See Condition No. 8.

⁹⁸ ERD at 33.



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according to the Applicant.⁹⁹ Finally, any waste associated with decommissioning or deconstruction of the Project will be handled appropriately pursuant to the Applicant's Decommission Plan.¹⁰⁰

I find that the waste materials produced during construction, operations, and decommissioning will be collected and removed from the Site, and will be appropriately disposed at an approved waste handling facility.

**9. Consistency with County's Comprehensive Plan and Zoning –
Efforts Taken to Resolve any Issues**

The Applicant reported that the Project site is currently zoned agricultural conservation ("AC"). According to the Applicant, properties zoned AC in Charles County are acceptable for utility scale solar generation facilities provided Special Exception approval is obtain from the County BOA. The Applicant stated that it had received unanimous Special Exception approval from the County BOA on May 8, 2018.¹⁰¹

In its PAR, PPRP described the Project as being in an unincorporated part of Charles County near the Town of La Plata.¹⁰² PPRP identified the Charles County Priority Preservation Area ("PPA"), and noted that the Project is not located within the County's PPA, and no agricultural or other land preservation easement protects the Project property or any adjoining parcels.¹⁰³

⁹⁹ *Id.*

¹⁰⁰ ERD at 34.

¹⁰¹ Appl. Ex. 10.

¹⁰² PAR at 24.

¹⁰³ *Id.*



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PPRP confirmed that the Project parcel is zoned AC, and that solar arrays require a Special Exception in an AC district subject to approval by the BOA and specific site plan requirements, as set forth in § 297-88A(1) of the County Code.¹⁰⁴ PPRP recommended Condition No. 19 to require the Applicant to design its facility in compliance with the County's site plan requirements applicable to the Project and receive site plan approval and all required local permits prior to commencement of construction.

I conclude that the Project is located on a parcel of land for which the Project has received approval for Special Exception, and is not within the County's PPA. Therefore, I find, subject to the Final License Conditions, the construction and operation of the Project is consistent with the County's comprehensive plan and its amended zoning ordinances applicable to utility scale solar array Projects.

B. Other Considerations

1. Forest Conservation Act

The Applicant stated that it will voluntarily comply with the Charles County Forest Conservation Ordinance ("FCO"), which was patterned after the State's Forest Conservation Act ("FCA").¹⁰⁵ The Applicant indicated that it will place a remaining tree stand into a forest conservation easement, pay some amount of in lieu of fees, and/or purchase mitigation bank credits in order to fully satisfy the FCA requirements. At the time of the submission of the ERD, the amount estimated was 250 acres of total mitigation required at a 2/1 ratio.¹⁰⁶ Mr. Moses provided further

¹⁰⁴ *Id.*

¹⁰⁵ ERD at 11.

¹⁰⁶ *Id.*



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information in his Supplemental Direct testimony, indicating that this Project required 151.9 acres of Conservation Easement, all of which would be made up in a Conservation Easement onsite. An additional 70.9 acres onsite would be used towards Forest Conservation Easement on the Ripley Road Solar Project under review in Case No. 9463. And 73.2 acres would be used in onsite in Conservation Easements above and beyond what is required by the FCA.

In its PAR, PPRP addressed the FCA requirements. PPRP confirmed that the County had the implementation authority through its FCO.¹⁰⁷ PPRP described the information that a developer must submit to the County. PPRP concluded that since the Applicant had received its Special Exemption from the County, the zoning for the proposed site is “Medium Density Residential” and thus reforestation provisions of the FCA/FCO applied, establishing a reforestation threshold of 25%.¹⁰⁸ It recommended Condition No. 10, requiring the Applicant to comply with the afforestation requirements of the FCA/FCO.

With the Applicant's voluntary agreement to comply with FCA requirements and subject to Applicant's compliance with Condition No. 10, I find that the Project will satisfy the applicable FCA requirements.

¹⁰⁷ PAR at 14.

¹⁰⁸ *Id.*



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2. Decommissioning

In its ERD, the Applicant references that it will provide a Decommissioning Plan to the Commission and to PPRP.¹⁰⁹ It represented that once the life of the Project is complete, the land will revert back to its original condition.¹¹⁰

PPRP recommended Condition No. 28 to require the Applicant to submit a decommissioning plan, including among other things, identifying who is responsible for decommissioning, the timeframes, and the costs associated with the decommissioning. The Plan must be submitted to PPRP and the Commission prior to beginning construction of the Project, and the Commission must have approved the Plan prior to Applicant beginning construction. Included in the Condition is the requirement that the Applicant secure funding mechanisms to cover the cost of implementing the Plan so that these costs are not borne by the State or County at the end of the Project's useful life. Further, the funding mechanism must be updated every five years after a review of the estimated decommissioning costs is conducted.

I find that a decommissioning plan is necessary to ensure that the Project is decommissioned appropriately and properly at the end of its useful life. Additionally, I find that a funding mechanism is critical to the Plan to avoid any costs of the decommissioning being borne by State or County taxpayers. I further find that the Applicant should coordinate with PPRP, Staff, and the County to determine the appropriate entity to hold the financial surety, and the entity be set forth in the Plan, subject to the Commission's approval.

¹⁰⁹ ERD at 34.

