



**NORTH CAROLINA  
PUBLIC STAFF  
UTILITIES COMMISSION**

August 19, 2021

Ms. A. Shonta Dunston, Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4300

Re: Docket No. E-100, Sub 176 – Petition to Amend Commission Rules  
R8-63 and R8-64

Dear Ms. Dunston:

Please find enclosed for filing the Petition of the Public Staff to Amend Commission Rules R8-63 and R8-64 in the above captioned docket. To ensure that the appropriate parties are notified of this new docket, the Public Staff will send this filing to all parties of record in Docket No. E-100, Sub 170 as they are likely the same parties that will have an interest in this Petition.

Sincerely,

Electronically submitted  
s/ Layla Cummings  
Staff Attorney  
[layla.cummings@psncuc.nc.gov](mailto:layla.cummings@psncuc.nc.gov)

Attachments

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**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	)	PUBLIC STAFF'S
R8-63 and R8-64	)	PETITION
	)	

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Christopher J. Ayers, and respectfully petitions the Commission to revise its Commission Rules R8-63 and R8-64 due to the increase in non-utility generation on the North Carolina transmission system, the Commission’s statutory duty to examine the long range needs for the generation of electricity in North Carolina, and the need to make other technical and clarifying changes to the CPCN application and review process for qualifying facilities and merchant plants. In support hereof, the Public Staff shows the following:

1. N.C. Gen. Stat. § 62-110.1 (a) requires that any electric generating facility to be directly or indirectly used for furnishing public utility service, whether constructed by a public utility or other person, must obtain a certificate of public convenience and necessity (CPCN) from the Commission before construction. Commission Rules R8-63 and R8-64 provide the filing requirements for a CPCN application for electric generating facilities not constructed by a public utility.

2. Commission Rule R8-63, adopted in 2001 in Docket No. E-100, Sub 85,<sup>1</sup> applies to the application for a CPCN by any person seeking to construct a merchant plant in North Carolina and intending to sell its output at wholesale.

3. Commission Rule R8-64, adopted in 2008 in Docket No. E-100, Sub 113,<sup>2</sup> applies to the application for a CPCN by any person, other than a utility, seeking to construct a facility as a qualifying cogenerator or a qualifying small power producer pursuant to the Public Utilities Regulatory Policy Act of 1978 (PURPA).<sup>3</sup> This rule was most recently amended in 2017 to include PURPA-eligible projects procured by a utility pursuant to the Competitive Procurement of Renewable Energy (CPRE) Program implemented pursuant to House Bill 589, S.L. 2017-192, in Docket No. E-100, Sub 150.<sup>4</sup>

4. Because the relevant sections of the rules are interrelated, the Public Staff believes it is appropriate and in the interest of judicial and administrative economy to initiate a single comprehensive rulemaking proceeding to address the issues identified herein.

### **Proposed Revisions to Commission Rule R8-63**

5. In its June 11, 2020 Order Denying Certificate of Public Convenience and Necessity in Docket No. EMP-105, Sub 0 (Friesian Order), the Commission

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<sup>1</sup> Order Adopting Rule (May 21, 2001).

<sup>2</sup> Final Order Adopting Rules (February 29, 2008). This rule was originally adopted in a rulemaking proceeding to implement Senate Bill 3 (S.L. 2007-397).

<sup>3</sup> Exempting any small power producer pursuant to N.C.G.S. 62-110.1(g), as follows: (i) a nonutility-owned generating facility fueled by renewable energy resources under two megawatts in capacity; (ii) persons who construct an electric generating facility primarily for that person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation; or (iii) a solar energy facility or a community solar energy facility, as provided by and subject to the limitations of Article 6B of Chapter 62.

