

## BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, Sub 1289

In the Matter of:	)	
	)	
Application of Duke Energy Progress, LLC for	)	<b>DUKE ENERGY PROGRESS,</b>
a Certificate of Environmental Compatibility	)	<b>LLC'S PROPOSED ORDER</b>
and Public Convenience and Necessity	)	
Pursuant to N.C. Gen. Stat. §§ 62-100 <u>et. seq.</u>	)	
to Construct Approximately 2.1 Miles of New	)	
230 kV Transmission line in Wake County,	)	
North Carolina	)	

HEARD ON: Monday, August 22, 2022 at 7:00 p.m., at the Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina: Cancelled pursuant to *Order Cancelling Public Witness Hearing and Expert Witness Hearing*, issued August 15, 2022.

Monday, September 12, 2022, at 1:00 p.m., in Commission Hearing room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina: Cancelled pursuant to *Order Cancelling Public Witness Hearing and Expert Witness Hearing*, issued August 15, 2022.

## APPEARANCES:

For Duke Energy Progress, LLC:

Kathleen H. Richard, Counsel, Duke Energy Corporation, NCRH 20/Post Office Box 1551, Raleigh, North Carolina 27602

Brady W. Allen, The Allen Law Offices, PLLC, 4030 Wake Forest Rd., Suite 115, Raleigh, North Carolina 27609.

For Using and Consuming Public:

William E. H. Creech, Staff Attorney, Public Staff, North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699.

BY THE COMMISSION: On April 14, 2022, pursuant to N.C. Gen. Stat. § 62-100 et seq. and Commission Rule R8-62, Duke Energy Progress, LLC ("DEP") filed an application for a certificate of environmental compatibility and public convenience and

necessity (the “Application”) to construct approximately 2.1 miles of new 230 kV transmission line in Chatham County, North Carolina to serve Fuji Film Diosynth Biotechnologies, a proposed biopharmaceutical manufacturing facility. The application was filed simultaneously with the direct testimony and exhibits of Joshua Bledsoe, Bill Quaintance, and Micah E. Retzlaff. The new transmission line will connect the Holly Spring Utley Creek Substation to the existing Harris Plant-Wake 230 kV Transmission line.

On April 22, 2022, the Commission issued its *Order Scheduling Hearings and Requiring Public Notice*, scheduling a public hearing and an evidentiary hearing in Raleigh, North Carolina, allowing the filing of petitions to intervene, allowing the filing of direct and rebuttal testimony, and requiring DEP to give public notice of the application and of the scheduled hearing. DEP's Application was properly served on the parties designated by N.C. Gen. Stat. § 62-102.

On June 7, 2022, DEP, as required by the *Order Scheduling Hearings and Requiring Public Notice*, filed affidavits of proof of publication confirming that the Public Notice had been published for four successive weeks in Wake County beginning on May 5, 2022.

On June 14, 2022, the State Clearinghouse filed its State Environmental Review Clearinghouse Comments with the Commission stating that no further review is needed by the Commission for compliance with the North Carolina Environmental Policy Act.

On July 13, 2022, DEP filed a Motion to Proceed with Initial Clearing, Excavation, and Construction in order to permit it to begin initial construction activities of the line at its own risk to allow the timely development of the project.

On July 21, 2022, the Public Staff filed a letter recommending that the Commission issue an order to allow initial construction activities.

On July 28, 2022, the Commission issued its *Order Granting Motion to Proceed with Initial Clearing, Excavation, and Construction*.

On August 2, 2022, the Public Staff filed a letter stating:

Based upon our investigation of the application, exhibits, and other matters of record, the Public Staff believes that DEP has complied with the requirements of N.C.G.S. §. 62-102 and has demonstrated as required by N.C.G.S. §. 62-105 that: (1) the proposed transmission line is necessary; (2) when compared with reasonable alternative courses of action, construction of the line in the proposed location is reasonable; (3) the estimated costs associated with the line are reasonable; (4) the impact of the line on the environment is justified considering the state of available technology; and (5) the environmental compatibility, public convenience, and necessity requires the transmission line.

The Public Staff, therefore, “recommends that the Commission issue the certificate requested in this proceeding.”

On August 11, 2022, DEP filed a motion to cancel hearings scheduled in Raleigh, North Carolina.

On August 15, 2022, the Commission issued an *Order Cancelling Public Witness Hearing and Expert Witness Hearing* that for good cause cancelled the public witness hearing and expert witness hearing and ordered DEP to file a proposed order on or before September 14, 2022.

Based upon DEP’s verified application, the testimony and exhibits received into evidence and the entire record of this proceeding the Commission makes the following:

#### **FINDINGS OF FACT**

1. DEP is a public utility providing electric service to customers in its service area in North Carolina and is subject to the jurisdiction of the Commission.