¹¹⁰ *Id.*



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3. Noise and Vibration

In its ERD, the Applicant described the Maryland noise pollution standard as referenced in COMAR 26.02.03, with certain exceptions for noise sources and noise generating activities.¹¹¹ According to the Applicant, during the day the maximum allowable noise levels for residential are 65 decibels (“dB”) and 55 dB for night (with commercial and industrial maximums higher than the residential levels).¹¹² The Applicant represents that during construction of the facility, all noise shall be maintained below the average daily 90dB rating at the property lines as permitted under COMAR.¹¹³ Once the Project is operational, the Applicant stated that the Project has no moving parts, so the only noise generated is from the electrical equipment on the Project site.¹¹⁴ Based on studies conducted by others, the Applicant said a typical transformer for a solar facility has a 50dB rating at 100 feet. Noise reduction occurs at 6dB for every 100 feet of added distance, according to the Applicant.¹¹⁵ Applicant stated that the closest residential dwelling is approximately ¼ mile away from the closest inverter pad; consequently, the dB levels at the residential location will be well below the 65/55 dB levels set forth in COMAR.¹¹⁶

In its PAR, PPRP agreed with the Applicant's description of the COMAR provision. PPRP also noted that the County has established an operational noise limit of

¹¹¹ ERD at 19.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*



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60 dBA as part of its zoning ordinance applicable to utility solar array facilities, but has no quantitative noise limit for solar array construction activities.¹¹⁷

PPRP agreed that operational noise from the solar facilities is typically low.¹¹⁸ According to a 2013 report from Argonne National Laboratory, while there is some audible noise associated with motors in the solar panel tracking mechanism, the noise is not a significant source of noise for off-site receptors (ANL 2013).¹¹⁹ PPRP also addressed the noise generated by the power inverters and transformers. According to a study conducted for the Massachusetts Clean Energy Center (2012), the operational noise was found to be inaudible at moderate distances.¹²⁰ The study noted that inverters enter standby mode after sunset and before sunrise and do not create nighttime noise impacts.¹²¹

Based on Applicant's information as to the distance from the inverter pad to the nearest residential dwelling, PPRP agreed that the noise generated by the solar facility will be far below the ambient background noise levels at the residential dwelling and will have no significant impact at the residential receptors.¹²² PPRP, however, recommended Condition No. 4j to require Applicant's compliance with the relevant County noise ordinances.

¹¹⁷ PAR at 37.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ PAR at 38.

¹²² *Id.*



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Subject to Condition No. 4j, I find that the construction and operation of the Project will have no significant impact from noise associated with the Project on nearby residential dwellings.

4. Electromagnetic Field Impacts

PPRP addressed the electric and magnetic fields ("EMF") that occur as a result of generation, transmission, and use of electric power. It described the dependence on the strength of the field on the voltage level and amount of current flow. PPRP said the electric fields are measured in units of volts per meter (V/m) while magnetic fields are measured in units of gauss (G) or tesla (T) and result from the flow of current through wires or electrical devices and increase in strength as the current increases.¹²³

PPRP explained that electric fields are shielded or weakened by material that conduct electricity (i.e., trees, buildings, and human skin), while magnetic fields pass through most materials and are difficult to shield.¹²⁴ Both fields decrease rapidly as the distance from the source increases. Because magnetic fields are not easily shielded, the research in recent years has focused on the potential health effects from magnetic field exposure.¹²⁵ PPRP noted that estimated average background levels of 60-hertz ("HZ") magnetic fields in most homes, away from appliances and electrical panels, range from 0.5 to 5.0 milligauss (NIEHS 2002).¹²⁶ PPRP presented a table reflecting the typical magnetic field levels associated with common appliances.¹²⁷

¹²³ PAR at 42.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ PAR at 44.



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PPRP explained that the PV solar panel arrays convert solar energy into DC electricity, producing power frequency magnetic fields, and a solar inverter converts the DC power to AC electricity, producing static magnetic fields.¹²⁸ According to PPRP, humans are constantly exposed to EMF throughout daily life; EMF can cause negative health effects if exposure exceeds certain health-based thresholds.¹²⁹ PPRP represented that the International Commission on Non-ionizing Radiation Protection (“ICNIRP”) has established a threshold for acute exposure of 830 milligauss for power frequency magnetic fields and 4 million milligauss for static magnetic fields.¹³⁰

According to PPRP, solar energy systems produce magnetic fields significantly below the minimum thresholds established by the ICNIRP. PPRP stated that a typical solar PV inverter may produce a power frequency magnetic field of about 3 milligauss at a distance of 10 feet, comparable to the levels produced by common household appliances at a distance of 3 feet.¹³¹ PPRP noted the solar panels will be located at least 50 feet from any property boundary and therefore EMF levels will be insignificant at these distances.¹³² PPRP presented an example of calculated EMF levels for a solar PV energy system in Oregon, which it said was a typical solar system, and these actual calculations were well below the ICNIRP static and power frequency thresholds.¹³³ Additionally, pursuant to a study conducted by the National Renewable Energy Laboratory (“NREL”), on solar panels' emission of EMF (DOE 2009), NREL

¹²⁸ PAR at 43.

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² PAR at 44.

¹³³ PAR at 43.



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found that the magnitude of EMF measured at the perimeter of PV installations has been shown to be indistinguishable from background EMF and is lower than that from any household appliances such as televisions and refrigerators.¹³⁴ PPRP determined that EMF levels from the solar energy systems are not anticipated to pose a potential health risk to nearby residents.¹³⁵

Accordingly, I find that no health risk will be posed by the Project to nearby residential properties from EMF.

5. Transportation

During construction of the Project, the Applicant will have all the major materials and equipment delivered by tractor-trailers and offloaded by construction vehicles.¹³⁶ Additionally, it expects the daily construction traffic to include cars, pickup trucks and other personnel vehicles.¹³⁷ Further, Applicant said it will use excavation and other equipment during the construction, such as dump trucks, trenching equipment, concrete trucks, front loaders, backhoes, etc.¹³⁸

During operations, the Applicant anticipates limited traffic to and from the Project.¹³⁹ Traffic associated with quarterly to yearly maintenance of the solar array components and any site visits for any operational issues is the expected type of periodic traffic.¹⁴⁰

¹³⁴ PAR at 42.

