

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 141

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
2015 Integrated Resource Plan Update) ORDER ACCEPTING FILING OF
Reports and Related 2015 REPS) 2015 UPDATE REPORTS AND
Compliance Plans) APPROVING 2015 REPS
) COMPLIANCE PLANS

HEARD: Monday, February 8, 2016, at 7:00 p.m. in Commission Hearing Room
2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner Bryan E. Beatty, Presiding; Chairman Edward S. Finley, Jr.,
and Commissioners ToNola D. Brown-Bland, Don M. Bailey, Jerry C.
Dockham, and James G. Patterson

APPEARANCES:

For Virginia Electric and Power Company, d/b/a Dominion North Carolina Power:

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Raleigh, North Carolina 27601

For Duke Energy Progress, LLC, and Duke Energy Carolinas, LLC:

Lawrence B. Somers, Deputy General Counsel, Duke Energy Corporation, P.O.
Box 1551, Raleigh, North Carolina 27602

For North Carolina Waste Awareness and Reduction Network:

John D. Runkle, 2121 Damascus Church Road, Chapel Hill, North Carolina 27516

For Southern Alliance for Clean Energy and Sierra Club:

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West Rosemary Street, Suite 220, Chapel Hill, North Carolina 27516

For North Carolina Sustainable Energy Association:

Peter Ledford, 4800 Six Forks Road, Suite 300, Raleigh, North Carolina 27609

For the Using and Consuming Public:

Robert S. Gillam, Staff Attorney, Public Staff-North Carolina Utilities Commission,
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BY THE COMMISSION: Integrated Resource Planning (IRP) is intended to identify those electric resource options that can be obtained at least cost to the utility and its ratepayers consistent with the provision of adequate, reliable electric service. IRP considers demand-side alternatives, including conservation, efficiency, and load management, as well as supply-side alternatives in the selection of resource options. Commission Rule R8-60 defines an overall framework within which the IRP process takes place in North Carolina. Analysis of the long-range need for future electric generating capacity pursuant to G.S. 62-110.1 is included in the Rule as a part of the IRP process.

General Statute (G.S.) 62-110.1(c) requires the Commission to “develop, publicize, and keep current an analysis of the long-range needs” for electricity in this State. The Commission's analysis should include: (1) its estimate of the probable future growth of the use of electricity; (2) the probable needed generating reserves; (3) the extent, size, mix, and general location of generating plants; and (4) arrangements for pooling power to the extent not regulated by the Federal Energy Regulatory Commission (FERC). Further, G.S. 62-110.1 requires the Commission to consider this analysis in acting upon any petition for the issuance of a certificate for public convenience and necessity for construction of a generating facility. In addition, G.S. 62-110.1 requires the Commission to submit annually to the Governor and to the appropriate committees of the General Assembly a report of its: (1) analysis and plan; (2) progress to date in carrying out such plan; and (3) program for the ensuing year in connection with such plan. G.S. 62-15(d) requires the Public Staff to assist the Commission in making its analysis and plan pursuant to G.S. 62-110.1.

G.S. 62-2(a)(3a), in pertinent part, declares it a policy of the State to:

assure that resources necessary to meet future growth through the provision of adequate, reliable utility service include use of the entire spectrum of demand-side options, including but not limited to conservation, load management and efficiency programs, as additional sources of energy supply and/or energy demand reductions. To that end, to require energy planning and fixing of rates in a manner to result in the least cost mix of generation and demand-reduction measures which is achievable, including consideration of appropriate rewards to utilities for efficiency and conservation which decrease utility bills

Session Law (S.L.) 2007-397 (Senate Bill 3), signed into law on August 20, 2007, amended G.S. 62-2(a) to add subsection (a)(10) that provides that it is the policy of North Carolina “to promote the development of renewable energy and energy efficiency through the implementation of a Renewable Energy and Energy Efficiency Portfolio Standard (REPS)” that will: (1) diversify the resources used to reliably meet the energy needs of North Carolina’s consumers, (2) provide greater energy security through the use of indigenous energy resources available in North Carolina, (3) encourage private investment in renewable energy and energy efficiency, and (4) provide improved air quality and other benefits to the citizens of North Carolina. To that end, Senate Bill 3 further provides that “[e]ach electric power supplier to which G.S. 62-110.1 applies shall include an assessment of demand-side management and energy efficiency in its resource plans submitted to the Commission and shall submit cost-effective demand-side management and energy efficiency options that require incentives to the Commission for approval.”¹

Senate Bill 3 also defines demand-side management (DSM) as “activities, programs, or initiatives undertaken by an electric power supplier or its customers to shift the timing of electric use from peak to nonpeak demand periods” and defines an energy efficiency (EE) measure as “an equipment, physical or program change implemented after 1 January 2007 that results in less energy being used to perform the same function.”² EE measures do not include DSM.

