

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 176

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition to Revise Commission Rules)	INITIAL COMMENTS OF
R8-63 and R8-64)	THE PUBLIC STAFF

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and respectfully submits the following comments on the proposed revisions to Commission Rules R8-63 and R8-64, Attachments A and B to the Commission’s April 1, 2024 Order Requesting Comments.

1. On August 19, 2021, the Public Staff filed a Petition to Amend Commission Rules R8-63 and R8-64 (Petition), which govern the application and review process for certificates of public convenience and necessity (CPCNs) sought by (1) merchant generators and (2) Competitive Procurement of Renewable Energy Program participants and qualifying facilities.

2. On September 20, 2021, the Commission issued an order requesting comments. Intervention was granted to the following parties: the Carolina Clean Energy Business Association (CCEBA); the North Carolina Sustainable Energy Association (NCSEA); the Carolina Industrial Group for Fair Utility Rates I, II, and III (collectively, CIGFUR); and the Carolina Utility Customers Association, Inc. (CUCA).

3. On November 2, 2021, CCEBA and NCSEA filed initial comments.

4. On December 14, 2021, the Public Staff, CIGFUR, CCEBA, and NCSEA filed reply comments.

5. On April 1, 2024, the Commission issued an Order Requesting Comments, setting forth the Commission's proposed revisions to Rules R8-63 and R8-64 as Attachments A and B, respectively. The Commission's proposed revisions "reflect the Commission's review of the record in this proceeding as well as the Commission's experience gained in recent CPCN application proceedings" and are "intended to formalize application requirements, increase the efficiency of the application process, and, ultimately, provide the Commission with the evidence necessary for a determination of whether granting an application is in [sic] public interest."

6. The Public Staff appreciates the Commission's consideration of its Petition and the Commission's incorporation of many aspects of the Public Staff's Petition in its proposed changes to Commission Rules R8-63 and R8-64. The Public Staff supports the Commission's revisions to Rules R8-63 and R8-64, with the exception that the Public Staff continues to support the removal of the requirement for State Clearinghouse review, as discussed below. The Public Staff

also proposes several additional revisions, as discussed below and shown in Attachments A¹ and B² to these comments.

Rule R8-63

The Public Staff first recommends several minor revisions to the proposed Rule R8-63. In all but one instance – Section (b)(8)(i) – Rule R8-63 uses “megawatt” rather than “kilowatt.” The Public Staff recommends that the reference in Section (b)(8)(i) to “kilowatt” be changed to “megawatt” to maintain consistency throughout the rule. In addition, in Section (b)(3)(iii), which applies to applications for natural gas-fired facilities, the Public Staff recommends that the applicant be required to provide with its application any filed agreements, service contracts, or tariffs for *intrastate* pipeline capacity, in addition to those required for *interstate* pipeline capacity.

The Public Staff also recommends certain exemptions from the application requirements in Section (b) for facilities that (1) have been awarded a winning bid and have an executed contract resulting from a competitive resource solicitation, competitive procurement, or equivalent overseen by an independent evaluator or administrator where the solicitation or procurement is approved by the Commission; or (2) have entered into a Facilities Study Agreement within a Resource Solicitation Cluster or equivalent. Specifically, the Public Staff

¹ The Public Staff’s revisions to the Commission’s revisions to Rule R8-63 are presented in Attachment A (the Public Staff’s revisions are in red).

² The Public Staff’s revisions to the Commission’s revisions to Rule R8-64 are presented in Attachment B (the Public Staff’s revisions are in red).

recommends that such facilities be exempt from the requirements under Section (b)(5), (b)(6), (b)(7), and (b)(8). A facility's significant progress through the competitive procurement process obviates the need to provide the information outlined in these portions of the rule with its CPCN application, either because the facility must provide substantially duplicative information during the competitive procurement process, or because its involvement in a competitive procurement process renders this information unnecessary or irrelevant. These exemptions, set forth in a new Section (c) in Attachment A to these comments, eliminate an unnecessary burden on the applicant and increase regulatory efficiency.

Rule R8-64

With regard to Rule R8-64, the Public Staff notes that in all but two instances – Section (b)(6)(iii)(a) of the rule and Section (8)(a) of the application – the Commission changed references from “kilowatt” to “megawatt.” The Public Staff suggests that this change be made in uniform fashion and that the two remaining references to “kilowatt” also be changed to “megawatt.”

In addition, the Public Staff proposes that if a facility (1) is awarded a winning bid and has an executed contract resulting from a competitive resource solicitation, competitive procurement, or equivalent overseen by an independent evaluator or administrator and the solicitation or procurement is approved by the Commission; or (2) has entered into a Facilities Study Agreement within a Resource Solicitation Cluster or equivalent, that the facility be exempt from the requirement under subsection (b)(3)(v) to provide in its CPCN application its

general plan for sale of the electricity to be generated, including the utility to which it plans to sell the electricity. Exempting such facilities from this requirement will eliminate the need for the applicant to provide duplicative information, thereby removing an unnecessary burden on the applicant and increasing regulatory efficiency. This exemption is set forth in a new Section (e) in Attachment B to these comments.

Rules R8-63 and R8-64

The Public Staff maintains the position in its Petition that review by the State Clearinghouse is an unnecessary step and that it is a burden on both the applicant and the Public Staff to delay consideration of an application pending review of a project by other agencies on matters in which the Public Staff and the Commission have no jurisdiction or special expertise. Clearinghouse cover letters routinely indicate that the Clearinghouse's review is conducted pursuant to the North Carolina Environmental Policy Act, which does not apply to CPCNs unless there is a significant expenditure of public moneys or use of public land for projects and programs. N.C.G.S. § 113A-4(2).