¹³⁵ *Id.*

¹³⁶ ERD at 20.

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*



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In its PAR, PPRP reviewed the type and amount of construction traffic that may access the Project site from Shugart Valley Place, a private access road not maintained by the County.¹⁴¹ PPRP noted no weight or underclearance restrictions on nearby roads or any major highway Projects near the Project site planned by the Maryland State Highway Association ("SHA").¹⁴² PPRP concluded that the additional construction worker traffic will not affect the level of service of major or minor roads near the Project, even if coincident with morning and evening peak hour traffic.¹⁴³

PPRP also considered the type and weight of the trucks delivering the material and equipment to the Project site as well as the average number of round-trips per weekday during the construction period.¹⁴⁴ PPRP concluded that truck traffic will have a de minimus effect on existing motor vehicle traffic near the Project. Because some loads transporting equipment to or from the Project site could be oversize or overweight, handling permits for transporting oversize and overweight loads may be needed from SHA.¹⁴⁵ PPRP recommended Condition No. 20, which requires the Applicant to comply with all permit requirement and restrictions for use, crossing, and occupancy of State and County roads and obtain appropriate approvals, as necessary.

Subject to Condition No. 20, I find that the Project will not contribute significantly to or impact road traffic during the construction period on nearby minor and major roads.

¹⁴¹ PAR at 26.

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*



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6. Public Services and Safety

In its PAR, PPRP considered the impact of the construction and operation of the Project on public services and safety. PPRP concluded that no additional public services will be required to support the Project under normal conditions.¹⁴⁶ Should a fire or accident occur at the Project site, the Charles County Department of Emergency Services, will dispatch the emergency responders.¹⁴⁷ The 10th District Volunteer Fire Department (“VFD”) in Pisgah, an all-volunteer fire company, is the fire facility nearest the Project site.¹⁴⁸ The Department of Emergency Services provides ambulance services throughout the County. The Charles County Sheriff’s Office is the primary law enforcement agency in the area.¹⁴⁹

According to PPRP, solar panels and associated equipment are largely free of flammable materials. The Project will use crystalline solar cells, which are primarily made of silicon, and are not considered to be hazardous to the environment, but respiratory exposure to combustion products associated with PV components should be avoided.¹⁵⁰ If the Project employs transformers using mineral oil as a coolant, the flashpoint of mineral oil is 335 degrees, which is significantly higher than the US Occupational Safety and Health Administration standard that defines a flammable liquid as any liquid having a flashpoint at or below 199.4 degrees Fahrenheit.¹⁵¹

¹⁴⁶ PAR at 34.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ PAR at 32.

¹⁵¹ PAR at 33.



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PPRP notes, although finding that the likelihood of fire is low, firefighters may be exposed to the risk of electrical shock should firefighting operations be required at the Project. PPRP noted that the Fire Protection Research Foundation recommends the use of respiratory protection during fireground operations involving PV systems.¹⁵² It also stated that although guidelines for fireground operations at PV facilities have been published, the 10th District VFD and other fire companies in Charles County may not have incorporated these guidelines into their Standard Operating Procedures ("SOPs") or Standard Operating Conditions ("SOCs").¹⁵³

PPRP recommended two conditions, Condition Nos. 27 and 29, to address the safety of emergency responders. Condition No. 27 requires the Company to install and maintain the Project to meet at least the minimum requirements of the National Fire Protection Association's NFPA1 Fire Code Handbook (NFPA 2015) and NFPA 70 National Electrical Code (NFPA 2014). Condition No. 29 requires the Company contact the 10th District VFD and the Charles County Department of Emergency Services to develop appropriate protocols for addressing on-site emergencies.

I find that Condition Nos. 27 and 29 are warranted to ensure that any emergency events at the Project will be handled appropriately.

7. Other Biological Resources

a. Flora Resources

The Project site is abundantly made up for forested lands. The biological Assessment Summary letter indicated no information regarding threatened or endangered

¹⁵² *Id.*

¹⁵³ *Id.*



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species within the Project boundaries, thus the Applicant asserts that there will be no adverse impacts to this species.¹⁵⁴

b. Fauna Resources

The DNR Wildlife and Heritage Service (“WHS”) indicated that the property may contain Forest Interior Dwelling Bird habitat. The Applicant asserts that the Project is far upstream of these protected habitat areas. Thus, the Applicant asserted that the Project is not anticipated to impact significant fauna or critical habitat.¹⁵⁵

In its PAR, PPRP describes the site as nearly completely forested, and as offering wildlife habitats of at least moderate quality.¹⁵⁶ PPRP concluded that there are no known federal or state listed rare, threatened or endangered (“RTE”) species at the site. PPRP recommended Condition Nos. 7 and 14 to stabilize the vegetation on the Project site after construction of the Project and to create a pollinator habitat. PPRP concluded that the vegetation management requirements will provide stable habitats and foraging opportunities for nesting birds and other wildlife within the Project site.

In the event that a RTE species is present on the Project site, PPRP recommended Condition No. 17, which requires the Applicant to contact and coordinate with WHS should any RTE species be identified prior to or during construction so that avoidance and/or minimization measures may be instituted.

Subject to Condition No. 7 and 14, I find that there will be no significant impact on the flora or fauna resources on or near the Project site.

¹⁵⁴ ERD Appendix 11.

¹⁵⁵ ERD at 29.

¹⁵⁶ PAR at 15.



