

**BEFORE THE PUBLIC SERVICE
COMMISSION OF MARYLAND**

IN THE MATTER OF THE APPLICATION OF *
MORGNEC ROAD SOLAR, LLC FOR A *
CERTIFICATE OF PUBLIC CONVENIENCE *
AND NECESSITY TO CONSTRUCT A 57.04 * Case No.
MW SOLAR PHOTOVOLTAIC GENERATING *
FACILITY IN KENT COUNTY, MARYLAND

* * * * *

**APPLICATION OF MORGNEC ROAD SOLAR, LLC FOR A CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY AND
REQUEST FOR WAIVER OF TWO-YEAR NOTICE PROVISION**

Morgnec Road Solar, LLC (“Applicant”), by its undersigned counsel, hereby submits this Application to the Public Service Commission (“Commission”) for a Certificate of Public Convenience and Necessity (“CPCN”) to construct a nominal 57.04 megawatt (“MW”) alternating current (“AC”) solar photovoltaic facility (“PV”) in Kent County, Maryland (“Morgnec Road Solar Project” or “Project”) pursuant to Md. Public Utilities Article (“PUA”) § 7-207.

The Application is comprised of this petition together with the attached Environmental Review Document (“ERD”) and associated appendices. Additionally, the Applicant respectfully requests a waiver of the two-year notice provision. Section I of this petition provides an overview of the Project; Section II justifies the Commission’s approval of the application; Section III provides the information required by PUA § 7-207; and Section IV requests waiver of the two-year notice provision.

I. PROJECT INTRODUCTION

The Morgnec Road Solar Project will be a 57.04 MW AC solar PV project and accompanying interconnection distribution line on three parcels totaling approximately 255-acres of property in Kent County, Maryland (Tax Map 37, Parcels 40, 174, and 232) (the “Property”). The Project will involve a capital investment of approximately \$100 million and create approximately 110–117 temporary design, management, and construction jobs working remotely or on the site at the height of construction. Construction is estimated to complete in December 2018, subject to permitting restrictions. Because of the nature of solar installations, environmental and land use impacts from the Project will be minimal and the long-term benefits significant.

Maryland has established one of the most aggressive renewable portfolio standard goals in the country, aiming for 20% of its power to be renewable by 2022, including 2% from solar. In order to meet these goals Maryland needs not only small, residential rooftop installations, but large utility-scale facilities like the Morgnec Road Solar Project.

In summary, there are compelling economic, environmental and legal reasons for the State and the Commission to expeditiously approve this CPCN application, with no countervailing harm. Accordingly, we ask the Commission to expeditiously approve the Project.

II. CPCN STANDARD

When the Commission considers whether to grant a CPCN, it must take into account “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;
- (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.

PUA § 7-207(e)(2). The attached Environmental Review Document (“ERD”) provides significant detail as to all applicable factors, but in summary each such factor weighs heavily in favor of granting the Applicant’s requested CPCN.

Unlike other utility-scale solar projects proposed in Kent County, the Project is not located in an Agricultural Zoning District, on prime farmland, or in a Priority Preservation Area. Rather, the parcels are zoned as Rural Residential and Community Residential Districts and located close to the Town of Chestertown. *See* ERD at § 5.A. While it is well settled that the Commission’s CPCN review authority preempts local requirements,¹ Kent County’s existing land use requirements would preclude development of the Project in the absence of a CPCN. *See generally* Kent County Land Use Ordinance Article V, Section 4.2 (setting forth permitted principal uses and structures in Rural Residential Districts).