The Public Staff recognizes that N.C.G.S. § 62-133.8(i)(5) requires the Commission to "[e]nsure that the owner and operator of each renewable energy facility that delivers electric power to an electric power supplier is in substantial

compliance with all federal and state laws, regulations, and rules.”³ Rather than maintaining the cumbersome State Clearinghouse review process, the Public Staff recommends that a certification be added to CPCN applications and annual certifications under both Commission Rules R8-63 and R8-64 whereby an applicant or CPCN holder must certify that “the facility is in substantial compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources,” as is done in registration statements for the registration of a renewable energy facility or new renewable energy facility pursuant to Commission Rule R8-66. This would condition the CPCN on an applicant’s compliance and would provide a basis for bringing any information of noncompliance to the Commission’s attention for potential denial or revocation of a CPCN, while removing the regulatory inefficiencies that have become commonplace in CPCN applications as a result of the Clearinghouse process.⁴

Conclusion

The Public Staff supports the Commission’s proposed changes to Commission Rules R8-63 and R8-64, with the exception and additional revisions noted herein. The Public Staff welcomes input from other parties on its

³ While this requirement is explicitly limited in scope to being “for the protection of the *environment and conservation of natural resources*,” the Clearinghouse’s determinations are most frequently related to *cultural* resources.

⁴ Commission orders granting CPCNs currently contain the following condition: “The Applicant shall construct and operate the facility in strict accordance with applicable laws and regulations, including any local zoning and environmental permitting requirements.”

recommended exemptions for competitive procurement projects and whether those exemptions appropriately provide the Commission, Public Staff, and interested parties with sufficient information to review an application while also eliminating redundancies.

WHEREFORE, the Public Staff respectfully requests that the Commission take the foregoing comments into consideration.

Respectfully submitted this the 15th day of May, 2024.

PUBLIC STAFF
Christopher J. Ayers
Executive Director

Lucy E. Edmondson
Chief Counsel

Electronically submitted
/s/ Nadia L. Luhr
Staff Attorney
/s/ Anne M. Keyworth
Staff Attorney

4326 Mail Service Center
Raleigh, North Carolina 27699-4300
Telephone: (919) 733-0975
nadia.luhr@psncuc.nc.gov

Rule R8-63. APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR MERCHANT PLANT; PROGRESS REPORTS

(a) Scope of Rule.

- (1) This rule applies to an application for a certificate of public convenience and necessity pursuant to G.S. 62-110.1(a) by any person seeking to construct a merchant plant in North Carolina.
- (2) For purposes of this rule, the term "merchant plant" means an electric generating facility, other than one that qualifies for and seeks the benefits of 16 U.S.C.A. 824a-3 or G.S. 62-156, the output of which will be sold exclusively at wholesale and the construction cost of which does not qualify for inclusion in, and would not be considered in a future determination of, the rate base of a public utility pursuant to G.S. 62-133.
- (3) Persons filing under this rule are not subject to the requirements of Rule R8-61 or R8-64.

(b) Application. The application shall contain the exhibits listed below, which shall contain the information hereinafter required, with each exhibit and item labeled as set out below. Any additional information may be included at the end of the application.

- (1) Exhibit 1 shall contain ~~the following information about the applicant:~~
 - (i) The full and correct name, business address, business telephone number and electronic mailing address of the facility owner; ~~applicant;~~
 - ~~(ii) A description of the applicant, including the identities of its principal participant(s) and officers, and the name and business address of a person authorized to act as corporate agent or to whom correspondence should be directed;~~
 - (ii) A statement of whether the facility owner is an individual, a partnership, or a corporation and, if a partnership, the name and business address of each general partner and, if a corporation, the state and date of incorporation and the name, business address, business telephone number, and electronic mailing address of an individual duly authorized to act as corporate agent for the purpose of the application and, if a foreign corporation, whether domesticated in North Carolina; and
 - (iii) The full and correct name of the site owner and, if the site owner is other than the applicant, the applicant's interest in the site; and

~~A copy of the applicant's most recent annual report to stockholders, which may be attached as an exhibit, or, if the applicant is not publicly traded, its most recent balance sheet and income statement. 1~~

~~If the applicant is a newly formed entity with little history, this information should be provided for its parent company, equity partner, and/or the other participant(s) in the project; and~~

- (iv) Information about generating facilities in the Southeastern Electric Reliability Council region which the applicant or an affiliate has any ownership interest in and/or the ability to control through leases, contracts, options, and/or other arrangements and information about certificates that have been granted for any such facilities not yet constructed.

- (2) Exhibit 2 shall contain the following information about the proposed facility:

- (i) ~~The nature of the proposed generating facility, including its type, fuel, expected service life, and the gross, net, and nameplate generating capacity of each generating unit and the entire facility, as well as the facility's total projected dependable capacity, in megawatts (alternating current); the anticipated beginning date for construction; the expected commercial operation date; and estimated construction costs;~~

- (i)(ii) A color map or aerial photo ~~(a U.S. Geological Survey map or aerial photo map prepared via the State's geographic information system is preferred)~~ showing the location of the proposed facility site in relation to local highways, streets, rivers, streams, and other generally known local landmarks, with the proposed location of major equipment indicated on the map or photo, including: the generator, fuel handling equipment, plant distribution system, startup equipment, the site boundary, planned and existing pipelines, planned and existing access roads to be used to reach the generating facility, planned and existing water supplies, planned and existing electric facilities, and points of interconnection with the incumbent electric service provider, including associated interconnection facilities proposed site boundary and layout, with all major equipment, including the generator, fuel handling equipment, plant distribution system, startup equipment, planned and existing pipelines, planned and existing roads, planned and existing water supplies, and planned and existing electric facilities;

- (ii)(iii) The E911 street address, county in which the proposed facility would be located, and GPS coordinates latitude and longitude of the approximate center of the proposed facility site to the nearest second or one ten thousandth of a degree. If the E911 address is not available, Exhibit 2 shall contain a written description of the location of the proposed facility.