2. The Commission has jurisdiction over DEP's application. Pursuant to N.C. Gen. Stat. § 62-100 et. seq. and Commission Rule R8-62, a public utility must receive a Certificate for Environmental Compatibility and Public Convenience and Necessity ("CPCN") prior to constructing transmission lines at or above 161 kV in North Carolina.

3. The proposed transmission tapline would originate at the site of a new Holly Spring Utley Creek Substation in the Town of Holly Springs in Wake County, North Carolina, and would terminate at a selected tap location along the existing Harris Plan-Wake 230 kV Transmission Line. The approximate total length of the proposed transmission tapline is 2.1 miles.

4. The Commission did not receive any written complaints or other written opposition regarding the proposed transmission line.

5. DEP's application meets the requirements of N.C. Gen. Stat. § 62-102.

6. DEP has carried its burden of proof under N.C. Gen. Stat. § 62-105(a) through substantial, competent evidence showing that:

- (a) the proposed transmission line is necessary to satisfy the reasonable needs of the public for an adequate and reliable supply of electricity;
- (b) when compared with reasonable alternative courses of action, construction of the transmission line in the proposed location is reasonable, preferred, and in the public interest;
- (c) the costs associated with the proposed transmission line are reasonable;
- (d) the impact that the proposed transmission line will have on the environment is justified considering the state of available technology, the nature and economics of the alternatives, and other material considerations; and

- (e) the environmental compatibility, public convenience and necessity require the construction of the transmission line.

7. It is in the public interest, reasonable, and appropriate to grant the requested certificate.

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-2**

These findings of fact are essentially informational, jurisdictional, and procedural in nature and uncontroverted.

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 3-7**

The evidence supporting these findings of fact appear in DEP's application, the direct testimony of DEP witnesses Bledsoe, Quaintance, and Retzlaff, the study filed by DEP, and the recommendation of the Public Staff.

The parties' respective burdens of proof in this proceeding are governed by statute. N.C. Gen. Stat. § 62-105(a). The Commission has in the past interpreted the burden of proof requirement set forth in N.C. Gen. Stat. § 62-105(a) as follows:

In interpreting this statute, the Commission concludes that the electric utility applying for approval to site a transmission line has the initial burden of proof, including that it examined "reasonable alternative courses of action" and that "construction of the transmission line in the proposed location is reasonable, preferred, and in the public interest." A landowner or other intervenor who believes that an alternative route studied by the utility is preferable to that proposed or that the utility did not consider or appropriately weigh relevant factors in reaching its decision may introduce evidence and otherwise argue that the utility has not met its burden of proof. Once the utility has sustained its burden of proof, a landowner or other intervenor proposing an alternative not originally examined by the utility has the burden under the statute of proving that its alternative should have been studied and is preferable to the proposed route.

Final Order Overruling Exceptions and Affirming Recommended Order, *Application of Carolina Power and Light Company for a Certificate of Environmental Compatibility and*

*Public Convenience and Necessity to Construct Approximately 19.6 Miles of 230 kV Transmission Line in Wayne, Duplin, and Sampson Counties, North Carolina* Docket No. E-2, Sub 796, at 2 (August 29, 2002).

In considering other “relevant and material” factors pursuant to N.C. Gen. Stat. § 62-105(a), the Commission notes that “[i]t is hereby declared to be the policy of North Carolina: ... (5) To encourage and promote harmony between public utilities, their users and the environment.” N.C. Gen. Stat. § 62-2. In addition, the Commission considers the following declaration of State environmental policy:

The General Assembly of North Carolina, recognizing the profound influence of man's activity on the natural environment, and desiring, in its role as trustee for future generations, to assure that an environment of high quality will be maintained for the health and well-being of all, declares that it shall be the continuing policy of the State of North Carolina to conserve and protect its natural resources and to create and maintain conditions under which man and nature can exist in productive harmony. Further, it shall be the policy of the State to seek, for all of its citizens, safe, healthful, productive and aesthetically pleasing surroundings; to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety; and to preserve the important historic cultural elements of our common inheritance.

N.C. Gen. Stat. § 113A-3.

### **Showing of need**

DEP witness Quaintance testified regarding the need to build a new 230 kV substation and new transmission line necessary to energize the substation that is on the west side of the Town of Holly Springs in Wake County, North Carolina. DEP witness Quaintance testified that the area is currently served by two general distribution circuits routed near the Fujifilm Diosynth site. One feeder serves primarily industrial and commercial load. The second feeder serves residential load in the community and surrounding developments. Approximately 3 MVA (megavolt-amperes) of capacity exists



in each circuit, and this capacity is expected to be required to address continued growth in the Holly Springs area.