To meet the requirements of G.S. 62-110.1 and G.S. 62-2(a)(3a), the Commission conducts an annual investigation into the electric utilities’ IRPs. Commission Rule R8-60 requires that each utility, to the extent that it is responsible for procurement of any or all of its individual power supply resources (collectively, the utilities),³ furnish the Commission with a Biennial Report in even-numbered years that contains the specific information set out in Rule R8-60. In odd-numbered years, each of the electric utilities must file an Update Report updating its most recently filed Biennial Report.

Further, Commission Rule R8-67(b) requires any electric power supplier subject to Rule R8-60 to file a REPS compliance plan as part of each Biennial and Update Report. In addition, each Biennial and Update Report should (1) be accompanied by a short-term action plan that discusses those specific actions currently being taken by the utility to implement the activities chosen as appropriate per the applicable biennial and annual reports and (2) incorporate information concerning the construction of transmission lines pursuant to Commission Rule R8-62(p).

¹ G.S. 62-133.9(c).

² G.S. 62-133.8(a)(2) and (4).

³ During the 2013 Session, the General Assembly enacted S.L. 2013-187 (House Bill 223), which exempted the EMCs from the requirements of G.S. 62-110.1(c) and G.S. 62-42, effective July 1, 2013. As a result, EMCs are no longer subject to the requirements of Rule R8-60 and are no longer required to submit IRPs to the Commission for review.

Within 150 days after the later of either September 1 or the filing of each utility's Biennial Report, the Public Staff or any other intervenor may file an integrated resource plan or report of its own as to any utility or may file an evaluation of or comments on the reports filed by the utilities, or both. The Public Staff or any intervenor may identify any issue that it believes should be the subject of an evidentiary hearing. Within 60 days after the filing of initial comments, the parties may file reply comments addressing any substantive or procedural issue raised by any other party. A hearing to address issues raised by the Public Staff or other intervenors may be scheduled at the discretion of the Commission. The scope of any such hearing shall be limited to such issues as identified by the Commission. One or more hearings to receive testimony from the public, as required by law, shall be set at a time and place designated by the Commission.

Within 60 days after the filing of each utility's Update Report required by section (j) of Rule R8-60, the Public Staff or any other intervenor may file an update report of its own as to any utility. Further, within the same time period the Public Staff shall report to the Commission whether each utility's Update Report meets the requirements of this rule. Intervenors may request leave from the Commission to file comments. Comments will be received or expert witness hearings held on the Update Reports only if the Commission deems it necessary. The scope of any comments or expert witness hearing shall be limited to issues identified by the Commission. One or more hearings to receive testimony from the public, as required by law, shall be set at a time and place designated by the Commission.

By November 30 of each year, each utility individually or jointly shall hold a meeting to review its Biennial or Update Report with interested parties.

2015 Update Reports

This Order addresses the 2015 Update Reports (2015 IRPs) filed in Docket No. E-100, Sub 141, by Duke Energy Progress, LLC (DEP); Duke Energy Carolinas, LLC (DEC); and Dominion North Carolina Power (DNCP) (collectively, the investor-owned utilities, utilities or IOUs). In addition, this Order also addresses the REPS compliance plans filed by the IOUs.

The following parties have been allowed to intervene in this docket: Carolina Industrial Group for Fair Utility Rates I, II, and III (CIGFUR); Carolina Utility Customers Association, Inc. (CUCA); Environmental Defense Fund (EDF); Mid-Atlantic Renewable Energy Coalition (MAREC); North Carolina Sustainable Energy Association (NCSEA); North Carolina Waste Awareness and Reduction Network (NC WARN); North Carolina Electric Membership Corporation (NCEMC); Sierra Club; and Southern Alliance for Clean Energy (SACE). The Public Staff's intervention is recognized pursuant to G.S. 62-15(d) and Commission Rule R1-19(e).