- (iii)(iv) In the case of natural gas-fired facilities, a map showing the proximity of the facility to existing natural gas facilities; a description of

dedicated facilities to be constructed to serve the facility; and any filed agreements, service contracts, or tariffs for interstate and intrastate pipeline capacity;

- (iv)(v) ~~A list of all needed federal, state, and local approvals related to the facility and site, identified by title and the nature of the needed approval; a copy of such approvals or a report of their status; and a copy of any application related to eligible facility and/or exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935 (PUHCA), as amended by the Energy Policy Act of 1992, including attachments and subsequent amendments, if any; and~~
 - (vi) ~~A description of the transmission facilities to which the facility will interconnect, and a color map showing their general location. If additional facilities are needed, a statement regarding whether the applicant would need to acquire rights of way for new facilities.~~
- (3) Exhibit 3 shall contain: ~~provide a description of the need for the facility in the state and/or region, with supporting documentation.~~
- (i) The nature of the generating facility, including the type and source of its power or fuel;
 - (ii) A description of the buildings, structures, interconnection facilities, and equipment comprising the generating facility and the manner of its operation;
 - (iii) A description of any fencing or other barriers that will be installed around the perimeter of the proposed facility, as well as any planned setbacks;
 - (iv) A description of the transmission and distribution facilities to which the facility will interconnect, and a color map showing their general location. Include the utility feeder name or substation and the voltage level of the planned interconnection. If additional facilities are needed, a statement regarding whether the applicant would need to acquire rights-of-way for new facilities;
 - (v) The gross and net projected maximum dependable capacity of the facility as well as the facility's nameplate capacity, expressed as megawatts (alternating current);
 - (vi) If the facility includes energy storage, the following information: (1) a description of the technology and the supporting components, (2) the cost of the energy storage system separate from the generating facility, (3) whether the facility is AC or DC connected, (4) how the Applicant plans to charge the energy storage system, (5) any operational restrictions included in the Interconnection Agreement, (6) output capacity in megawatts (DC), and (7) energy storage capability in megawatt-hours;
 - (vii) The anticipated date construction will begin;
 - (viii) The projected date on which the facility will begin operation;

- (ix) The applicant's general plan for sale of the electricity to be generated, including the utility or other off-taker to which the applicant plans to sell the electricity;
 - (x) Any provisions for wheeling of the electricity, if applicable;
 - (xi) Arrangements for firm, non-firm or emergency generation, if applicable;
 - (xii) The service life of the project;
 - (xiii) The projected annual sales in megawatt-hours; and
 - (xiv) Whether the applicant intends to produce renewable energy certificates, the name of the purchaser, and if the renewable energy certificates are eligible for compliance with the State's renewable energy and energy efficiency portfolio standard or any other state's renewable energy mandate.
- (4) Exhibit 4 shall contain:
 - (i) A complete list of all federal and state licenses, permits and exemptions required for construction and operation of the generating facility and a statement of whether each has been obtained or applied for.
 - (ii) A copy of those that have been obtained should be filed with the application; a copy of those that have not been obtained at the time of the application should be filed with the Commission as soon as they are obtained.
- (5) Exhibit 5 shall contain:
 - (i) An estimate of the construction cost of the facility.
 - (ii) A feasibility study obtained from the interconnecting utility.
 - (iii) A system impact study obtained from the interconnecting utility.
 - (iv) A facilities study obtained from the interconnecting utility detailing final interconnection facilities and network upgrade costs.
 - (v) An affected system study from any neighboring utilities detailing any affected system upgrades and associated costs for any facility that that has required affected system upgrades listed in a feasibility study, system impact study, or facilities study. If an affected system study has not been completed, provide a statement that the facility has been considered for affected system impacts and it has been determined that there are not any such impacts or required upgrades.
 - (vi) A Levelized Cost of Transmission (dollars per megawatt hour (alternating current)) calculation compared to the production output of the life of the facility. The calculation shall include the cost of any network and affected system upgrades required for interconnection and operation of the facility and shall include a description of the inputs used in the calculation.
 - (vii) A detailed description, including quantification, of any benefits to be received by ratepayers from any transmission upgrades, including

affected system upgrades, the need for which is caused by the proposed facility, with specific reference to each upgrade identified in the relevant interconnection study.

(6) Exhibit 6 shall contain:

- (i) A description of the need for the facility in the state and/or region, with supporting documentation;
- (ii) Information specifically identifying the extent to which any regulated utility will be involved in the interconnection and operation of the facility;
- (iii) A statement obtained by the applicant from the electric utility to which the applicant plans to sell the electricity to be generated setting forth an assessment of the impact of such purchased power on the utility's capacity, reserves, generation mix, and capacity expansion plan;
- (iv) If the applicant does not plan to sell to an electric utility or does not yet have a definite off-taker, provide a discussion of how the facility's output conforms to or varies from the long-range resource plan of a potential utility purchaser of the power;
- (v) If the applicant proposes to sell energy and capacity from the facility to a purchaser who is subject to a statutory or regulatory mandate with respect to its energy sourcing, explain how, if at all, the facility will assist or enable compliance with that mandate. Provide any contracts that support that compliance; and
- (vi) Provide any power purchase agreements, renewable energy certificate sale contracts, or contracts for compensation for environmental attributes for the output of the facility.

