

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-100, SUB 166

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Rulemaking Proceeding to Amend Filing ) ORDER ADOPTING  
Requirements for Application for Certificate of ) AMENDMENTS TO COMMISSION  
Public Convenience and Necessity Pursuant ) RULES R8-64(b)(6)(iii)(a) AND  
to Commission Rules R8-64 and R8-71(k) ) R8-71(k)(2)(iii)(6)  
)

BY THE COMMISSION: On April 15, 2020, in Docket No. E-100, Sub 158 the Commission issued its Order Establishing Standard Rates and Contract Terms for Qualifying Facilities in its 2018 biennial avoided cost proceeding (2018 Avoided Cost Order). In Findings of Fact Nos. 9 and 10 of the 2018 Avoided Cost Order the Commission found:

9. As a result of changes to the on- and off-peak hours being implemented in this Order, it is appropriate to waive the requirements of Rules R8-64(b)(6)(iii) and R8-71(k)(2)(iii)(6) and to require an applicant for a certificate of public convenience and necessity (CPCN) to submit information regarding the projected annual production profile of the proposed generating facility, until such time as the Commission adopts revisions to these Rules.

10. It is appropriate to consider amendments to the requirements of Rules R8-64(b)(6)(iii) and R8-71(k)(2)(iii)(6) to include information regarding the annual energy production profile and other factors influencing the shape of the production profile in a generic proceeding.

Commission Rule R8-64(b)(6)(iii) provides filing requirements for an application for a CPCN by an applicable electric generating facility entering into a contract of five years or more that is a non-solar photovoltaic facility larger than 5 MW or a solar photovoltaic facility larger than 25 MW. Commission Rule R8-71(k)(2)(iii) provides the filing requirements for a CPCN application for a utility-owned renewable energy facility selected in the Competitive Procurement of Renewable Energy (CPRE) Program pursuant to N.C. Gen. Stat. § 62-110.8.

In the 2018 Avoided Cost Order the Commission granted the limited waiver discussed in Finding of Fact No. 9 to allow CPCN applicants to substitute the following information for that currently required in Rules R8-64(b)(6)(iii)(a) and R8-71(k)(2)(iii)(6):

The projected annual hourly production profile for the first full year of operation of the renewable energy facility in kilowatt-hours, including an

explanation of potential factors influencing the shape of the production profile, including fixed tilt or tracking panel arrays, inverter loading ratio, over-paneling, clipped energy, or inverter AC output power limits.

2018 Avoided Cost Order at 30. The Commission also held that the “limited waiver allowed pursuant to this Order shall be in effect from the date of this Order until the Commission adopts revisions to Commission Rules R8-64(b)(6)(iii) and R8-71(k)(2)(iii)(6).” *Id.*

On May 12, 2020, the Commission issued an Order Initiating Rulemaking and Requesting Comments in this proceeding (Rulemaking Order) for the purpose of considering permanent adoption of the temporary waiver allowed in the 2018 Avoided Cost Order. The Rulemaking Order made Duke Energy Carolinas, LLC (DEC), Duke Energy Progress, LLP (DEP; together with DEC, Duke), and Virginia Electric and Power Company, Inc., d/b/a Dominion Energy North Carolina (DENC) parties of record in this proceeding and further recognized the participation of the Public Staff pursuant to N.C.G.S. § 62-15(d) and Commission Rule R1-19(e). The Rulemaking Order established a schedule for intervention and receipt of comments and reply comments on whether to make permanent the temporary changes to Rules R8-64(b)(6)(iii) and R8-71(k)(2)(iii)(6).

The North Carolina Sustainable Energy Association (NCSEA) and the North Carolina Clean Energy Business Alliance (NCCEBA) petitioned and were allowed to intervene in this proceeding; the intervention of the North Carolina Attorney General’s Office (AGO) is recognized pursuant to N.C.G.S. § 62-20.

On June 5, 2020, Duke and DENC filed letters stating that they do not oppose the proposed revisions to Rules R8-64(b)(iii) and R8-71(k)(2)(iii)(6).

Also, on June 5, 2020, the Public Staff filed comments that recommend one minor change to the proposed amendment, which is italicized for emphasis:

The projected annual hourly production profile for the first full year of operation of the renewable energy facility in kilowatt-hours, including an explanation of potential factors influencing the shape of the production profile, including *the following if applicable*: fixed tilt or tracking panel arrays, inverter loading ratio, over-paneling, clipped energy, or inverter AC output power limits.

Public Staff’s Comments at 3.

On June 26, 2020, Duke, DENC, and NCCEBA filed reply comments. In summary, NCCEBA states that it has no objection to the proposed amendment of Commission Rules R8-64(b)(iii) and R8-71(k)(2)(iii)(6). Duke and DENC specifically state that they have no objection to the Public Staff’s proposed modification. No other parties filed initial or reply comments.