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VI. Request for Waiver

In its Application, the Applicant requests a waiver of the two-year notice requirement set forth in PUA § 7-208(c). According to the Applicant, there will be no emissions that will impact adjacent properties and the installation of solar PV panels will not materially impact property values for nearby residents. Consequently, I conclude that the Applicant has shown good cause to support the waiver of the requirement to provide a two-year notice pursuant to PUA §7-208.

VII. Conclusion

I find that, subject to the PPRP recommended License Conditions, including the modification to Condition No. 9, and subject to the Staff recommended License Conditions, including the modification to Condition No. 3, (collectively, "Final License Conditions"), a grant of a CPCN to construct the Project is in the public interest. The Applicant's compliance with the Final License Conditions will result in the Project satisfying the federal and State environmental laws and the County's zoning ordinances governing utility-size solar arrays located in the County. Accordingly, I hereby grant MD Solar 1, LLC a CPCN, subject to the Final License Conditions attached hereto and incorporated hereby, to construct a 32.5 MW solar photovoltaic generating facility in Charles County, Maryland.

IT IS THEREFORE, this 22nd day of August, in the Year Two Thousand Eighteen,

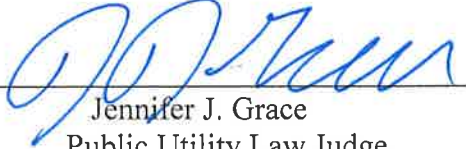
ORDERED (1) That the application of MD SOLAR 1, LLC, is hereby granted.



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(2) That a Certificate of Public Convenience and Necessity, subject to the Final License Conditions attached hereto as Attachments A and B, and incorporated herein, is hereby granted.

(3) That this Proposed Order will become a final order of the Commission on September 22, 2018, unless before that date an appeal is noted with the Commission by any party to this proceeding as provided in Section 3-113(d)(2) of the Public Utilities Article, or the Commission modifies or reverses the Proposed Order or initiates further proceedings in this matter as provided in Section 3-114(c)(2) of the Public Utilities Article.



Jennifer J. Grace
Public Utility Law Judge
Public Service Commission of Maryland

Attachments



Revised Initial Recommended License Conditions
PSC Case No. 9464 MD Solar 1, LLC - Shugart Valley Place Solar Project

1. Applicability of Conditions - Except as otherwise provided for in the following provisions, the application ("Application") for the Certificate of Public Convenience and Necessity ("CPCN") is considered to be part of this CPCN for the MD Solar 1, LLC, also referred to by the Applicant as the Shugart Valley Place Solar Project ("Project"). The Application consists of the original application filed with the Maryland Public Service Commission ("PSC" or "Commission") on September 22, 2017; direct testimony filed on December 11, 2017; and supplemental direct testimony filed on April 4, 2018. Construction and operation of the Project shall be undertaken in accordance with these conditions. If there are any inconsistencies between the conditions specified below and the Application, the conditions in this CPCN shall take precedence. If CPCN conditions incorporate federal or State laws through paraphrased language, where there is any inconsistency between the paraphrased language and the actual State or federal laws being paraphrased, the applicable federal or State laws shall take precedence.
2. Project Scope - The Project shall be constructed as a single-axis tracking photovoltaic (PV) system and within the limit of disturbance and approximate dimensions (surface, in total acreage, and height) as described in the Application or, if applicable, otherwise incorporated in the CPCN. Modifications to the Project's specifications may not be covered by this CPCN and must be reviewed and approved by the PSC and the Power Plant Research Program ("PPRP").
3. CPCN Expiration - Construction of the Project must commence within three (3) years of receiving the CPCN and the Project must be in operation no later than four (4) years after receipt of the CPCN. If the Project is not completed and operational within four years of issuance of the final order by the PSC granting a CPCN, the CPCN shall expire and no longer constitute authorization to construct and operate the Project.
4. Applicable Laws and Regulations - Construction and operation of the solar facility shall be undertaken in accordance with this CPCN and shall comply with all applicable local, State, and federal laws and regulations, including but not limited to the following:
 - a. Nontidal Wetlands - COMAR 26.23.01 applies to activities conducted in nontidal wetlands and wetland buffers. If Project construction or operation will disturb soils in designated nontidal wetlands or wetland buffer at the site, MD Solar 1 must obtain all required permits and approvals from Maryland Department of the Environment (MDE) and the U.S. Army Corps of Engineers.
 - b. Waterway Construction - COMAR 26.17.04 applies to regulations governing construction activities in nontidal waters and floodplains.