(7) Exhibit 7 shall contain:

- (i) A statement detailing the experience and expertise of the persons who will develop, design, construct and operate the project to the extent such persons are known at the time of the application;
- (ii) A copy of the applicant's most recent annual report to stockholders, if applicable;
- (iii) The most current available balance sheet of the applicant;
- (iv) The most current available income statement of the applicant;
- (v) An economic feasibility study of the project; and
- (vi) A statement of the actual financing arrangements entered into in connection with the project to the extent known at the time of the application.

(8) Exhibit 8 shall contain:

- (i) The projected annually hourly production profile for the first full year of operation of the facility in ~~kilowatt~~ megawatt-hours (alternating current), including an explanation of potential factors influencing the hourly production profile;

- (ii) If the facility's maximum generation has the capability to exceed the nameplate capacity (alternating current), include a description of what factors or component will limit production;
- (iii) 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;
- (iv) A one-line diagram, or equivalent, that illustrates the planned arrangement and interconnection of the entire facility; and
- (v) 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.

(9)(4) The application shall be signed and verified by the applicant or by an individual duly authorized to act on behalf of the applicant.

(10)(5) The application shall be accompanied by prefiled direct testimony incorporating and supporting the application.

~~(11)(6) The Chief Clerk will deliver 2 copies copy of the application and the notice to the State Environmental Review Clearinghouse Coordinator of the Office of Policy and Planning in the Department of Administration for distribution by the Clearinghouse Coordinator to State agencies having an interest in the application proposed generating facility.~~

(12)(7) Contemporaneous with the filing of the application with the Commission, all applicants proposing a generating facility that will use natural gas must provide written notice of the filing to the natural gas local distribution company or municipal gas system providing service or franchised to provide service at the location of the proposed generating facility.

(c) Exemptions for Certain Facilities. If a facility (1) is awarded a winning bid and has an executed contract resulting from a competitive resource solicitation, competitive procurement, or equivalent overseen by an independent evaluator or administrator and the solicitation or procurement is approved by the Commission, or (2) has entered into a Facilities Study Agreement within a Resource Solicitation Cluster or equivalent, that facility is exempt from the requirement to provide the following information with its application:

- (1) Exhibit 5 as set forth in R8-63(b)(5);
- (2) Exhibit 6 as set forth in R8-63(b)(6);
- (3) Exhibit 7 as set forth in R8-63(b)(7); and
- (4) Exhibit 8 as set forth in R8-63(b)(8).

(e)(d) Confidential Information. If an applicant considers certain of the required information to be confidential and entitled to protection from public disclosure, it may designate said information as confidential and file it under seal. Documents marked as confidential will be treated pursuant to applicable Commission rules,

procedures, and orders dealing with filings made under seal and with nondisclosure agreements.

~~(d)~~(e) Procedure upon Receipt of Application. No later than ten (10) business days after the application is filed with the Commission, the Public Staff shall, and any other party in interest may, file with the Commission and serve upon the applicant a notice regarding whether the application is complete and identifying any deficiencies. If the Commission determines that the application is not complete, the applicant will be required to file the missing information. Upon receipt of all required information, the Commission will promptly issue a procedural order setting the matter for hearing, requiring public notice, and dealing with other procedural matters.

~~(e)~~(f) The Certificate.

- (1) The certificate shall specify the date the certificate was issued; the name and address of the certificate holder; the type, capacity, and location of the facility; and the conditions, if any, upon which the certificate is granted.
- (2) The certificate shall be subject to revocation if (a) any of the federal, state, or local licenses or permits required for construction and operation of the generating facility not obtained or, having been obtained, are revoked pursuant to a final, non-appealable order; (b) required reports or fees are not filed with or paid to the Commission; and/or (c) the Commission concludes that the certificate holder filed with the Commission information of a material nature that was inaccurate and/or misleading at the time it was filed; provided that, prior to revocation pursuant to any of the foregoing provisions, the certificate holder shall be given thirty (30) days' written notice and opportunity to cure.
- (3) ~~The certificate must be renewed if the applicant does not begin construction within three years after the date of the Commission order granting the certificate.~~ The certificate shall expire if the applicant does not begin construction within three years after the certificate is issued.
 - (i) The certificate holder shall file with the Commission a description of the construction progress pursuant to subsection (f) of this Rule prior to the expiration of the certificate. The Commission may revoke the certificate if the certificate holder fails to file a construction progress update prior to the expiration of the certificate.
 - (ii) The certificate may be renewed by re-compliance with the requirements set forth in subsection (b) of this Rule.
 - (iii) Applications for renewal must be filed no later than 90 calendar days prior to the expiration of the certificate. An application for renewal that is filed no later than 90 calendar days prior to the expiration of the certificate will be considered timely regardless of when a new certificate is issued.

(iv) Amendments and transfers of certificates pursuant to subsection (d)(4) of this Rule will not alter the expiration date of a certificate.

- (4) A certificate holder must notify the Commission in writing of any plans to sell, ~~transfer~~, or assign the certificate and the generating facility or of any revisions to the information set forth in subsections (b)(1) thru (b)(8) of this Rule, and the Commission will order such proceedings as necessary to address the proposed plans or revisions.

(f)(g) Reporting. All ~~applicants~~ certificate holders must submit annual progress reports and any revisions in cost estimates until construction is completed. If transmission upgrade costs estimated by the interconnecting utility or an affected system are revised subsequent to the approval of the application and issuance of the certificate, the certificate holder must file notice with the Commission of such changes no later than 30 days after receiving notice from the relevant utility of the revised cost estimates.

Rule R8-64. APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY BY CPRE PROGRAM PARTICIPANT, QUALIFYING COGENERATOR, OR SMALL POWER PRODUCER; PROGRESS REPORTS.