## DISCUSSION AND CONCLUSIONS

The Commission has carefully considered all comments and reply comments, including the Public Staff's provision revisions. The Commission notes that no party opposed the proposed amendments to Rules R8-64(b)(6)(iii) and R8-71(k)(2)(iii)(6) or the revisions proposed by the Public Staff.

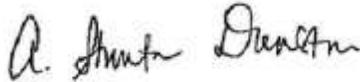
Based upon the foregoing and the entire record in this proceeding, the Commission finds good cause to approve as final the proposed amendments to Rules R8-64(b)(6)(iii)(a) and R8-71(k)(2)(iii)(6), including the revisions proposed by the Public Staff in its initial comments. Red-lined and clean versions of the amended rules are attached hereto as Appendix A and Appendix B.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of August, 2020.

NORTH CAROLINA UTILITIES COMMISSION



A. Shonta Dunston, Deputy Clerk

**Amended Rule R8-64(b)(6)(iii)**

- (iii) Exhibit 8 shall contain:
- a. The projected annual hourly production profile for the first full year of operation of the renewable energy facility in kilowatt-hours, including an explanation of potential factors influencing the shape of the production profile, including the following, if applicable: fixed tilt or tracking panel arrays, inverter loading ratio, over-paneling, clipped energy, or inverter AC output power limits; A detailed explanation of the anticipated kilowatt and kilowatt-hour outputs, on-peak and off-peak, for each month of the year. The explanation shall include a statement of the specific on-peak and off-peak hours underlying the applicant's quantification of anticipated kilowatt and kilowatt-hour outputs;
  - b. A detailed explanation of all energy inputs and outputs, of whatever form, for the project, including the amount of energy and the form of energy to be sold to each purchaser; and
  - c. A detailed explanation of arrangements for fuel supply, including the length of time covered by the arrangements, to the extent known at the time of the application.

**Amended Rule R8-71(k)(2)(iii)**

- (iii) Exhibit 3 shall include:
1. The nature of the renewable energy facility, including the type and source of its power or fuel;
  2. A description of the buildings, structures and equipment comprising the renewable energy facility and the manner of its operation;
  3. The gross and net projected maximum dependable capacity of the renewable energy facility as well as the renewable energy facility's nameplate capacity, expressed as megawatts (alternating current);
  4. The projected date on which the renewable energy facility will come on line;
  5. The service life of the project;
  6. The projected annual hourly production profile for the first full year of operation of the renewable energy facility in kilowatt-hours, including an explanation of potential factors influencing the shape of the production profile, including the following, if applicable: fixed tilt or tracking panel arrays, inverter loading ratio, over-paneling, clipped energy, or inverter AC output power limits; The projected annual production of the renewable energy facility in kilowatt-hours, including a detailed

~~explanation of the anticipated kilowatt and kilowatt-hour outputs, on-peak and off-peak, for each month of the year; and~~

7. The projected annual production of renewable energy certificates that is eligible for compliance with the State's renewable energy and energy efficiency portfolio standard.

**Amended Rule R8-64(b)(6)(iii)**

- (iii) Exhibit 8 shall contain:
- a. The projected annual hourly production profile for the first full year of operation of the renewable energy facility in kilowatt-hours, including an explanation of potential factors influencing the shape of the production profile, including the following, if applicable: fixed tilt or tracking panel arrays, inverter loading ratio, over-paneling, clipped energy, or inverter AC output power limits;
  - b. A detailed explanation of all energy inputs and outputs, of whatever form, for the project, including the amount of energy and the form of energy to be sold to each purchaser; and
  - c. A detailed explanation of arrangements for fuel supply, including the length of time covered by the arrangements, to the extent known at the time of the application.

**Amended Rule R8-71(k)(2)(iii)**

- (iii) Exhibit 3 shall include:
1. The nature of the renewable energy facility, including the type and source of its power or fuel;
  2. A description of the buildings, structures and equipment comprising the renewable energy facility and the manner of its operation;
  3. The gross and net projected maximum dependable capacity of the renewable energy facility as well as the renewable energy facility's nameplate capacity, expressed as megawatts (alternating current);
  4. The projected date on which the renewable energy facility will come on line;
  5. The service life of the project;
  6. The projected annual hourly production profile for the first full year of operation of the renewable energy facility in kilowatt-hours, including an explanation of potential factors influencing the shape of the production profile, including the following, if applicable: fixed tilt or tracking panel arrays, inverter loading ratio, over-paneling, clipped energy, or inverter AC output power limits; and
  7. The projected annual production of renewable energy certificates that is eligible for compliance with the State's renewable energy and energy efficiency portfolio standard.