- c. Water Quality and Water Pollution Control – COMAR 26.08.01 through COMAR 26.08.04 apply to discharges to waters of the State and maintenance of surface water quality.
 - d. Erosion, Sediment and Storm Water Control – COMAR 26.17.01 applies to the preparation, submittal, review, approval, and enforcement of erosion, sediment and storm water control plans, including any dewatering plans and associated water recycling plans.
 - e. Oil Pollution Control – EPA 40 CFR 112 and COMAR 26.10.01.12 apply to the procedures for oil spill control.
 - f. Forest Conservation – MD Solar 1 shall comply with the provisions of Maryland's Forest Conservation Act (FCA), Md. Code, Sections 5-1602(b)(5) and 5-1603 of the Natural Resources Article.
 - g. Particulate Matter from Materials Handling and Construction - COMAR 26.11.06.03D, applies to airborne particulate matter such that a person may not cause or permit any material to be handled, transported, or stored, or a building, its appurtenances, or a road to be used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.
 - h. Nuisance - COMAR 26.11.06.08, applies to the creation of nuisance or air pollution such that an installation or premises may not be operated or maintained in such a manner that a nuisance or air pollution is created. Nothing in this regulation relating to the control of emissions may in any manner be construed as authorizing or permitting the creation of, or maintenance of, a nuisance or air pollution.
 - i. Odors - COMAR 26.11.06.09, applies to the discharge of air pollution such that a person may not cause or permit the discharge into the atmosphere of gases, vapors, or odors beyond the property line in such a manner that a nuisance or air pollution is created.
 - j. Noise - COMAR 26.02.03 applies to noise regulations whereby MD Solar 1 shall construct the proposed Project in such a way that it complies with the Maryland noise regulations and with relevant Charles County noise ordinances.
5. Site Control - In accordance with COMAR 20.79.03.01, prior to construction, MD Solar 1 shall provide PPRP and the PSC with a copy of the purchase agreement, land lease, or similar agreement with the owners of the properties on which the Project site is located. MD Solar 1 shall also identify any applicable term of the purchase agreement, land lease, or similar agreement and provide assurances to PPRP and the PSC that such term of the purchase agreement, land lease, or similar agreement meets or exceeds any applicable Power Purchase Agreement ("PPA") term and includes any time necessary for complete closure and removal of the Project facilities.

6. Project As-Built Details – Within 60 days of commencement of operation, MD Solar 1 shall provide to the PPRP, the PSC, and Charles County, the following as-built details: engineering and construction plans for the Project, including the total acreage of the Project site; the PV panel and module type, dimensions, and locations; and a consistent count of the number of PV modules, a consistent count of the number of support posts for the PV modules, as well as a consistent depth of post/pile burial and height of the PV panels above grade. Where the as-built details are identical to those submitted with the CPCN application, MD Solar 1 shall provide a statement to this effect and not resubmit the information.
7. Spill Control – The Project and all adjacent properties shall be protected by appropriate containment structures from spills or leaks of transformer fluids and other biologically detrimental substances. MD Solar 1 shall consult the guidelines established by the United States Environmental Protection Agency's Spill Prevention, Control and Countermeasure and Facility Response Plan programs to prevent and control spills.
8. Sediment Control – MD Solar 1 shall implement erosion and sediment control best management practices (BMPs) presented in the MDE document titled, *2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control*, and as otherwise may be approved or required by Charles County. Special attention shall be paid to areas draining the Tier II stream, Wards Run. MD Solar 1 shall use enhanced best management practices in the vicinity of all nontidal wetlands sites, which include the use of adequately sized temporary sediment traps, as needed, super silt fencing and other specialized techniques such as double silt fences, and redundant stormwater runoff controls specifically needed for limiting the quantity of sediment entering these wetlands during the construction process. MD Solar 1 shall stabilize all portions of the Project site disturbed during construction as soon as practicable after the cessation of construction activities within that portion of the site, followed by seed application, in accordance with the above-cited document.
9. Wetland and Waterway Impacts – Prior to any construction activities, MD Solar 1 shall assess all impacts (temporary or permanent) of the Project to wetlands and waterways and their 100- year floodplains, and where possible quantify and illustrate the assessed impacts in its wetlands, waterways, and floodplains permit application submitted to MDE, with copies provided to PPRP for its review.
 - a. Except for permitted access roads and the associated temporary, pre-fabricated bridge, construction of the Project shall not disturb or remove vegetation within the proposed 50-foot Resource Protection Zone established by the County for non-tidal wetlands and waterways located in the Project area. During construction, MD Solar 1 shall use flagging, fencing, access barriers, and any other necessary measures to ensure that

these areas are not disturbed by construction personnel, equipment, or activities.

- b. After construction, MD Solar 1 shall maintain each of the areas described in (a) through the use of Integrated Vegetation Management (IVM) protocols that: avoid or minimize mechanical mowing; are designed to obtain a sustainable vegetation community; and control the spread of invasive species.
 - c. MD Solar 1 shall construct all internal access roads within the Project site to maintain the natural drainage patterns for the site.
10. Forest Conservation – MD Solar 1 shall comply with Charles County's Forest Conservation Ordinance implementing the Maryland FCA. Prior to the start of construction, MD Solar 1 shall prepare and submit to Charles County for approval and to PPRP for review a Forest Conservation Plan that is consistent with all Charles County Forest Conservation requirements.
 11. Timber Harvest – the applicant shall conduct a timber harvest of forest resources during site clearing for the solar project. Land clearing debris is considered solid waste pursuant to COMAR 26.04.07.03A. A person may not engage in solid waste handling that, among other things, creates a nuisance, pollutes the air, impairs the quality of the environment or creates other hazards to the public health, safety, and comfort. Therefore, open burning of land-clearing debris such as stumps, brush, and logs is not permissible.
 12. Additional Conservation Easements – Notwithstanding the amount of forest conservation mitigation required under the Charles County Forest Conservation Ordinance, MD Solar 1 shall at a minimum provide for 1:1 mitigation for the amount of forest cleared for the Project. If the amount of forest conservation mitigation required by the County is less than 1:1, MD Solar 1, in coordination with PPRP, shall establish additional conservation easements to achieve 1:1 mitigation. If the amount of forest conservation mitigation required by the County is greater than 1:1, the County's requirement shall be met in full.
 13. Tier II Stream Protection – The Project is located within the watershed of the designated high quality Tier II stream segment Wards Run 2. The Wards Run 2 watershed also includes a second designated high quality Tier II stream, Wards Run 1. Both streams are located on the Project site. All reports, documentation or notifications required under this condition shall be sent to PPRP and to MDE's Environmental Assessment and Standards Program at: Maryland Department of the Environment, Environmental Assessment and Standards Program, c/o Angel Valdez, 1800 Washington Boulevard, Suite 420, Baltimore, Maryland, 21230.
 - a. MD Solar 1 shall verify to PPRP and MDE the location of all perennial and intermittent streams on the Project site.
 - b. MD Solar 1 shall implement applicable practices identified in the MDE document, *Enhanced Best Management Practices for Tier II Waters*.