- (a) Scope of Rule.
- (1) This rule applies to applications for a certificate of public convenience and necessity pursuant to G.S. 62-110.1(a) filed by any person, other than an electric public utility, who is an owner of a renewable energy facility that is participating in the Competitive Procurement of Renewable Energy Program established in G.S. 62-110.8, or by any person who is seeking the benefits of 16 U.S.C. 824a-3 or G.S. 62-156 as a qualifying cogenerator or a qualifying small power producer as defined in 16 U.S.C. 796(17) and (18), or as a small power producer as defined in G.S. 62-3(27a), except persons exempt from certification by the provisions of G.S. 62-110.1(g).
 - (2) For purposes of this rule, the term "person" shall include a municipality as defined in Rules R7-2(c) and R10-2(c), including a county of the State.
 - (3) The construction of a facility for the generation and supply of electricity to the point of interconnection shall include ~~not only the building-construction~~ of a new building, structure, or generator, but also and balance of plant, and the renovation or reworking of an existing building, structure or generator in order to enable it to operate as a generating facility.
 - (4) This rule shall apply to any person within its scope who begins construction of an electric generating facility without first obtaining a certificate of public convenience and necessity. In such circumstances, the application shall include an explanation for the applicant's beginning of construction before the obtaining of the certificate.
- (b) Application. The application shall be comprised of the following five exhibits:
- (1) Exhibit 1 shall contain:
 - (i) The full and correct name, business address, business telephone number, and electronic mailing address of the facility owner;
 - (ii) A statement of whether the facility owner is an individual, a partnership, or a corporation and, if a partnership, the name and business address of each general partner and, if a corporation, the state and date of incorporation and the name, business address, business telephone number, and electronic mailing address of an individual duly authorized to act as corporate agent for the purpose

- of the application and, if a foreign corporation, whether domesticated in North Carolina; and
- (iii) The full and correct name of the site owner and, if the owner is other than the applicant, the applicant's interest in the site.
- (2) Exhibit 2 shall contain:
- (i) A color map or aerial photo showing the location of the generating facility site in relation to local highways, streets, rivers, streams, and other generally known local landmarks, with the proposed location of major equipment indicated on the map or photo, including: the generator, fuel handling equipment, plant distribution system, startup equipment, the site boundary, planned and existing pipelines, planned and existing access roads to be used to reach the generating facility, planned and existing water supplies, ~~and planned and existing electric facilities~~, and point(s) of interconnection with the incumbent electric service provider, including associated interconnection facilities ~~A U.S. Geological Survey map or an aerial photo map prepared via the State's geographic information system is preferred~~; and
- (ii) The E911 street address, county in which the proposed facility would be located, and GPS coordinates latitude and longitude of the approximate center of the proposed facility site to the nearest ~~second~~ or one ten thousandth of a degree. If the E911 address is not available, Exhibit 2 shall contain a written description of the location of the proposed facility.
- (3) Exhibit 3 shall contain:
- (i) The nature of the generating facility, including the type and source of its power or fuel;
- (ii) A description of the buildings, structures and equipment comprising the generating facility and the manner of its operation;
- (iii) A description of the interconnection facilities and an explanation of whether the facility will be interconnected to a distribution system or a transmission system;
- (iv) A description of any fencing or other barriers that will be installed around the perimeter of the proposed facility, as well as any planned setbacks;
- (v)(iii) The gross and net projected maximum dependable capacity of the facility as well as the facility's nameplate capacity, expressed as megawatts (alternating current);
- (vi) If the facility includes energy storage, a description of the technology, output capacity in megawatts, and energy storage capability in megawatt-hours;
- (vii) The anticipated date construction will begin;
- (viii)(iv) The projected date on which the facility will ~~come on line~~ begin operation;

- ~~(ix)(v)~~ The applicant's general plan for sale of the electricity to be generated, including the utility to which the applicant plans to sell the electricity;
 - ~~(x)(vi)~~ Any provisions for wheeling of the electricity, if applicable;
 - ~~(xi)(vii)~~ Arrangements for firm, non-firm or emergency generation, if applicable;
 - ~~(xii)(viii)~~ The service life of the project;
 - ~~(xiii)(ix)~~ The projected annual sales in ~~kilowatt~~ megawatt-hours; and
 - ~~(xiv)(x)~~ Whether the applicant intends to produce renewable energy certificates and whether the renewable energy certificates that are eligible for compliance with the State's renewable energy and energy efficiency portfolio standard or, if intended to be used for compliance with another state's renewable energy mandate, whether it will be eligible for compliance with that state's renewable energy mandate.
- (4) Exhibit 4 shall contain:
- (i) A complete list of all federal and state licenses, permits and exemptions required for construction and operation of the generating facility and a statement of whether each has been obtained or applied for.
 - (ii) A copy of those that have been obtained should be filed with the application; a copy of those that have not been obtained at the time of the application should be filed with the Commission as soon as they are obtained.
- (5) Exhibit 5 shall contain the expected cost of the proposed facility.
- (6) An applicant who desires to enter into a contract for 5 years or more for the sale of electricity, whose facility will have a nameplate capacity of 520 megawatts alternating current or more, ~~and whose facility is not a solar photovoltaic facility,~~ shall include the three additional exhibits as described in R8-64(b)(6)(i), (ii), and (iii) below, ~~except an applicant who desires to enter into a contract of 5 years or more for the sale of electricity from a solar photovoltaic facility of 25 megawatts alternating current or more shall also include the three additional exhibits referenced herein.~~
- (i) Exhibit 6 shall contain:
 - a. A statement detailing the experience and expertise of the persons who will develop, design, construct and operate the project to the extent such persons are known at the time of the application;
 - b. Information specifically identifying the extent to which any regulated utility will be involved in the actual operation of the project; and
 - c. A statement obtained by the applicant from the electric utility to which the applicant plans to sell the electricity to be generated setting forth an assessment of the impact of such