DEP witness Quaintance testified that Fujifilm Diosynth is requesting up to 28 MVA, which would require a minimum of three dedicated general distribution feeders, and there are no existing empty feeder breaker positions in the area infrastructure. Typically, single customer load of at least 8 MW is served from transmission lines to address both loading and power quality concerns. As such, DEP witness Quaintance stated construction of a new transmission substation is required to satisfy this load addition.

### **The routing study and selection process**

After having established the need for the transmission of power to the new substation, DEP witness Retzlaff testified that DEP retained JacobsCH2M Hill North Carolina, Inc., a subsidiary of Jacobs Engineering Group, Inc. (“Jacobs”), an American international technical professional services firm with substantial utility and infrastructure siting experience. Jacobs was retained to assist DEP with the line siting and soliciting necessary public input for the project. Jacobs prepared the Study attached as Exhibit A to DEP’s application. DEP and Jacobs established the study area, which was designed to provide a set of reasonable and geographically-distinct transmission line route options. Data was then collected from publicly available sources, grouped into categories, and then assigned a weight from one to ten to reflect potential sensitivity to the presence of a transmission line. With this data, Jacobs developed alternative routes and conducted a quantitative analysis of potential impact to the identified area sensitivities. This allowed DEP to consider alternatives and ultimately select Route D as the preferred route for the transmission line. The objective of the routing analysis was to identify economically

feasible routes that connected the proposed Holly Springs Utley Creek Substation to the Harris Plant-Wake 230kV transmission line while avoiding or minimizing impacts to both community and natural resources.

DEP witness Retzlaff testified that the route selection process sought public input to solicit study area data and determine community values relative to the proposed project, including an agency scoping meeting and other communications with Federal, State, and local agencies. Since all the transmission line segments were located predominantly on DEP-owned property, DEP communicated directly with owners of nearby properties to introduce the project and receive input from stakeholders and local public officials.

DEP contacted the following state and federal agencies to solicit input regarding the proposed transmission line's potential impact on threatened or endangered species, wetlands, wildlife resources, stream sensitivity, hydric soils, and other potential issues: U.S. Army Corp of Engineers, U.S. Fish and Wildlife Services, NC Wildlife Resources Commission, N.C. Natural Heritage Program, and N.C. Department of Environmental Quality, including the N.C. Division of Water Resources and the N.C. Division of Land Quality. Due to the ongoing COVID-19 pandemic, the State Clearinghouse suggested that no in-person project scoping meeting take place as has been customary on previous projects.

As noted in the routing study and DEP witness Retzlaff's testimony, due to the COVID-19 pandemic and because only one private property owner would be directly impacted by any of the alternative route segments, DEP determined the most effective tool for communication information about the project was a project website. The website allowed visitors to review a map of the project area, alternative segment location, and status



of the project. Additionally, DEP mailed notifications to property owners directly impacted or within 500 feet of any study segment informing each property owner of the project, providing project related information, and inviting property owners to meet with DEP representatives to ask questions about the project, provide feedback and data about properties within the study area, and learn about project updates. This included outreach to individuals and entities involved in developing the private property around the substation and route alternatives.

Jacobs identified five (5) distinct routes using a combination of seven (7) line segments. After analyzing route alternatives based on technical, social, land use, and ecological factors, DEP Witness Retzlaff testified DEP's siting team determined that Alternative Route D was the preferred route for the following reasons: it maximizes distance to existing and planned residential developments; the route has the least amount of right-of-way acreage below the 265 foot elevation, minimizing the need for structure replacements should Harris lake levels be increased due to additional reactors; it minimizes impact to identified ecological sensitivities in that area including wetlands and waterbodies; and the route is limited to property currently owned by Duke Energy, except for a small section on a single, privately-owned property. Additionally, Alternative Route D was the least overall impacting route in the numerical evaluation performed for the project. DEP witness Retzlaff testified that by using standard construction procedures and mitigation techniques when coordinating the project with State and Federal Agencies, the construction, operation, and maintenance of the proposed project will have limited effects on the natural and social resources within the area. The total estimated cost for the project is \$6,530,000.00.

Alternative Route D, which was described by DEP in its application for a CPCN, originates at a tap location adjacent to Structure 22 on the Harris Plant – Wake 230 kV transmission line and is approximately 2.18 miles. From the tap location, the route travels southeasterly paralleling the stream towards the southeast for approximately 0.40 miles, runs east for approximately 0.58 miles, and then cross the north side of White Oak Creek before angling south for approximately 0.20 miles, crossing Utley Creek and extending 1 mile to the proposed substation location. However, as stated in its application and the testimony of DEP witnesses Bledsoe and Retzlaff, DEP’s line engineering team made minor adjustments to the selected path after the line selection process, but before the application was filed, in order to meet the in-service date of August 2023.<sup>1</sup>