<sup>4</sup> Commission Rule R8-64 succeeded Commission Rule R1-37 adopted in Docket No. E-100, Sub 41, Order Adopting Rule (October 25, 1984).

concluded the following regarding the current status of the transmission and distribution systems in the State owned and operated by Duke Energy Progress, LLC (DEP), Duke Energy Carolinas, LLC (DEC), and Dominion Energy North Carolina (DENC):

North Carolina has achieved nation-leading success in the siting and development of renewable energy generating facilities over the past decade, and the majority of the capacity added utilized existing transmission and distribution capacity on the DEP, DEC, and DENC systems. However, this success has come at a cost with the transmission system constraints in southeastern North Carolina and the system operational challenges that the utilities have begun to experience.

Friesian Order at 32.

6. Due to these new constraints on the system caused by high penetrations of solar facilities in certain regions, the facility at issue in the Friesian Order and others, especially large facilities in DEP's "constrained" area and projects in DENC's territory on the seam with DEP, are triggering significant upgrades to the interconnecting utility and neighboring utilities.

7. Merchant plant facilities located in DEC and DEP (together, Duke) service territories that are assigned network upgrade costs will result in costs that will ultimately be reflected in the utility's rate base due to the crediting policy currently in place as part of Duke's Open Access Transmission Tariff (OATT).<sup>5</sup> Additionally, projects located in DENC service territory are resulting in new and significant Affected Systems costs on the Duke systems.<sup>6</sup> The current Duke

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<sup>5</sup> The OATT requires interconnection customers to initially fund the network upgrades triggered by the facility. Upon commercial operation, interconnection customers are then refunded those network upgrade costs by the utility.

<sup>6</sup> Affected System costs in this scenario result when an interconnection customer is seeking to connect to another transmission system owner's assets (e.g., PJM) and Duke's transmission assets

Affected System Operating Agreement policy requires that those costs be recovered solely from the interconnection customer, but that policy is currently being challenged at the Federal Energy Regulatory Commission (FERC) in a pending docket.<sup>7</sup>

8. In the Friesian Order, the Commission found “[i]t is appropriate for the Commission to consider the total construction costs of a facility, including the cost to interconnect and to construct any necessary transmission network upgrades, when determining the public convenience and necessity of a proposed new generating facility.” Friesian Order at 6. Consistent with the Friesian Order, and to assess the impact of facilities potentially triggering network upgrades, the Public Staff has requested in discovery, and the Commission has issued orders in CPCN dockets requiring the filing of additional testimony addressing, information on these costs by merchant generating facilities.<sup>8</sup> At this time, the Public Staff believes it is important to revise Commission Rule R8-63 to include the information needed from merchant generator applicants, including total construction costs, for the application to be considered complete by the Public Staff and the Commission.<sup>9</sup>

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are the affected system. See Reply Comments of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC Regarding Affected System Study Process and Cost Allocation (Dec. 16, 2020).

<sup>7</sup> *Edgecombe Solar Energy LLC v. Duke Energy Progress, LLC, Duke Energy Carolinas, LLC, and Duke Energy Florida, LLC*, FERC Docket No. EL21-73-000. Edgecombe received a CPCN to construct a 75-MW solar facility in Edgecombe County, North Carolina in Docket No. EMP-101, Sub 0 by Commission Order dated November 13, 2020.

<sup>8</sup> See Docket No. EMP-92, Sub 0 Order Requiring Filing of Additional Testimony (June 9, 2020); Docket No. EMP-101, Sub 0, Order Requiring Filing of Additional Testimony (August 20, 2020); Docket No. EMP-102, Sub 0 Order Requiring Filing of Additional Testimony (October 5, 2021) and Order Requiring Further Additional Testimony (May 7, 2021).