Notwithstanding this fact, the Applicant has carefully sited the Project in an ideal location for solar generation. The surrounding properties have not been developed for residential purposes and have not remained agricultural. Instead, the area along Morgnec Road near the Project is a commercial and industrial mix. *See* ERD at § 4.E.2. The properties immediately across Morgnec Road from the Project are zoned as an Industrial District (the only zoning classification in Kent County that permits utility-scale solar projects) and contain modern corrugated metal industrial buildings, a junkyard, and other industrial facilities of no historical

¹ *See e.g., Howard County v. Potomac Electric Power Co.*, 319 Md. 511 (1990); *Potomac Electric Power Co. v. Montgomery County*, 80 Md. App. 107 (1989). *See also* Case No. 9198, Order No. 82892, at 8 (September 9, 2009) (affirming that the Commission’s CPCN authority “supersede[s] what normally would be a local land use decision”); Case No. 9411, Public Utility Law Judge’s Ruling on Motions, at 1-2 (April 27, 2016); Case Nos. 9387 and 9392, Order No. 87835 (October 21, 2016).

significance. *Id.* The Project is also located close to the load center of the Town of Chestertown near distribution facilities with ample capacity to accept the Project, making the Property a highly economic and desirable site for additional generation. *See* ERD at § 4.E.2. Given the Project's location close to a developed population center and adjacent to commercial and industrial facilities, the Project would not interrupt the continuity of agricultural activities in Kent County. *See* ERD at § 5.A. The Property is also located immediately adjacent to an area designated by Kent County as a Priority Funding Area, a desired location for growth. *Id.* The Project's location clusters growth around an established area of priority development, protecting Kent County's prime farmland and rural character.

Consistent with previously issued CPCNs, it is the Applicant's intent to ensure the Project substantially conforms to the substantive requirements of the Kent County Land Use Ordinance in existence at the time this Application was filed the Commission, with the exception of any requirement that would restrict the size and scale of, or otherwise prohibit, the Project. *See* ERD at § 4.E.2. Specifically, given the Project's close proximity to an Industrial District, the Project will be designed in substantial conformance with Kent County Land Use Ordinance Article V, Section 15.2.18, which sets forth Kent County's requirements for utility-scale projects in Industrial Districts. *Id.* The Project will also be designed in substantial conformance with Kent County site plan, stormwater management, sediment and erosion control, and forest conservation requirements and apply for local non-discretionary permits, including for a grading permit, building permit, and electrical permit. *Id.* The Project will avoid all wetlands and the Critical Area and Resource Conservation Area. *See* ERD at § 6.A.1.

At the same time, the esthetic impact to the Property and surrounding area will be minimal. The panels will be low to the ground and, where appropriate, screened from view and

setback from adjacent properties consistent with the Power Plant Research Program's screening condition. *See* ERD at § 5.A. The Applicant has engaged a professional landscape architect to develop a screening design and will seek the Power Plant Research Program's approval of its final screening plan. *See* ERD at § 5.B.4. Screening will use vegetation indigenous to the area. *Id.* The Project will also be surrounded on three sides by heavily wooded areas, providing a significant natural buffer. *Id.* The Project will use underground cabling to avoid new overhead electrical cabling for purposes of connecting to the point of interconnection. *See* ERD at § 1. Visually, the only impacted properties will be the commercial and industrial facilities located across from the Project on Morgnec Road. *See* ERD at § 5.A.

The Project is also coordinating with the Maryland Historical Trust ("MHT") to address any impacts to the historic built environment and/or archeological resources as determined appropriate by MHT. *See* ERD at § 6.A.2.b. If necessary, the Project will implement appropriate mitigation measures through a memorandum of understanding with MHT that will mitigate any impacts (to the extent any are determined to exist) on the Historic Built Environment and the Stories of the Chesapeake Heritage Area. Additionally, consistent with Kent County Land Use Ordinance Article VI, Section 5.4.B.13, the Applicant will submit a narrative to Kent County, PPRP, and the Commission describing the Applicant's citizen engagement efforts and how citizen input was addressed in development of the site plan for the Project. *See* ERD at § 4.E.2. These important measures will ensure the Project conforms to the extent possible with local requirements, while mitigating any impact, however slight, the Project may have on the surrounding area.