Procedural History

On July 1, 2015, DNCP filed its 2015 IRP Update Report and 2015 REPS compliance plan. On July 31, 2015, DNCP filed an Errata to page 124 of its Update Report.

On August 27, 2015, the Public Staff filed a Motion for Extension of Time to file a report on whether the IRP of DNCP meets Commission requirements and for parties to file comments on DNCP's July 1 filing. Also on August 27, the Presiding Commissioner granted an extension of time to allow the Public Staff until September 21, 2015, to complete its compliance review, and to allow any party until September 21, 2015, to seek leave to file comments on DNCP's IRP Update Report.

On September 1, 2015, DEC and DEP filed 2015 IRP Update Reports and related REPS compliance plans. On September 9, 2015, DEP filed a revised page 22 to its Update Report to correct a typographical error.

On September 17, 2015, the Public Staff filed a Motion to Authorize Combined Comments on REPS Compliance Plans, asking that the Commission designate October 22, 2015, as the deadline for filing the combined comments on the REPS compliance plans of DEC, DEP and DNCP. This motion was approved on September 18, 2015, by the Presiding Commissioner. The order also noted that November 2, 2015, shall continue to be the deadline for parties to seek leave to file comments on DEC's and DEP's IRPs.

On September 21, 2015, the Public Staff filed its report regarding whether DNCP's Update Report meets the requirements of Commission Rule R8-60(j). Based on its review, the Public Staff determined that DNCP's Update Report met the requirements of the rule.

On September 28, 2015, Duke Energy filed notice that, after communicating with the parties, the stakeholder meeting to review the 2015 DEP and DEC IRPs has been scheduled for November 6, 2015, in Raleigh.

On October 22, 2015, the Public Staff filed its Comments on REPS Compliance Plans submitted by DEP, DEC and DNCP as part of their 2015 Update Reports. In its conclusions, the Public Staff stated that:

1. DEP, DEC, and DNCP should be able to meet their REPS obligations during the planning period, with the exception of the swine and poultry waste set-asides, without nearing or exceeding their cost caps.
2. DEP and DEC do not expect to meet the swine and poultry waste requirements in 2015 and are uncertain about meeting the requirements in 2016 and 2017. DNCP will have difficulty meeting the

swine waste requirements for itself during the reporting period, and the poultry waste requirements for Windsor in 2015; but it expects to meet the poultry waste requirements for itself throughout the reporting period, the swine waste requirements for Windsor throughout the period, and the poultry waste requirements for Windsor in 2016 and 2017. DEP, DEC, and DNCP are actively seeking energy and RECs to meet the set-aside requirements for the years in which they expect to fall short of compliance.

3. The Commission should approve the 2015 REPS Compliance Plans filed by DEP, DEC, and DNCP.

On October 27, 2015, DEC filed a Revision to Allen Units 1-3 Expected Retirement Date. In the filing, DEC stated that “pursuant to a settlement agreement to end the remaining component of a civil lawsuit filed in 2000 against Duke Energy Corporation by the U.S. Justice Department on behalf of the Environmental Protection Agency, DEC agreed to retire Allen Units 1, 2 and 3 by December 31, 2024. The U.S. District Court for the Middle District of North Carolina approved that settlement on October 20, 2015.”

On November 2, 2015, the Public Staff submitted its report regarding whether DEC's and DEP's Update Reports met the requirements of Commission Rule R8-60(j). Based on its review, the Public Staff determined that DEC's and DEP's Update Reports did meet the requirements of the rule.

Also on November 2, 2015, NC WARN filed a Motion to Seek Leave to File Comments. Attached to its motion were NC WARN's proposed comments. In its proposed comments, NC WARN made four main assertions: (1) that Duke's forecasts for growth in demand for electricity are exaggerated; (2) that Duke fails to plan to use strategic purchases and cooperation with other utilities; (3) that Duke's IRPs include its continued reliance on expensive and unnecessary new natural gas and nuclear plants; and (4) that Duke fails to plan for the use of cost-effective and readily available renewable energy, energy efficiency measures, and combined heat and power (CHP) resources. In addition, NC WARN incorporated by reference its updated report entitled “A Responsible Energy Future for North Carolina.”