<sup>9</sup> The Public Staff acknowledges that it has filed a number of notices stating that an application is “complete” despite the lack of interconnection studies available from the relevant utility. The current rule only requires an estimate of construction costs, and this practice is consistent with Public Staff treatment of prior applications. Going forward, however, the Public Staff believes that

9. For example, the Commission has required merchant plant CPCN applicants to file additional testimony that includes the Levelized Cost of Transmission (LCOT) for any required transmission upgrades or modifications, copies of any relevant interconnection studies, and, if no study has been received, the date by which a study is expected.<sup>10</sup>

10. In addition, on September 16, 2020, the Commission issued an Order Requiring Comments and Reply Comments Regarding Affected System Study Process in Docket No. E-100, Sub 170. In its Order, the Commission noted the increase in the number of merchant generating facility applications being filed pursuant to Commission Rule R8-63, including a number of facilities that will result in transmission network upgrades on both the system to which the facility is directly interconnecting and an affected transmission system. In reply comments filed on October 28, 2020, the Public Staff stated in its conclusions:

[I]t may be appropriate for the Commission to consider opening a rulemaking docket to formalize some of the information that both the Public Staff and Commission have requested in recent merchant CPCN applications, receive input from other stakeholders, and consider the following potential changes to the merchant CPCN application review process:

- 1) Requiring a CPCN applicant to file a copy of any completed interconnection studies, including affected system studies, that may impact the overall cost of construction of the facility.
- 2) Consideration of changes to the timing of the CPCN application process to potentially require a merchant applicant to have a completed system impact study and an affected system study, as applicable, as a precondition for the Public Staff to issue a notice that a CPCN application is considered complete under Rule

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an application should be considered incomplete until interconnection study information obtained from the utility has been filed by the applicant, as this information is necessary to understand and evaluate all costs of a proposed facility.

<sup>10</sup> See e.g., Docket No. EMP-102, Sub 0, Order Requiring Additional Testimony (August 20, 2020).

R8-63(d).

3) Addressing concerns regarding potential operational impacts of the merchant generation on the interconnecting system or potential affected systems beyond those normally captured in a transmission interconnection study, requiring an Applicant to submit a statement from the interconnecting utility and/or affected system, similar to the statement currently required under Commission Rule R8-64(b)(6) for larger qualifying facility CPCNs regarding any potential operational impacts or constraints associated with the additional generation being added to their system in such a way as to reduce operational efficiencies or increase costs. These may include such factors as operations and maintenance; fuel utilization; increases or decreases in the cycling of traditional thermal assets; and whether the additional capacity will drive further need for future capital investments like static VAR compensators, energy storage, or locational voltage support to account for ramp restraints or intermittency.

Docket No. E-100, Sub 170, Public Staff Reply Comments, at 10-11.

11. In Attachment A, the Public Staff proposes several revisions to Commission Rule R8-63 that reflect information the Public Staff or the Commission typically requests of the applicant, even if it is not initially included in the Application. Many of these rule revisions incorporate exhibits currently required in Commission Rule R8-64. As merchant plants require a more significant review process than small power producers, the Public Staff believes these exhibits are also proper to include in Commission Rule R8-63.

12. In addition to the exhibits required by Commission Rule R8-64, the Public Staff proposes requiring additional cost information from the applicant in Commission Rule R8-63,<sup>11</sup> including interconnection study costs. Recently, the Public Staff has seen a number of applications that do not include any preliminary study estimates obtained by the applicant from the utility. The Public Staff has

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<sup>11</sup> See Attachment A, Exhibit 5.

taken the position in pending dockets that this information is needed prior to making recommendations on whether the Commission should approve the application.<sup>12</sup> Likewise, the Commission has issued orders in pending dockets requesting additional cost information.<sup>13</sup> By making information related to interconnection studies necessary for an application, the Public Staff believes it will be in a better position to evaluate whether the facility meets the requirements of N.C.G.S. § 62-110.1. Making such information necessary for an application will also formalize the types of information requests the Commission has been making for additional cost information in pending dockets.

Furthermore, N.C.G.S. § 62-110.1(e) requires that the Commission consider the construction costs associated with a proposed facility. Specifically, N.C.G.S. § 62-110.1(e) provides:

As a condition for receiving a certificate, the applicant shall file an estimate of construction costs in such detail as the Commission may require . . . and no certificate shall be granted unless the Commission has approved the estimated construction costs and made a finding that construction will be consistent with the Commission's plan for expansion of electric generating capacity.