- c. No permanent impacts shall occur within 100 feet of perennial or intermittent stream resources on the Project site within the Tier II watershed of Wards Run 2.
 - i. The buffer shall be measured from the centerline when a stream width is less than 10 feet and from the top of bank when a stream width is equal to or greater than 10 feet.
 - ii. If MD Solar 1 demonstrates that a 100-foot buffer is not feasible for a certain stream segment, an average 100-foot buffer with a minimum distance of no less than 75 feet may be approved by MDE.
 - iii. MD Solar 1 shall provide an exhibit that delineates the 100-foot buffer for each stream segment and the final proposed buffer. The exhibit shall highlight areas of buffer gains and buffer losses. This information shall be accompanied by a tabular summary, which identifies the average buffer width achieved for each segment.
 - iv. The approved Tier II stream buffers shall be placed into conservation easement, and delineated on final construction plans.
- d. Forest conservation and restoration mitigation measures shall be prioritized within the impacted Tier II watershed of Wards Run 2 in Charles County.
 - i. Thirty days prior to construction, MD Solar 1 shall prepare, and submit to PPRP and MDE, a forest restoration plan that evaluates alternatives to avoid, minimize, or mitigate forest clearing within the Tier II watershed.
 - ii. For any net forest acres lost, forest restoration (reforestation and afforestation) shall be considered at 1:1.
 - iii. If MD Solar 1 demonstrates that forest restoration is not feasible, then MD Solar 1 shall develop a plan to mitigate lost forest acres. The plan may include, but is not limited to, the following mitigation activities: enhancing stream buffers, increasing watershed forest cover, retrofitting stormwater facilities, or reducing impervious cover.
- e. MD Solar 1 shall have certified persons conduct Maryland Biological Stream Survey (MBSS) monitoring consisting of one benthic and one fish sample, prior to construction, and 1 year and 5 years post-construction, at the following locations:

| Tier II Stream Segment | Station Location | Prior to Construction | 1 Year Post Construction | 5 Years post Construction |
|--------------------------|------------------------------------|-----------------------|--------------------------|---------------------------|
| Wards Run 1 ¹ | Lat: 38.514759 Long: -77.140395 | YES | YES | YES |
| Wards Run 2 ² | Lat: 38.49569 Long: -77.139689 | NO ³ | YES | YES |

¹ Coordinates for the Wards Run 1 Tier II Baseline Station used for Designation

² Coordinates for the Wards Run 2 Tier II Baseline Station used for Designation

³ MDE sampled this station in 2017

- i. All monitoring protocols and analysis methods shall follow the MBSS Round Four Sampling Manual analysis methods described in the DNR document *New Biological Indicators to Better Assess the Conditions of Maryland Streams*, and meet guidelines provided in the MDE document, *MDE Requirements for Use of In-Situ Biological Stream Data*.
- ii. MD Solar 1 shall provide notification to MDE and PPRP if the construction schedule does not allow for baseline MBSS monitoring during the approved sampling periods established in the Sampling Manual.
- iii. MD Solar 1 shall provide for review to MDE a biological monitoring plan, no later than 60 days prior to monitoring. If directed by MDE, MD Solar 1 shall update the monitoring plan to meet all data quality guidelines.
- iv. A minimum of 30 days prior to conducting MBSS monitoring, MD Solar 1 shall obtain a Scientific Collections Permit/License from the DNR Wildlife and Heritage Service.
- v. MD Solar 1 shall prepare a report that provides monitoring results, including copies of raw data and field sheets, and submit the report in electronic and hardcopy formats to PPRP and to MDE by January 30 following the monitoring event.
- vi. If MDE or PPRP determines that MBSS monitoring was conducted without a proper plan, or monitoring data does not meet quality guidelines, or monitoring was conducted by uncertified persons, MD Solar 1 shall repeat the monitoring for that station the following sample season.
- vii. If after evaluating post-construction data MDE determines that either Wards Run 1 or Wards Run 2 have no remaining assimilative capacity, MD Solar 1 shall implement the mitigation plan developed in condition 12d.(iii). No assimilative capacity remaining means that, after taking natural variability into account, the stream is degraded below Tier II standards.