- purchased power on the utility's capacity, reserves, generation mix, capacity expansion plan, and avoided costs.
- (ii) Exhibit 7 shall contain:
 - a. The most current available balance sheet of the applicant;
 - b. The most current available income statement of the applicant;
 - c. An economic feasibility study of the project; and
 - d. A statement of the actual financing arrangements entered into in connection with the project to the extent known at the time of the application.
 - (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~~megawatt-hours (alternating current), including an explanation of potential factors influencing the ~~shape of the hourly 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. If the facility's maximum generation has the capability to exceed the nameplate capacity (alternating current), a description of the factors or components that will limit production;
 - c. 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
 - d. A one-line diagram, or equivalent, that illustrates the planned arrangement and interconnection of the entire facility;
 - e. All studies associated with interconnection of the facility; and
 - f. 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.
- (7) All applications shall be signed and verified by the applicant or by an individual duly authorized to act on behalf of the applicant for the purpose of the application.
 - (8) Applications filed on behalf of a corporation are not subject to the provision of R1-5(d) that requires corporate pleadings to be filed by a member of the Bar of the State of North Carolina. Should a public hearing be required, the requirements of G.S. 84-4 and G.S. 84-4.1 shall be applicable.
 - (9) Falsification of or failure to disclose any required information in the application may be grounds for denying or revoking any certificate.
 - (10) The application shall be in the form adopted by the Commission and accompanied by the filing fee required by G.S. 62-300. The application may

be filed electronically or by transmission of an original plus 12 copies to the Chief Clerk of the Utilities Commission.

- (11) If an applicant considers certain of the required information to be confidential and entitled to protection from public disclosure, it may designate said information as confidential and file it under seal. Documents marked as confidential will be treated pursuant to applicable Commission rules, procedures, and orders dealing with filings made under seal and with nondisclosure agreements.
- (c) Procedure upon receipt of Application. — Upon the filing of an application appearing to meet the requirements set forth above, the Commission will process it as follows:
- (1) The Commission will issue an order requiring the applicant to publish notice of the application once a week for four successive weeks in a newspaper of general circulation in the county where the generating facility is proposed to be constructed and requiring the applicant to mail a copy of the application and the notice, no later than the first date that such notice is published, to the electric utility to which the applicant plans to sell the electricity to be generated. Each electric utility shall provide on its website a mailing address to which the application and notice should be mailed. The applicant shall be responsible for filing with the Commission an affidavit of publication and a signed and verified certificate of service to the effect that the application and notice have been mailed to the electric utility to which the applicant plans to sell the electricity to be generated.
 - (2) If the applicant does not file the affidavit of publication and certificate of service within twelve months of the Commission's publication order, the Commission will automatically dismiss the application.
 - ~~(3) The Chief Clerk will deliver 2 copies of the application and the notice to the State Environmental Review Clearinghouse Coordinator of the Office of Policy and Planning of the Department of Administration for distribution by the Clearinghouse Coordinator to State agencies having an interest in the application.~~
 - ~~(4)~~(3) If a significant complaint is received within 10 days after the last date of the publication of the notice, the Commission will schedule a public hearing to determine whether a certificate should be awarded and will give reasonable notice of the time and place of the hearing to the applicant and to each complaining party and will require the applicant to publish notice of the hearing in the newspaper in which the notice of the application was published. If no significant complaint is received within the time specified, the Commission may, upon its own initiative, order and schedule a hearing to determine whether a certificate should be awarded and, if the

Commission orders a hearing upon its own initiative, it will require notice of the hearing to be published by the applicant in the newspaper in which the notice of the application was published.

~~(5)~~(4) If no significant complaint is received within the time specified and the Commission does not order a hearing upon its own initiative, the Commission will enter an order awarding the certificate.

(d) The Certificate.

(1) The certificate shall specify the date the certificate was issued; the name and address of the certificate holder; the type, capacity, and location of the facility; and the conditions, if any, upon which the certificate is granted.

~~(2)~~(4) The certificate shall be subject to revocation if any of the other federal or state licenses, permits or exemptions required for construction and operation of the generating facility is not obtained, is revoked, or lapses, and that fact is brought to the attention of the Commission and the Commission finds that as a result the public convenience and necessity no longer requires, or will require, construction of the facility.

~~(2)~~ — ~~The certificate must be renewed by re-compliance with the requirements set forth in this Rule if the applicant does not begin construction within 5 years after issuance of the certificate.~~

(3) The certificate shall expire if the applicant does not begin construction within five years after the certificate is issued.

(i) The certificate holder shall file with the Commission a description of any construction progress prior to the expiration of the certificate. The Commission may revoke the certificate if the certificate holder fails to file a construction progress update prior to the expiration of the certificate.

(ii) The certificate may be renewed by re-compliance with the requirements set forth in subsection (b) of this Rule. Renewal of a certificate will not require publication of notice pursuant to subsection (c) of this Rule, but the Commission may require publication of notice if it deems it appropriate. Upon renewal, a new certificate will be issued.

(iii) Applications for renewal must be filed no later than 90 calendar days prior to the expiration of the certificate. An application for renewal that is filed no later than 90 calendar days prior to the expiration of the certificate will be considered timely regardless of when a new certificate is issued.

(iv) Amendments and transfers of certificates pursuant to subsection (d)(4) of this Rule will not alter the expiration date of a certificate.