On November 9, 2015, DEC and DEP filed an Objection to NC WARN's Motion to Seek Leave to File Comments. In summary, DEC and DEP submitted that NC WARN's proposed comments restate the same opinions and allegations that NC WARN has filed and that the Commission has rejected in previous IRP dockets. Duke requested that the Commission deny NC WARN's motion and decline to accept NC WARN's proposed comments.

On November 23, 2015, the Commission issued an Order Scheduling Public Hearing on 2015 IRP Update Reports and Related 2015 REPS Compliance Plans. The order set the required Public Hearing for the night of February 8, 2016.

Also on November 23, 2015, the Commission issued an Order Denying Leave to File Comments and Declining to Accept Comments. In the Discussion and Conclusion section of that order the Commission stated the following:

General Statute 62-110.1(c), in pertinent part, requires the Commission to “develop, publicize, and keep current an analysis of the long-range needs for expansion of facilities for the generation of electricity in North Carolina, including its estimate of the probable future growth of the use of electricity.” The purpose of the IRP process is to gather facts and opinions that assist the Commission and the utilities to plan now in order to be in a position to make informed decisions at a later time. On the other hand, the IRP process is not designed to result in Commission “directives which fundamentally alter a given utility's operations.” Instead, those directives are appropriate in other types of Commission proceedings, such as certificate of public convenience and necessity and complaint proceedings. See State ex rel. Utils. Comm’n v. North Carolina Electric Membership Corporation, 105 N.C. App. 136, 144, 412 S.E.2d 166, 170, 173 (1992).

As noted earlier, the Commission amended Rule R8-60 to establish guidelines for the Commission's review of the IRP updates filed by the electric utilities in odd-numbered years. As fully discussed in the IRP Procedure Order, one purpose of the amendments is to streamline the process for the Public Staff's review and the Commission's decision on the IRP updates. The IRP update process had become cumbersome and time consuming, due in large part to repetitive filings addressing the same or substantially similar facts. In an effort to alleviate unneeded repetition, the Commission adopted Rule R8-60(l), requiring that intervenors request leave from the Commission to file comments on the update reports, and providing that such comments will be limited to issues identified by the Commission.

The proposed comments filed by NC WARN are essentially the same as the comments filed by NC WARN in the 2014 IRP biennial proceeding. The Commission carefully considered NC WARN's comments in the 2014 IRP proceeding. However, the Commission is not convinced that these same comments are helpful in the present IRP update proceeding. As a result, the Commission is not persuaded that there is good cause to grant NC WARN's motion for leave to file comments. Therefore, the Commission concludes that the motion should be denied and the comments should not be accepted.

In addition, the Commission emphasizes that Rule R8-60(l) limits intervenor comments, when permitted by leave of the Commission, to those issues identified by the Commission. Thus, it is intended and will be helpful if parties will file their motion for leave to file comments and identify the issues that they seek to address.

Public Hearing

Pursuant to G.S. 62-110.1(c), the Commission held a required public hearing in Raleigh on February 8, 2016, as scheduled. Thirteen public witnesses spoke. Eight of the 13 discussed various issues related to smart meters, which are part of a separate proceeding in this docket.

The five public witnesses that addressed IRP related issues were all customers of Duke Energy. Most of their testimony expressed their views that Duke is not paying enough attention to solar and other forms of renewable energy such as biomass, geothermal, hydro and wind generation as potential alternatives. In addition, they opined that the cost of solar and wind generation is plummeting and that battery storage has arrived in the market.

Various issues related to coal generation and coal ash were also discussed, as well as the view that energy efficiency is already the least-cost resource available.

Conclusion

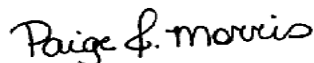
Based upon the record in this proceeding, and the comments of the Public Staff regarding the IRP Update Reports and REPS compliance plans submitted by DEC, DEP and DNCP, the Commission hereby accepts the Update Reports filed by the utilities as complete and fulfilling the requirements set out in Commission Rule R8-60. The Commission further approves the REPS compliance plans submitted by DEC, DEP and DNCP as recommended by the Public Staff.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of March, 2016.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Paige J. Morris".

Paige J. Morris, Deputy Clerk

Commissioner Lyons Gray did not participate in this decision.