With respect to the stability and reliability of the electric distribution system, the Applicant initiated a process to be interconnected with the Delmarva Power & Light ("DPL")

electric distribution grid serving Maryland by filing an Interconnection Request with PJM. *See* ERD at § 5.G. Pursuant to FERC rules, PJM and DPL undertake a multi-year, three-part interconnection study process to determine any upgrades that may be necessary to allow a proposed generator to interconnect without causing negative impacts to the stability or reliability of the electric power system. The Project has received queue position AB2-133 from PJM. PJM returned the Project's Feasibility Study in August 2016, which is included as Appendix 1 to the ERD.² The Applicant anticipates receipt of the System Impact Study within the next few months and the Facilities Study in early 2017. *See* ERD at § 5.H. The Project will connect to the electric distribution grid serving Maryland by interconnecting to the nearby Chestertown Substation through a new fifth position on the existing four position ring bus. *Id.* The Project will also construct a new onsite substation to facilitate the interconnection. *See* ERD at § 1. The installation of protective breaker equipment will allow DPL to isolate the Project during certain contingencies on the grid as necessary. PJM's FERC jurisdictional review process will thus ensure the Project will not have a negative impact on the stability or reliability of DPL's system.

Due to the nature of solar power, the Project will have no impact on aviation. Unlike traditional fossil generation, there is no stack that may pose a hazard to air aviation. There is also no air or water pollution (there are no emissions or discharges) associated with the Project and there is no wastewater or cooling water for which disposal is required. Waste associated with decommissioning and deconstruction of the Project will be handled appropriately pursuant to a

² The Applicant's initial application to PJM for interconnection was for a proposed output of 75 MW, which is reflected in the Feasibility Study Report provided in Appendix 1 to the ERD. The Applicant exercised its right under the FERC-jurisdictional PJM Open Access Transmission Tariff ("OATT") § 36.2A.1 to reduce the Project's output to 65.29 MW for purposes of the System Impact Study. The Applicant will exercise its additional right under OATT § 36.2A.2 to reduce the size of the Project's output after issuance of System Impact Study but prior to execution of the Interconnection Services Agreement. This will ensure consistency of Project output between the ISA and the CPCN issued by the Commission. These reductions to the Project's output have occurred to reflect necessary reductions in the size of the Project as it has progressed through the design and due diligence process. *See* ERD at § 4.B.1.

Decommissioning Plan provided to the Commission and Power Plant Research Program. *See* ERD at § 6.E.

Finally, the Project will include significant economic benefits to the State by making more solar power and solar renewable energy credits available and by creating approximately 110–117 temporary design, management, and construction jobs. *See* ERD at § 5.F.

III. CPCN APPLICATION FILING REQUIREMENTS (COMAR 20.79.01.04)

- A. The applicant is Morgnec Road Solar, LLC.
- B. The applicant’s address is: 337 Log Canoe Circle, Stevensville, Maryland 21666.
- C. The following persons are authorized to receive notices and communications with respect to this Application:

Mr. Adam Thompson
Morgnec Road Solar, LLC
337 Log Canoe Circle
Stevensville, Maryland 21666
Phone (410) 604-3603
adam@urbangridco.com

Mr. Todd R. Chason
Mr. Paul N. DeSantis
Mr. David W. Beugelmans
Gordon Feinblatt LLC
233 East Redwood Street
Baltimore, Maryland 21202
Phone (410) 576-4104
tchason@gfrlaw.com
pdesantis@gfrlaw.com
dbeugelmans@gfrlaw.com

- D. Copies of this application are being made available for public inspection and copying at:

Kent County
Department of Planning, Housing, and Zoning
400 High Street
Chestertown, Maryland 21620

E. A list of each local, state, and federal government agency having authority to approve or disapprove the construction or operation of the Project is set forth in Table 1 of the ERD portion of this Application.

F. The Project will interconnect to the electric distribution grid serving Maryland through the installation of a fifth position at the nearby Chestertown Substation, which is part of the electric distribution grid serving Maryland.