~~(4)~~(3) Both before the time construction is completed and after, all certificate

holders must advise both the Commission and the utility involved of any plans to sell, transfer, or assign the certificate or the generating facility or of any significant changes in the information set forth in subsections (b)(1) thru (b)(56) of this Rule, and the Commission will order such proceedings as it deems appropriate to deal with such plans or changes. The following changes in information are exemplary of changes that require an amendment to the certificate issued for the facility: a transfer of the certificate or the facility, a change in the facility owner's name, a change in the fuel source, ~~or~~ a change in the generating capacity of the facility, a change in the points of interconnection, and the addition of land to the project area. The following changes in information are exemplary of changes that require notice to the Commission, but do not require an amendment to the certificate: a change in the facility owner's contact information, or a change in the upstream ownership of the facility ~~owner~~, a reduction in the footprint of the facility, and the movement of equipment or access roads within the footprint of the facility as filed with the Commission when the certificate was approved.

(e) Exemptions for Certain Facilities. If a facility (1) is awarded a winning bid and has an executed contract resulting from a competitive resource solicitation, competitive procurement, or equivalent overseen by an independent evaluator or administrator and the solicitation or procurement is approved by the Commission, or (2) has entered into a Facilities Study Agreement within a Resource Solicitation Cluster or equivalent, that facility is exempt from the requirement under subsection (b)(3)(v) to provide in its CPCN application the applicant's general plan for sale of the electricity to be generated, including the utility to which the applicant plans to sell the electricity.

~~(e)~~(f) In addition to complying with any other applicable filing requirements pursuant to this Rule or other Commission rules, the filing of an amendment to the certificate application, or the filing of a FERC Form No. 556 for the purpose of satisfying the notice requirements of 18 C.F.R. 292.207(c) or for the purpose of satisfying the requirements of subsection (d) of this Rule, shall be accompanied by a cover letter that identifies the facility, the facility owner, and the associated docket number assigned to the matter by the Chief Clerk, and includes a short, plain statement alerting the Commission to the changed information, if any.

DOCKET NO. SP-_____, SUB ____

Filing Fee for New Applications and Renewals Tendered \$_____

Application for a Certificate of Public Convenience and Necessity – Rule R8-64

Pursuant to Commission Rule R8-64, this form is required for use in applying for a Certificate of Public Convenience and Necessity (CPCN) by a person, other than an electric public utility, who is an owner of a renewable energy facility that is participating in the Competitive Procurement of Renewable Energy Program established in G.S. 62-110.8, or by a person who is seeking the benefits of 16 U.S.C. 624-3 or G.S. 62-156 as a qualifying co-generator or a qualifying small power producer as defined in 16 U.S.C. 796(17) and (18), or as a small power producer as defined in G.S. 62-3(27a), except persons exempt from certification pursuant to G.S. 62-110.1(g). This form may be accompanied by any exhibits or additional responses incorporated by reference thereto and attached to this form. This form must be accompanied by the required filing fee of \$250.00.

You may file this application electronically; please see www.ncuc.net for instructions.

If this form is filed by hard copy, the original plus 12 copies must be presented at or transmitted to the office of the Chief Clerk. Regardless of the method of delivery, this form is not deemed filed until it is received by the Chief Clerk, along with the required filing fee.

The mailing address is:

Chief Clerk
NC Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

Exhibits required by Rule R8-64(b)		Applicant's Response
(1)(i)	Full and correct name of the owner of the facility	
	Facility name	
	Business address	
	E-mail address	
	Telephone number	
(ii)	The owner is (check one)	Individual Corporation Partnership
	If a partnership, the name and business address of each general partner	
	If a corporation, the state and date of incorporation	
	If a partnership, the name and address of each general	

	partner (add additional sheets if necessary)	
	Owner's agent for purposes of this report, if applicable:	
	Agent's business address	
	Agent's e-mail address	
	Agent's telephone number	
	<u>Person to contact concerning this application (name of contact person, company name, business address, e-mail address, and telephone number)</u>	
(iii)	The full and correct name of the site owner and, if the site owner is other than the applicant, the applicant's legal interest in the site	
(2)(i)	Attach a color map or aerial photo showing the location of the generating facility site in relation to local highways, streets, rivers, streams, and other generally known local landmarks with the proposed location of major equipment indicated on the map or photo, including: the generator, fuel handling equipment, plant distribution system, startup equipment, the site boundary, planned and existing pipelines, planned and existing <u>access roads to be used to reach the generating facility</u> , planned and existing water supplies, and planned and existing electric facilities, <u>and point(s) of interconnection with the incumbent electric service provider, including associated interconnection facilities</u> A U.S. Geological Survey map or an aerial photo map prepared via the State's geographic information system (found at www.gis.ncder.gov/hpweb/) is preferred.	
(ii)	E911 street address of the proposed facility. <u>If the E911 address is not available, provide a written description of the location.</u>	
	County in which the proposed facility will be physically located	
	GPS coordinates <u>Latitude and longitude</u> of the approximate center of the proposed facility site to the nearest second <u>or one ten</u> thousandth of a degree	
(3)(i)	The nature of the facility, including its technology, and	

	the source of its power and fuel(s)	
(ii)	A description of the buildings, structures and equipment comprising the generating facility and the manner of its operation	
<u>(iii)</u>	<u>A description of the interconnection facilities and an explanation of whether the facility will be interconnected to a distribution system or a transmission system</u>	
<u>(iv)</u>	<u>A description of any fencing or other barriers that will be installed around the perimeter of the proposed facility, as well as any planned setbacks</u>	
<u>(v)</u> <u>(iii)</u>	The gross and net projected maximum dependable capacity of the facility in megawatts – Alternating Current	
	The facility's nameplate capacity in megawatts – Alternating Current	
<u>(vi)</u>	<u>If the facility includes energy storage, a description of the technology, output capacity in megawatts, and energy storage capability in megawatt-hours</u>	
<u>(vii)</u>	<u>The anticipated date construction will begin</u>	
<u>(viii)</u> <u>(iv)</u>	<u>The projected date on which the facility will come on line begin operation</u>	
<u>(ix)</u> <u>(v)</u>	The applicant's general plan for sale of the electricity to be generated, including the name of utility to which the applicant plans to sell the electricity	
<u>(x)</u> <u>(vi)</u>	Any provisions for wheeling of the electricity, if applicable	