- f. Forty-five days prior to construction, MD Solar 1 shall submit a hydrologic study to PPRP and MDE. This report shall discuss site hydrologic setting, existing and proposed site conditions, and a hydrologic impact evaluation on changes in flow in each Tier II stream as a result of proposed land cover changes under different scenarios.
14. Vegetation Management Plan - MD Solar 1 shall plant and establish the grounds of the Project beneath and between the solar panels with vegetation (e.g., grasses and forbs) for suitable growth in this setting. Prior to planting, MD Solar 1 shall carry out ripping and compost amendment (to a depth of 6") in the lanes between the solar panel racks, when necessary, to ensure the proper post-construction runoff characteristics. Further, prior to commencement of Project construction, MD Solar 1 shall develop and submit to PPRP and the County a vegetative management plan that includes the following:
 - a. Landscape Plan in accordance with Charles County Zoning Ordinance;
 - b. Description of grasses and other plant species to be maintained at the site;
 - c. Schedule for mowing that avoids or minimizes mowing activities during the nesting season of most ground-nesting birds including quail (i.e., May through August), and avoids mowing in wetland and waterway buffer areas at all times;
 - d. Restriction of grass mowing height at all times to not less than 10 inches except where this would present a fire hazard, impede required access to equipment, or interfere with operations of the Project;
 - e. Protocol for managing invasive plant species; and
 - f. Discussion of herbicides and pesticides approved for use at the Project site, and details describing the circumstances of their use.
15. Access - Representatives of the PSC, DNR, MDE and Charles County shall be afforded access to the MD Solar 1 site at any reasonable time, with appropriate notification, to conduct inspections and evaluations necessary to assure compliance with the CPCN requirements. MD Solar 1 shall provide assistance as reasonably may be necessary to conduct inspections and evaluations effectively and safely, which may include, but need not be limited to, the following:
 - a. Inspecting construction authorized under this CPCN;
 - b. Accessing or copying any records that MD Solar 1 is required to keep pursuant to this CPCN or applicable regulations;
 - c. Obtaining any photographic documentation and evidence; and
 - d. Determining compliance with the conditions and regulations specified in the CPCN.
16. Pollinator Habitat - MD Solar 1 shall use native flowering plants to establish and maintain long-term pollinator habitats in parts of the Project site outside of areas

designated for tree planting. MD Solar 1 shall develop a Pollinator Habitat Plan that sets forth details of the pollinator habitat and includes the following:

- a. Maps of designated pollinator habitat areas on the Project site;
 - b. Lists and descriptions of all intended target native plant species for the pollinator areas;
 - c. Methods for planting the pollinator areas;
 - d. All management methods for the pollinator areas, including elimination of non-native invasive species, mowing, herbicides, and other pertinent criteria;
 - e. Projected success goals for the pollinator habitats, including expected percent survival statistics of all planted species during a period of five years after installation, and contingency planting for areas of non-establishment; and
 - f. MD Solar 1 shall submit the Pollinator Habitat Plan to PPRP and Charles County for review at least 30 days before completion of Project construction, and shall indicate if MD Solar 1 is interested in participating in Maryland Department of Natural Resources' Pollinator-Friendly Designation Program for Solar Facilities.
17. Rare, Threatened, or Endangered Species - If any rare, threatened, or endangered species are encountered during planning, construction, operation, or maintenance of this facility, MD Solar 1 shall immediately notify and consult with the Maryland Department of Natural Resources, Wildlife and Heritage Service to determine the appropriate actions.
 18. Grading - MD Solar 1 shall provide PPRP and the PSC Engineering Staff with copies of all plans that MD Solar 1 submits to Charles County in connection with the Project for grading the site, and all permits received for such grading, within fifteen (15) calendar days of submitting such plans or receiving such permits. In no case shall such plans include removal of topsoil from the site.
 19. Land Use - MD Solar 1 shall certify to the PSC and to PPRP that it has designed the facility in substantial conformity to Charles County site plan requirements, and has received site plan approval and all required local permits prior to the commencement of construction.
 20. Road Permits - MD Solar 1 shall comply with all permit requirements and restrictions for use, crossing and occupancy of State and Charles County roads and obtain appropriate approvals, as necessary.
 21. Bonding and Buffer Yard Maintenance - Prior to construction, MD Solar 1 shall certify to the PSC and to PPRP that it has executed a bonding and buffer yard maintenance agreement that conforms to Charles County Zoning Regulations.

22. Site Plan and Landscaping – Prior to the commencement of Project construction, MD Solar 1 shall provide the approved site plan to PPRP and the PSC for review and shall certify that it has designed the facility in substantial conformity to Charles County site development requirements and has received all required local permits. Also, MD Solar 1 shall submit to PPRP and the PSC the landscaping plan, which shall document its visual mitigation strategy. MD Solar 1 shall file both documents in the PSC docket for Case No. 9464.
23. Reflective Glare – MD Solar 1 shall develop a process to document and address admissible complaints related to potential solar reflections. An admissible complaint shall be one formally submitted in writing to MD Solar 1 within two (2) years of the Project's commencement of operation. MD Solar 1 shall provide to the PSC and PPRP both a copy of the complaint and its response to the complaint. MD Solar 1's response to any written complaint shall clearly inform the aggrieved party that if not satisfied with MD Solar 1's response, the aggrieved party may seek relief by filing a complaint with the PSC. If the PSC determines after notice and an opportunity to be heard that the complaint is justified, it may direct MD Solar 1 to prepare and implement a screening plan to mitigate impacts from reflective glare upon the affected property. The screening plan shall be in conformance with all applicable State and local laws and regulations.
24. Archaeological Investigation - Prior to construction, MD Solar 1 shall certify to the PSC and to PPRP that they have consulted with the Charles County Archeologist and undertaken the required archeological investigations.
25. Archaeological Discoveries - In the event that relics from unforeseen archeological sites are revealed and identified during construction, the Applicant, in consultation with and as approved by the MHT, shall develop and implement a plan for avoidance and protection, data recovery, or destruction without recovery of such relics or sites.
26. Bicycle Route Designations – MD Solar 1 will instruct its suppliers and contractors to be aware of on-road bicycle route designations near the Project and Maryland traffic laws regarding bicycles on the road, and include the condition in all contracts with suppliers or contractors.
27. Fire Safety – MD Solar 1 shall design, install and maintain the Project to meet all applicable minimum standards set forth in the National Fire Protection Association (NFPA) 70: National Electrical Code and all applicable minimum standards appropriate for ground-mounted solar facilities set forth in NFPA 1: Fire Code.
28. Solar Decommissioning
 - a. At least 30 days prior to the start of construction, the Applicant shall submit a decommissioning plan to the PSC and PPRP for review. The decommissioning plan shall describe the responsible party(ies),

timeframes, and estimated costs for decommissioning, dismantling, and legal disposal of all components, including cables, wiring, and foundations below ground surface. The plan shall address site conditions after decommissioning, including stabilization, grading and seeding all disturbed areas. The plan shall maximize the extent of component recycling and reuse, where practicable, and ensure all materials are handled in accordance with applicable federal, State, county, and local requirements. The Applicant shall not begin construction until the Applicant has addressed all comments from the PSC and PPRP, the PSC has approved the plan, and all specified financial guaranties are in place. The approved plan, and any updated plans, shall be filed in the PSC docket for Case No. 9464.