In order to properly evaluate the reasonableness of the construction costs, the Public Staff believes that the interconnection studies, including system impact study and facilities study, are necessary in order for the Commission to make a

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<sup>12</sup> See Docket Nos. EMP-102, Sub 0; EMP-116, Sub 0, and EMP-117, Sub 0. In addition, Docket Nos. EMP-110, Sub 0 and EMP-111, Sub 0 have requested and been granted a stay pending the receipt of affected system study costs.

<sup>13</sup> See, e.g., Docket Nos. EMP-108, Sub 0 and EMP-117, Sub 0.

finding that the construction will be consistent with the plan for expansion of electric generating capacity.<sup>14</sup>

### **Proposed Revisions to Commission Rule R8-64**

13. The Public Staff has seen an increasing number of applications for CPCN renewals and amendments by small power producers, and believes that Commission Rule R8-64 should be amended to clarify several issues, including the procedures for renewal of a CPCN, and when to seek an amendment to a CPCN versus when to file notice of a change with the Commission. The revisions to Commission Rule R8-64 as shown in Attachment B seek to, among other things, provide clarity with regard to the renewal and amendment of small power producer CPCNs.

14. The Public Staff also proposes to revise the application requirements for small power producers in order to incorporate the information that is necessary for review of applications by the Public Staff and the Commission, some of which the Public Staff typically requests of applicants during discovery. The revisions in Attachment B therefore add items that the Public Staff finds necessary for its review and typically requests after an application is submitted, if not included with the application. As discussed above, these changes have also been incorporated into the Commission Rule R8-63 revisions in Attachment A in order to align the two CPCN filing requirements.

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<sup>14</sup> Phase II Study is the equivalent of system impact study in the DEP and DEC queue reform proposal currently pending before the Federal Regulatory Energy Commission (FERC). If Duke's revisions to its OATT are approved at FERC, the Public Staff recommends the Commission only act upon a CPCN that has made it beyond a Phase II study. At that point, the Commission will also have information regarding the "cluster" and the total amount of generating capacity planning to come online.

15. In addition, as currently written, Commission Rule R8-64 only requires Exhibits 6, 7, and 8 for facilities with a nameplate capacity of 5 MW or larger and solar facilities 25 MW or larger. The Public Staff proposes revisions that require these exhibits for all facilities, regardless of the source of generation, that are 20 MW or larger. The Public Staff believes that 20 MW is the size at which all facilities should be subject to a more detailed and rigorous review.

16. The Public Staff also proposes to reduce the term of the CPCN for small power producers from five years to three years to align it with the CPCN term for merchant plants pursuant to Commission Rule R8-63. The revised rule specifies that this change applies to certificates issued on or after June 1, 2022 to allow certificates that have issued or are currently pending before the Commission to proceed consistent with the expectation when the application was filed that the certificate would be in effect for five years.

#### **Revisions to Both Commission Rules R8-63 and R8-64**

17. The Public Staff requests that both rules be amended to provide that an application to renew a CPCN should be filed prior to expiring. The proposed revisions to both rules require that the applicant shall file for renewal no later than 90 calendar days prior to the certificate expiring. If the renewal was timely filed and the Commission does not act before expiration, the certificate will renew upon the Commission's approval of the Application.

18. In both Attachments A and B revising Commission Rules R8-63 and R8-64, the Public Staff proposes to eliminate the State Clearinghouse Review process entirely. The Public Staff believes State Clearinghouse Review is an

unnecessary step and that it is a burden on both the applicant and the Public Staff to delay consideration of the application for review of the project by other agencies on matters in which the Public Staff and the Commission have no jurisdiction or special expertise.