(xi) (vii)	Arrangements for firm, non-firm, or emergency generation, if applicable	
(xii) (viii)	The service life of the project	
(xiii) (ix)	The projected annual sales in kilowatt hours <u>megawatt-hours</u>	
(xiv) (x)	Whether the applicant intends to produce renewable energy certificates, <u>the name of the purchaser, and if the renewable energy certificates that are eligible for compliance with the State's renewable energy and energy efficiency portfolio standard or any other state's renewable energy mandate</u>	
Yes No		
(4)(i)	A complete list of all federal and state licenses, permits and exemptions required for construction and operation of the generating facility and a statement of whether each has been obtained or applied for	
(ii)	Attach a copy of those licenses, permits and exemptions that have been obtained; a copy of those that have not been obtained at the time of the application should be filed with the Commission as soon as they are obtained	
(5)	The expected cost of the proposed facility	\$
<p>(6) The following applicants shall complete this section with the information as described in R8-64(b)(6): 1) A <u>an</u> applicant seeking to enter into a contract for the sale of electricity with a term of 5 years or more, and whose facility will have a <u>projected generating nameplate capacity of 520 MW_{AC} or greater</u> and is not a solar photovoltaic facility, and 2) An applicant seeking to enter into a contract for the sale of electricity with a term of 5 years or more, and whose facility is a solar photovoltaic facility with a generating capacity of 25 MW_{AC} or more.</p>		
(i)a	A statement detailing the experience and expertise of the persons who will develop, design, construct, and operate the project to the extent such persons are known at the time of the application	
b	Information specifically identifying the extent to which any regulated utility will be involved in the actual operation of the project	
c	A statement obtained by the applicant from the electric utility to which the applicant plans to sell the electricity to be generated setting forth an assessment of the impact of such purchased power on the utility's capacity, reserves, generation mix, capacity expansion plan, and avoided costs	

(iii)- (7)a	The most current available balance sheet of the applicant
b	The most current available income statement of the applicant
c	An economic feasibility study of the project
d	A statement of the actual financing arrangements entered into in connection with the project to the extent known at the time of the application
(iii)- (8)a	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 <u>The projected annual hourly production profile for the first full year of operation of the facility in kilowatt megawatt-hours (alternating current), including an explanation of potential factors influencing the hourly production profile</u>
b	<u>If the facility's maximum generation has the capability to exceed the nameplate capacity (alternating current), a description of the factors or components that will limit production</u>
c-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
d	<u>A one-line diagram, or equivalent, that illustrates the planned arrangement and interconnection of the entire facility</u>
e	<u>All studies associated with interconnection of the facility</u>
f-e	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
(9)	<u>A signed and notarized attestation that the facility is in substantial compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources</u>

Confidentiality

If an applicant considers certain of the required information above to be confidential and entitled to protection from public disclosure, it may designate said information as confidential and file it under seal. Documents marked as confidential will be treated pursuant to applicable Commission rules, procedures, and orders dealing with filings made under seal and with nondisclosure agreements.

Please read the "After You File" instructions on the last page of this document.

All applications shall be signed and verified (notarized) by the applicant or by an individual duly authorized to act on behalf of the applicant for the purpose of the application. A blank verification page is attached below:

VERIFICATION

STATE OF _____ COUNTY OF _____

Signature of Owner's Representative or Agent Title of Representative or Agent_____
Typed or Printed Name of Representative or Agent

The above named person personally appeared before me this day and, being first duly sworn, says that the facts stated in the foregoing application and any exhibits, documents, and statements thereto attached are true as he or she believes.

WITNESS my hand and notarial seal, this _____ day of _____, 20 ____

My Commission Expires: _____

Signature of Notary Public_____
Name of Notary Public – Typed or Printed

This original verification must be affixed to the original application, and a copy of this verification must be affixed to each of the copies that are also submitted to the Commission.

After You File

1. After you file an application for a CPCN, the Utilities Commission will automatically send a copy to the State Clearinghouse for a government agency review and will issue an Order Requiring Publication of Notice.
2. The State Clearinghouse will post the application on its website for a 30-day review by government agencies.
1. You must publish the Commission's Public Notice as required by the Order Requiring Publication of Notice.
2. You must send a copy of the application and the Commission's Public Notice to the interconnecting utility no later than the first date that publication begins in the newspaper. You must also file a notarized letter called a "certificate of service" that states you completed this requirement.
3. After the publication period, the publishing newspaper should send you a notarized affidavit of publication. You must file the affidavit of publication with the Chief Clerk of the Utilities Commission.
4. If a significant complaint is received within 10 days after the last date of the publication of the notice, the Commission will schedule a public hearing to determine whether a certificate should be awarded and will give reasonable notice of the time and place of the hearing to the applicant and to each complaining party and will require the applicant to publish notice of the hearing in the newspaper in which the notice of the application was published. If no significant complaint is received within the time specified, the Commission may, upon its own initiative, order and schedule a hearing to determine whether a certificate should be awarded and, if the Commission orders a hearing upon its own initiative, it will require notice of the hearing to be published by the applicant in the newspaper in which the notice of the application was published. If no significant complaint is received within the time specified and the Commission does not order a hearing upon its own initiative, the Commission will enter an order issuing the certificate.

CERTIFICATE OF SERVICE

I certify that a copy of these comments has been served on all parties of record or their attorneys, or both, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 15th day of May, 2024.

Electronically submitted
/s/ Nadia L. Luhr