G. A general description of the generating station under COMAR 20.79.03.01 is provided in Section 5 of the ERD.

H. Implementation schedule: The Applicant expects to receive all necessary local and state approvals and engineering documents by the third quarter of 2017. Construction is anticipated to begin in Q3 2017, with completion and operational startup in Q2/Q3 2018.³

I. The Applicant has provided the environmental information for the generating station in Section 6 of the ERD.

IV. REQUEST FOR WAIVER AND EXPEDITED REVIEW

Although Maryland law requires the filing of CPCN applications at least two years prior to the commencement of construction, the Commission has authority to waive that notice requirement upon a showing of good cause. PUA § 7-208(c). *See also* COMAR 20.79.01.07 (granting the Commission authority to “waive or modify any provision of this subtitle”). The Commission routinely grants such requests. *See, e.g.*, Case No. 9370, Order No. 87012 (May 8, 2015) (granting OneEnergy Dorchester LLC’s request for waiver); Case No. 9375, Order No. 87061 (June 15, 2015) (granting OneEnergy Wye Mills Solar, LLC’s request for waiver); Case No. 9314, Order No. 85683 (May 31, 2013) (indicating grant of Church Hill Solar Farm, LLC’s

³ Dates are subject to change depending on delays, including those associated with permitting, equipment availability and construction.

request for waiver); Case No. 9272, Order No. 84059 (May 26, 2011) (granting Maryland Solar LLC's request for a waiver).

Imposing a two-year notice requirement may make sense for certain generating facilities, but not for the type of project proposed here where impacts will not extend beyond the borders of the site. There are no emissions that will impact adjacent properties and the installation of solar PV panels will not materially impact property values for nearby residents. Requiring a two-year delay of the Project to satisfy this requirement would simply delay Maryland receiving the benefits offered by the Project without corresponding benefit. Accordingly, the Applicant submits that good cause exists to support the waiver of the two-year notice provision and that such a waiver is consistent with Commission precedent.

The Applicant further respectfully requests an expeditious review and approval of its Application. The Applicant is targeting a construction start in Summer 2017 and is now investing significant capital in permitting and project design, and needs to minimize the delay before commercial operation begins. The Applicant will continue to be as cooperative as possible with all parties to help the Commission review and approve this Application within this timeframe.

V. CONCLUSION

The Applicant respectfully requests that the Commission:

- (1) waive the two-year notice provision of PUA § 7-208(c);
- (2) expeditiously approve this Application for a Certificate of Public Convenience and Necessity for the construction of the proposed nominally rated 57.04 MW solar photovoltaic Morgnec Road Solar Project in Kent County, Maryland.

(Signature on following page...)

Respectfully submitted,

Todd R. Chason / DWB

Todd R. Chason

Paul N. DeSantis

David W. Beugelmans

Gordon Feinblatt LLC

233 East Redwood Street

Baltimore, Maryland 21202


(410) 576-4104

Counsel for Morgnec Road Solar, LLC

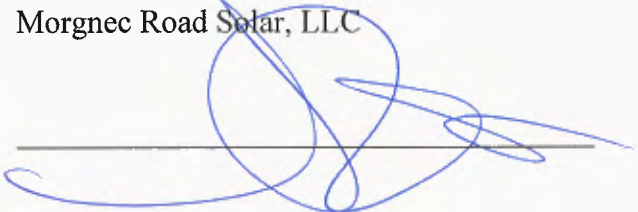
VERIFICATION

Before me, the subscriber, a Notary Public, in and for Washington, DC
this day personally appeared SIMON PETER JAMES and made oath and due form of law that he
is a MANAGER OF SOLE MEMBER at Morgnec Road Solar, LLC and the matters and facts
set forth in the foregoing Application for a Certificate of Public Convenience and Necessity for
the Morgnec Road Solar Project are true and correct to the best of his information, knowledge
and belief.

WITNESS my hand and Notarial Seal this 16th day of December, 2016.



SIMON PETER JAMES
MANAGER OF SOLE MEMBER
Morgnec Road Solar, LLC



Simone A Janey
Notary Public Name (Print)

My Commission Expires: _____
SIMONE A. JANEY
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires March 31, 2021