19. Waiting to obtain comments from the State Clearinghouse can significantly delay the review of CPCN applications. In addition, there is no clear guidance on how the Public Staff or the Commission should incorporate comments from other agencies that make recommendations but do not require any further action. For example, the North Carolina Department of Natural and Cultural Resources, State Historic Preservation Office, often submits comments regarding the protection of archaeological and historical sites and makes recommendations for buffers or fences to be installed. In such situations, the cover letter provided by the State Clearinghouse concludes that “[b]ecause of the nature of the comments, it has been determined that no further State Clearinghouse review action on your part is needed for compliance with the North Carolina Environmental Policy Act. The attached comments should be taken into consideration in project development.”<sup>15</sup>

20. Additionally, the Public Staff notes that the “no further action” determination made by the State Clearinghouse is made “for compliance with the North Carolina Environmental Policy Act,” despite the fact that the North Carolina Environmental Policy Act, N.C.G.S. § 113A-1, *et seq.*, does not apply to most

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<sup>15</sup> See *e.g.*, Docket No. SP-9590, Sub 0, Additional Comments of the State Clearinghouse (Sept. 6, 2018), at 1-2.

facilities applying for a CPCN<sup>16</sup> with the Commission and, in fact, specifically excludes a CPCN approval for a utility-owned facility seeking a CPCN pursuant to N.C.G.S. § 62-110.<sup>17</sup>

21. The Public Staff recognizes that the Commission is not relying on the North Carolina Environmental Policy Act for authority to send applications to the State Clearinghouse for agency review, but rather, likely seeks comments from agencies to ensure that the facilities are complying with other state laws and regulations, as a condition of approval of the CPCN.

To be clear, the Public Staff recommends that applicants continue to comply with all state laws and regulations and that doing so should be made a condition of the certificate going forward. To the extent that any party, including the Public Staff, believes that the applicant is not complying with a state law or regulation, there would be a basis for bringing that information to the Commission's attention and seeking the denial of a CPCN or, if the CPCN has already issued, to revoke the CPCN based on such noncompliance.<sup>18</sup>

In its Final Order Adopting Rules issued on February 29, 2008 in Docket No. E-100, Sub 113 (Sub 113 Order), adopting Commission Rule R8-64, the Commission found with regard to assessing environmental compliance throughout the life of the facility that:

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<sup>16</sup> The North Carolina Environmental Policy Act of 1971 applies to state agency actions involving the significant expenditure of public moneys or use of public land for projects and programs. N.C.G.S. § 113A-4(2).

<sup>17</sup> See N.C.G.S. § 113A-12(2)(f).

<sup>18</sup> The Public Staff has generally made this recommendation in its testimony in EMP dockets and the Commission has adopted the recommendation in past dockets. See Order Granting Certificate with Conditions, Docket No. EMP-92, Sub 0 (January 19, 2017); Order Accepting Settlement and Issuing Amended Certificate of Public Convenience and Necessity, Docket No. EMP-93, Sub 0 (Dec. 21, 2018).

The Commission does not have the staff, the expertise or the statutory mandate to conduct periodic site reviews to ensure that all renewable energy facilities comply with all environmental requirements imposed by all units of government, especially those located in other states. The Commission, therefore, concludes that it will have to rely on assistance from third parties to meet this requirement. The proposed rules already require renewable energy facilities to assert compliance, both as part of the registration process and annually. Given the statutory requirement that the Commission assure that renewable energy facilities are in “substantial compliance” with environmental laws, the Commission finds good cause to add a provision to the rules that will allow third parties to challenge a registration on the grounds of noncompliance with environmental requirements. The Commission will then refer the matter to the appropriate environmental agency for review and await its recommendation prior to potentially suspending the facility’s registration.

Sub 113 Order at 35-36. Similarly, the Public Staff believes that if a third party brings to the Commission’s attention noncompliance with any State or federal law or regulation, the Commission can choose to deny the CPCN, revoke the CPCN if it has issued, or refer the matter to the appropriate agency for review.