According to the Company’s Application, there was insufficient time to restart the route development process and construct the line in time to meet the service deadline. The Application states the deviated line follows the segments of Alternative Route D, but sharp angles and impacts to wetlands have been minimized, which decrease the overall construction costs. DEP witness Bledsoe testified that the adjustments were made after a site visit was performed by the line engineering team. The tap location was relocated to an easier to access location to facilitate construction and to provide better locations for the line switches to be installed. The line route was adjusted to reduce the total number of points of intersection, which reduces the number of poles required, thereby reducing the cost of materials and installations. DEP witness Bledsoe also testified that the impacts of the line deviations to the surrounding area that was studied in the transmission line siting

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<sup>1</sup> In its application, DEP inadvertently stated the in-service date was September 2023, but the committed service date is actually August 1, 2023, as corrected by DEP in its *Motion to Proceed with Initial Clearing, Excavation, and Construction*.

and public input process will be minimal. DEP witness Bledsoe stated the tap line is still over 3000 feet from the closest subdivision and that the deviations in the middle of the line route bring the line more toward the center of DEP-owned land, which reduces impacts to surrounding areas.

As described in DEP's application, the deviated route is approximately 2.1 miles. The route's tap location on the Harris Plant – Wake 230 kV line is approximately 280 feet west of Structure 26. The route travels south-southeast from the tap location approximately 0.44 miles, then turning east-southeast for 0.80 miles and crossing White Oak Creek and its associated floodway to a point approximately 180 feet south of Utley Creek. The route then bears east for approximately 0.86 miles to the proposed substation location.

DEP witness Bledsoe testified that it is not uncommon for lines to deviate from the initial line siting and public input process as the project progresses. In its application, DEP refers to two previous transmission lines CPCN proceedings, which deviated slightly.<sup>2</sup> DEP witness Bledsoe stated the deviation for this line is insignificant and that DEP proposed to include a description of the deviated line in its public notice to accurately reflect the exact location of the line. The Public Notice approved by the Commission contained a description of the updated route.

The Commission did not receive any written complaints or other consumer statements of position regarding the proposed transmission line.

### **Discussion and Conclusions**

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<sup>2</sup> DEP cites its Re-Filed Deviation of Approved, New 230 kV Transmission, Docket No. E-2, Sub 1215 (filed October 1, 2020), in which DEP filed notice of a proposed deviation of minimal impact for informational purposes, and Commission Order Granting Certificate of Environmental Compatibility and Public Convenience and Necessity, Docket No. E-2, Sub 1160, January 12, 2018, in which DEP agreed to consider minor adjustments to the Proposed Route, provided that additional landowners would not be affected by such adjustment.



Having carefully reviewed the application and based upon all the evidence of the record and the recommendation of the Public Staff, the Commission concludes that DEP has carried its burden of proof pursuant to N.C. Gen. Stat. § 62-105(a) in demonstrating that the proposed transmission line is necessary for an adequate and reliable supply of electric energy to its service area. The Commission next concludes that DEP has carried its burden of proof in successfully demonstrating that the updated route of Alternative Route D is the preferred transmission line route, that the public notice provided by the Company was appropriate under the circumstances, that construction of a transmission line along the updated Alternative Route D is in the public interest, and that the proposed costs associated therewith are reasonable.

IT IS, THEREFORE, ORDERED as follows:

1. That pursuant to N.C. Gen. Stat. § 62-102, a certificate of environmental compatibility and public convenience and necessity to construct approximately 2.1 miles of new 230 kV transmission line Wake County, North Carolina, as described in DEP's application is hereby issued to DEP, and the same is attached hereto as Appendix A, subject to the conditions set forth herein and therein.

ISSUED BY ORDER OF THE COMMISSION.

This is the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

NORTH CAROLINA UTILITIES COMMISSION

Shonta Davis, Chief Clerk

### CERTIFICATE OF SERVICE

I certify that a copy of the Proposed Order of Duke Energy Progress, LLC, in Docket No. E-2, Sub 1289, has been served by electronic mail, hand delivery or by depositing a copy in the United State mail, postage prepaid to the following parties:

William E. H. Creech  
Public Staff  
North Carolina Utilities Commission  
4326 Mail Service Center  
Raleigh, NC 27699-4326  
[zeke.creech@psncuc.nc.gov](mailto:zeke.creech@psncuc.nc.gov)

This is the 8th day of September, 2022.



Brady W. Allen  
The Allen Law Offices, PLLC  
4030 Wake Forest Rd., Suite 115  
Raleigh, NC 27609  
919-838-5175  
[Brady.Allen@theallenlawoffices.com](mailto:Brady.Allen@theallenlawoffices.com)

ATTORNEY FOR DUKE ENERGY  
PROGRESS, LLC