

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 101
DOCKET NO. E-2, SUB 1159
DOCKET NO. E-7, SUB 1156

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-100, SUB 101)	
)	
In the Matter of)	
Petition for Approval of Generator)	
Interconnection Standard)	
)	
DOCKET NO. E-2, SUB 1159)	ORDER GRANTING
DOCKET NO. E-7, SUB 1156)	FURTHER LIMITED WAIVER
)	
In the Matter of)	
Joint Petition of Duke Energy Carolinas,)	
LLC, and Duke Energy Progress, LLC,)	
for Approval of Competitive Procurement)	
of Renewable Energy Program)	

BY THE COMMISSION: On December 6, 2018, the Commission issued an order upon petition of Cypress Creek Renewables, LLC (Cypress Creek), granting a limited waiver of Section 4.3.9 of the North Carolina Interconnection Procedures (NCIP) requiring prepayment or nonrefundable financial security (Milestone Payments) to cover Network Upgrades for two projects then being developed by wholly-owned subsidiaries of Cypress Creek: Fair Bluff Solar, LLC (Fair Bluff Solar) and Homer Solar, LLC (Homer Solar, collectively Movants). Fair Bluff Solar and Homer Solar are both interdependent with earlier-queued FERC-jurisdictional Interconnection Customer, Friesian Solar LLC (Friesian). Friesian, Fair Bluff Solar, and Homer Solar require interdependent Network Upgrades for interconnection (the Interdependent Upgrades); Fair Bluff Solar and Homer Solar also require additional Network Upgrades for interconnection (the Independent Upgrades). As the earlier-queued project, Friesian is responsible for the costs of the Interdependent Upgrades unless it withdraws from the queue. The Commission's December 6, 2018 Order stated:

Based upon the filings of the parties and the record and the unique circumstances surrounding [Fair Bluff Solar and Homer Solar], the Commission finds and concludes that good cause exists to grant Cypress Creek's petition for a waiver and to temporarily waive the requirement pursuant to Section 4.3.9 as to [Fair Bluff Solar and Homer Solar] and require instead that [Fair Bluff Solar and Homer Solar] provide Milestone Payments

for the Independent Upgrades upon the earlier of: (i) Friesian Solar having made a contractual commitment to fund the Interdependent Upgrades that is irrevocable and not subject to any contingencies, (ii) Friesian Solar having been removed from the queue, or (iii) December 31, 2019.

On December 11, 2019, Fair Bluff Solar and Homer Solar¹ filed a Motion for Extension of Waiver in the above-captioned dockets requesting an extension of the limited waiver granted by the Commission in its December 6, 2018 Order.

On December 20, 2019, the Commission issued an Order Granting Further Limited Waiver, which extended the waiver of payment of the Milestone Payments pursuant to Section 4.3.9 of the NCIP, and required Fair Bluff Solar and Homer Solar to provide the Milestone Payments within ten business days following the earlier of (i) Friesian having made a contractual commitment to fund the Interdependent Upgrades that is irrevocable and not subject to any contingencies, (ii) Friesian having been removed from the queue, (iii) the execution of the Interconnection Agreements for Fair Bluff Solar and Homer Solar, or (iv) December 31, 2020.

On June 11, 2020, the Commission issued an Order Denying Certificate of Public Convenience and Necessity for Merchant Generating Facility, denying Friesian's request for a certificate of public convenience and necessity (CPCN) in Docket No. E-105, Sub 0.

On August 10, 2020, the North Carolina Sustainable Energy Association (NCSEA) and the North Carolina Clean Energy Business Alliance (NCCEBA) filed a Joint Notice of Appeal from the Commission's June 11, 2020 Order denying Friesian's request for a CPCN in Docket No. E-105, Sub 0. The appeal is pending before the North Carolina Court of Appeals.

On November 25, 2020, Fair Bluff Solar and Homer Solar filed a Motion for Waiver requesting further extension of the waiver of payment of the Milestone Payments pursuant to Section 4.3.9 of the NCIP. In their motion, Fair Bluff Solar and Homer Solar request that the Commission:

extend the waiver of payment of the Milestone Payments and require instead that Fair Bluff Solar and Homer Solar provide the Milestone Payments within ten (10) business days following the earlier of (i) Friesian having made a contractual commitment to fund the Interdependent Upgrades that is irrevocable and not subject to any contingencies, (ii) Friesian having been removed from the queue, (iii) the execution of the Interconnection Agreements for Fair Bluff Solar and Homer Solar, or (iv) December 31, 2021.

¹ On September 23, 2019, and December 6, 2019, Fair Bluff Solar (Docket No. SP-8210, Sub 0) and Homer Solar (Docket No. SP-8056, Sub 0) each notified the Commission of changes in upstream ownership of the projects — first from Cypress Creek to Sorghum Holdings, LLC, and subsequently to Friesian Portfolio Acquisition, LLC.

In support of their motion, Fair Bluff Solar and Homer Solar state that they remain uniquely and negatively impacted by the Milestone Payment requirement of Section 4.3.9 of the NCIP. The Movants note that as a FERC-jurisdictional Interconnection Customer Friesian is not subject to the Milestone Payment requirement. Absent the waiver, the Movants state they would be required to make the Milestone Payment prior to Friesian making a commitment to fund the Interdependent Upgrades. The Movants further state that if they are ultimately responsible for paying the cost of the Interdependent Upgrades, the Fair Bluff Solar and Homer Solar projects would likely be infeasible from a cost perspective, would be forced to exit the queue, and would forfeit the Milestone Payment.

Fair Bluff Solar and Homer Solar note in the Motion that Duke Energy Progress, LLC, Duke Energy Carolinas, LLC, the Public Staff, NCSEA, and NCCEBA do not oppose extension of the waiver.

After careful consideration, the Commission finds good cause to grant the motion and extend the limited waiver previously granted to Fair Bluff Solar and Homer Solar based upon the continued unique circumstances surrounding their projects. The Commission, therefore, will extend the waiver of payment of the Milestone Payments pursuant to Section 4.3.9 of the NCIP, and require instead that Fair Bluff Solar and Homer Solar provide the Milestone Payments within ten business days following the earlier of (i) Friesian's having made a contractual commitment to fund the Interdependent Upgrades that is irrevocable and not subject to any contingencies, (ii) Friesian's having been removed from the queue, (iii) the execution of the Interconnection Agreements for Fair Bluff Solar and Homer Solar, or (iv) December 31, 2021.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of December, 2020.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink, appearing to read "Joann R. Snyder". The signature is written in a cursive, flowing style.

Joann R. Snyder, Deputy Clerk