#### **Updates to Conform with Legislative Changes**

22. On May 17, 2021, the Governor signed House Bill 217, Session Law 2021-23, making various technical, clarifying, conforming, and administrative changes to Chapter 62 of the General Statutes. Both Commission Rules R8-63 and R8-64 have been amended in Attachments A and B, respectively, to acknowledge that the Public Staff will have access to information marked confidential and filed under seal in the same manner as the Commission consistent with the new subsection (c) of N.C.G.S. § 62-34.

23. In addition, S.L. 2021-23 increased the fee for nonutility-owned CPCN applications from \$25.00 to \$250.00 effective July 1, 2021. The sample

application form for Commission Rule R8-64 included in Attachment B has been updated to reflect the increased fee.

### **Request for Expedited Review**

24. As discussed herein, the Public Staff respectfully requests the Commission approve the proposed revisions to Commission Rules R8-63 and R8-64 in order to facilitate the efficient review of EMP and SP applications going forward. The Public Staff has seen a steady increase in the number of EMP applications that may either trigger affected system costs in DENC's service territory or are planning to enter the transition queue in the DEP or DEC service territories. These projects have the potential to shift significant costs to ratepayers. The Public Staff believes, at this time, that it is premature for it to provide the Commission with recommendations on such applications prior to receiving applications that contain more certain cost information. Therefore, the Public Staff requests that the Commission establish an expedited comment period on the proposed rule revisions of 15 days for initial comments and an additional 15 days for reply comments.

WHEREFORE, the Public Staff respectfully requests that the Commission adopt the proposed changes to Commission Rule R8-63 and Rule R8-64 as discussed herein and shown as Attachments A and B, respectively.

Respectfully submitted this the 19th day of August, 2021.

PUBLIC STAFF  
Christopher J. Ayers  
Executive Director

Dianna W. Downey  
Chief Counsel

Electronically submitted  
/s/ Layla Cummings  
Staff Attorney

/s/ Nadia L. Luhr  
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**CERTIFICATE OF SERVICE**

I certify that a copy of this Petition 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 19th day of August, 2021.

Electronically submitted  
/s/ Layla Cummings

## Attachment A

**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 RuleR8-61 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 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  
~~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;~~
  - (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; and
  - (iv) ~~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. 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) 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 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, 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) 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~~ 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) 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 pipeline capacity;
- (iv) ~~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~~
  - (v) ~~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, a description of the technology, output capacity in megawatts, and 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 network upgrade costs. If an affected system study has not been completed, include a certified statement from the neighboring utility 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 be inclusive of any network and system upgrades required for interconnection and operation of the facility and include a description of the inputs used in the calculation.
- (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-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) The application shall be signed and verified by the applicant or by an individual duly authorized to act on behalf of the applicant.
- (10) The application shall be accompanied by pre-filed direct testimony incorporating and supporting the application.
- (11) ~~The Chief Clerk will deliver a copy of the application to the Clearinghouse Coordinator in the Department of Administration for distribution to State agencies having an interest in the proposed generating facility.~~
- (12) 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) 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. The Public Staff shall have access to such information for purposes of its investigation and shall treat any information marked confidential and filed under seal as confidential pursuant to G.S. 62-34.

(d) 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) 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 significant changes in the information set forth in subsections (b)(1) thru (b)(8) 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, 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, a change in the upstream ownership of the facility, 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.

(f) Reporting. All applicants must submit annual progress reports and any revisions in cost estimates, as required by G.S. 62-110.1(f) until construction is completed. If network upgrade costs estimated by the interconnecting utility or a neighboring utility are increased after the certificate has issued, the applicant must file notice with the Commission of such changes within 30 days of being notified of the increased costs by the utility.

(NCUC Docket No. E-100, Sub 85, 05/21/01; 07/27/01; 11/06/01; NCUC Docket No. E-100, Sub 134, 07/30/12; NCUC Docket No. E-100, Sub 134, 11/04/14.)

