

**BEFORE THE PUBLIC SERVICE
COMMISSION OF MARYLAND**

IN THE MATTER OF THE APPLICATION OF
CITIZENS UB SOLAR, LLC FOR A CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY
TO CONSTRUCT A 9.9 MW SOLAR
PHOTOVOLTAIC GENERATING FACILITY
IN CARROLL COUNTY, MARYLAND

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Case No. 9483

**THE DEPARTMENT OF NATURAL RESOURCES,
POWER PLANT RESEARCH PROGRAM'S RESPONSE TO CITIZENS UB SOLAR,
LLC'S MOTION TO STRIKE THE DIRECT TESTIMONY OF EDMUND R. CUEMAN**

Pursuant to the Public Service Commission's Notice of Opportunity to Respond issued on August 8, 2019, the Maryland Department of Natural Resources, Power Plant Research Program (PPRP), through undersigned counsel, submits this Response to Citizens UB Solar, LLC's Motion to Strike the Direct Testimony of Edmund R. Cueman (Motion). (ML Order No. 226277, *filed July 31, 2019*) For the reasons set forth below, PPRP does not support Applicant's Motion and requests the Commission to deny it.

Citizens UB Solar argues that the Direct Testimony of Edmund R. Cueman, which addresses whether the Project is consistent with the comprehensive plan, is not relevant to this CPCN application and, thus, should be stricken. Applicant bases its request on a legal argument that the Project is "*de facto* consistent with the comprehensive plan as a matter of law" as it is permitted under County zoning as of right. (Citizens UB Solar Motion at 2)

However, as noted by the Town of Union Bridge in its Motion to Dismiss Applicant's Motion to Strike the Direct Testimony of Edmund R. Cueman (Town's Response Motion) (ML Order No. 226390, *filed August 13, 2019*), PUA Section 7-307(e)(iii) requires that the Commission give "due consideration" to the project's consistency both with zoning and with the comprehensive plan (Town's Response Motion at 1-2) The statute does not exclude due consideration of the

project's consistency with the comprehensive plan when a project is permitted as of right under the applicable zoning designation. Mr. Cueman provides the Town's position as to such consistency and, thus, is relevant in this case.

Further, Mr. Cueman's testimony sets forth the recommendation of the governing body of the Town of Union Bridge. PUA Section 7-307(e) (1) clearly requires that due consideration should be given to the recommendation of the governing body in which any portion of the generating station is proposed to be located. A portion of the Project – albeit a small portion – falls within the Town. Thus, Mr. Cueman's testimony is clearly relevant.

For these reasons, PPRP does not support Citizens UB Solar, LLC's Motion to Strike Mr. Cueman's Direct Testimony and requests that the Motion be denied.

Respectfully submitted,



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