- b. The Applicant shall implement a financial mechanism to ensure that decommissioning costs are not borne by the State and/or the County at the end of the useful life of the Project or in the event of abandonment of the Project. The Project will be considered to be abandoned if the Project is non-operational for a period of one (1) year. The financial instrument may be in the form of a surety bond, a letter of credit issued by a financial institution, or other alternative arrangement and must be in place prior to the commencement of construction of the Project. The financial mechanism is subject to the approval of the PSC, and PSC evaluation of the financial mechanism will consider the credit-worthiness and financial capabilities of the counter-party(ies).
 - c. The Applicant shall develop an estimate of decommissioning costs by a third-party consultant to determine the amount of the decommissioning performance bond, corporate guarantee, or letter of credit. The cost estimate shall address provisions for the safe removal and proper disposal of all components of the Project, including any components containing hazardous or toxic materials. Over the life of the Project, the Applicant shall update the decommissioning cost estimate every five (5) years after the issuance of the CPCN to adjust for inflation and any other necessary changes. The Applicant shall provide the revised cost estimate to the PSC, file the revised cost estimate in the PSC docket for Case No. 9464, and execute an adjustment to the financial guarantee mechanism.
 - d. The Applicant shall begin implementation of the approved decommissioning plan within 180 days after the Project ceases to generate electricity for sale. Prior to starting implementation, the Applicant shall notify the PSC and PPRP of its intent to decommission.
29. Emergency Preparedness – Prior to commencement of construction, MD Solar 1 shall contact the 10th District VFD and the Charles County Department of Emergency Services to develop appropriate protocols for addressing on-site emergencies.

30. Project Transfer - All provisions and requirements of this CPCN shall apply to any and all subsequent owners and/or operators of the Project. In the event of any pending change in control or ownership, the current owner/operator shall notify the succeeding owner/operator of the existence of the requirements of this CPCN by letter and shall send a copy of this letter to the PSC and PPRP. Information provided to the PSC and PPRP shall also be filed in the PSC docket for Case No. 9464.
31. Current Point of Contact - The Applicant or its legal successor shall specify a representative for Project matters, including compliance with the CPCN conditions ("Representative"). The Applicant or its legal successor shall file in the PSC docket for Case No. 9464 the representative's contact information, including the representative's name, title, email address and physical address. Any change in the representative or to the representative's contact information shall be filed in the PSC docket within 30 days.
32. Compliance - Issues of non-compliance with CPCN conditions raised by Charles County, PPRP, or any other party to the case shall be addressed by the Project's Representative. Within 45 days of receiving notice, a summary of the non-compliance issue and a statement of how the Project has addressed or is addressing the matter shall be filed in the PSC for Case No. 9464.
33. Submissions to PPRP - Informational copies of the required communications, reports or studies referenced in the preceding recommended license conditions shall be sent to PPRP by e-mail (and by mail if requested) at:

Director
Power Plant Assessment Division
Department of Natural Resources
Tawes State Office Bldg., B-3
580 Taylor Avenue
Annapolis, Maryland 21401
e-mail: pprp.dnr@maryland.gov

STAFF'S REVISED RECOMMENDATIONS AND CONDITIONS CASE NO. 9464

- 1) Grant a CPCN to MD Solar 1, LLC for a 32.5 MW solar generating facility (the "Project") in accordance with the following conditions; and
- 2) Require the filing of a request for CPCN amendment with the Commission for any generation capacity in excess of 32.5 MW; and
- 3) Require either (a) the signed Interconnection Services Agreement ("ISA") and Construction Service Agreement ("CSA") executed by MD Solar 1, LLC with PJM Interconnection, LLC ("PJM") and Southern Maryland Electric Cooperative, Inc. ("SMECO") be filed with the Commission prior to the commencement of construction; or (b) the signed Wholesale Market Participant Agreement ("WMPA") executed by MD Solar 1, LLC and SMECO and the signed Interconnection Agreement ("IA") executed by MD Solar 1, LLC and SMECO be filed with the Commission prior to the commencement of construction.; and
- 4) Require that MD Solar 1, LLC, its successors and assigns, provide sixty (60) days written notice to the Commission of any non-wholesale electricity sale to a Maryland retail electric customer and comply with all regulations regarding such sale including obtaining any requisite Interconnection Agreement(s) and retail supplier approval(s) prior to delivering electricity into the respective systems of Maryland electric companies; and
- 5) Require that MD Solar 1, LLC, its successors and assigns, provide written notice of any change in ownership of all or any portion of the Project, at least thirty (30) days prior to the closing date of any sale to a third party. The written notice should include, but not be limited to, identifying the third party, providing contact information to receive any Commission inquiries, the proposed effective date of any change in ownership, and providing documentation that demonstrates the capability of the prospective owner to operate and maintain the Project to perform in accordance with any CPCN issued in this proceeding; and
- 6) Staff recommends that the Commission include any additional conditions proposed by the other State agencies having jurisdiction in this proceeding.