**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) The 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) 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) The projected date on which the facility will ~~come on line~~begin operation;
  - (ix) 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) 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 kilowatt megawatt-hours; and
  - (xiv) 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 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 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-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. The Public Staff shall have access to such

information for purposes of its investigation and shall treat any information marked confidential and filed under seal as confidential in accordance with G.S. 62-34.

- (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 Clearinghouse Coordinator of the Office of Policy and Planning of the Department of Administration for distribution by the Coordinator to State agencies having an interest in the application.~~
  - (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.
  - (4) If no 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) 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.
  - ~~(3) 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 three years after the certificate is issued. For certificates issued before June 1, 2022, 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) Subsection (d)(3)(iii) of this Rule applies only to certificates issued on or after June 1, 2022.
    - (v) Amendments and transfers of certificates pursuant to subsection (d)(4) of this Rule will not alter the expiration date of a certificate.
  - (4) 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) 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.

(NCUC Docket No. E-100, Sub 113, 2/29/08; NCUC Docket No. E-100, Subs 113 & 121, 1/31/11; NCUC Docket No. M-100, Sub 136, 6/26/12; NCUC Docket No. E-100, Sub 134, 07/30/12; NCUC Docket No. E-100, Sub 134, 11/04/14; NCUC Docket No. E-100, Sub 113, 12/31/14; NCUC Docket No. E-100, Sub 134, 3/18/2015, NCUC Docket No. E-100, Sub 134, 5/23/2016; NCUC Docket No. E-100, Sub 150, 11/06/2017; NCUC Docket Nos. E-100, Subs 113, 121, & 134, 03/29/2018; NCUC Docket No. E-100, Sub 166, 08/31/2020.)

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](http://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, NC27699-4325

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)	
	<del>Owner's agent for purposes of this report, if applicable:</del>	
	<del>Agent's business address</del>	
	<del>Agent's e-mail address</del>	
	<del>Agent's telephone number</del>	
	<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)	<p>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, <del>and</del> 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 (<del>found at</del> <a href="http://www.gis.ncdcr.gov/hpweb/">www.gis.ncdcr.gov/hpweb/</a>) is preferred.</p>	

(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	
	<del>GPS coordinates</del> <u>Latitude and longitude</u> of the approximate center of the proposed facility site to the nearest <del>second</del> or one <u>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>	
<del>(iii)</del> <u>(v)</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</u>	

	<u>in megawatts, and energy storage capability in megawatt-hours</u>	
<u>(vii)</u>	<u>The anticipated date construction will begin</u>	
<del>(iv)</del> <u>(viii)</u>	The projected date on which the facility will <del>come on-line</del> <u>begin operation</u>	
<del>(v)</del> <u>(ix)</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	
<del>(vi)</del> <u>(x)</u>	Any provisions for wheeling of the electricity, if applicable	
<del>(vii)</del> <u>(xi)</u>	Arrangements for firm, non-firm, or emergency generation, if applicable	
<del>(viii)</del> <u>(xii)</u>	The service life of the project	
<del>(ix)</del> <u>(xiii)</u>	The projected annual sales in <del>kilowatt-hours</del> <u>megawatt-hours</u>	
<del>(x)</del> <u>(xiv)</u>	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): <del>1) An 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 projected generating nameplate capacity of 520 MW<sub>AC</sub> or greater and is not a solar photovoltaic facility, and</del></p> <p><del>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<sub>AC</sub> or more.</del></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
<del>(ii)-</del> (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
<del>(iii)-</del> (8)a	<del>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</del> <u>The projected annual hourly production profile for the first full year of operation of the facility in kilowatt-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>
<del>b-c</del>	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>
e-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

## 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. The Public Staff shall have access to such information for purposes of its investigation and shall treat any information marked confidential and filed under seal as confidential in accordance with G.S. 62-34.

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