

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. EMP-105, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Friesian Holdings, LLC, for a) ORDER SUSPENDING
Certificate of Public Convenience and) PROCEDURAL DEADLINES AND
Necessity to Construct a 70-MW Solar Facility) ALLOWING FILING OF
in Scotland County, North Carolina) PRE-HEARING BRIEFS

BY THE CHAIR: On May 15, 2019, Friesian Holdings, LLC (Applicant), filed an application pursuant to N.C. Gen. Stat. § 62-110.1 and Commission Rule R8-63 for a certificate of public convenience and necessity (CPCN) to construct a 70-MW_{AC} solar photovoltaic (PV) electric generating facility located in Scotland County, North Carolina.

In support of its application for a CPCN, the Applicant filed the direct testimony of Brian C. Bednar, as well as several exhibits. In summary, construction of the 70-MW solar PV facility is anticipated to begin in the summer of 2023, with the expected commercial operation date being as early as December 2023. The primary address of the proposed facility is at 8960 Leisure Road, and the secondary address is 10061 Leisure Road, Laurinburg, in Scotland County, North Carolina. The facility will interconnect with the electric transmission system owned by Duke Energy Progress, LLC. The expected service life of the facility is 20 or more years.

On May 31, 2019, the Public Staff filed a Notice of Completeness stating that the Public Staff has reviewed the application as required by Commission Rule R8-63(d) and that the Public Staff considers the application to be complete. In addition, the Public Staff requested that the Commission issue a procedural order setting the application for hearing, requiring public notice pursuant to N.C.G.S. § 62-82, and addressing other procedural matters.

On June 13, 2019, the Commission issued an Order that, among other things, scheduled hearings in this proceeding, established a procedural schedule for the filing of petitions to intervene and of testimony, and directed the Applicant to publish notice of the public hearing once a week for four consecutive weeks, beginning at least 30 days prior to July 26, 2019.

On June 21, 2019, the North Carolina Electric Membership Corporation (NCEMC) filed a petition to intervene, which was granted pursuant to the Commission's Order issued in this docket on July 2, 2019.

On July 18, 2019, NCEMC filed comments.

On July 23, 2019, Duke Energy Progress, LLC (DEP) filed a petition to intervene, which was granted pursuant to the Commission's Order issued on August 2, 2019.

On July 29, 2019, the North Carolina Sustainable Energy Association (NCSEA) filed a petition to intervene, which is pending before the Commission.

On August 1, 2019, the Public Staff filed a motion seeking the establishment of a date for the filing of pre-hearing briefs and the suspension of the current schedule for the filing of expert witness testimony. In support of its motion, the Public Staff states that, as a part of its investigation, it has identified several issues that are legal in nature. The Public Staff believes that, rather than addressing these issues through testimony, it may be more efficient for the Commission to first allow the filing of pre-hearing briefs to address the legal issues.

The Public Staff believes that the following issues should be addressed in pre-hearing briefs:

- (1) The appropriate standard of review for the Commission to apply in determining the public convenience and necessity (CPCN) for a certificate to construct a merchant generating facility pursuant to N.C. Gen. Stat. § 62-110.1 and Commission Rule R8-63;
- (2) Whether the Commission has authority under state and federal law to consider as part of its review of the CPCN application the costs associated with the approximately \$227 million dollars in transmission network upgrades and interconnection facilities necessary to accommodate the FERC-jurisdictional interconnection of the merchant generating facility, and the resulting impact of those network costs on retail rates in North Carolina; and
- (3) Whether the allocation of costs associated with interconnecting the Friesian project and any resulting additional capacity made available that is then utilized by State-jurisdictional interconnection projects is consistent with the Commission's guidance provided in the Commission's June 14, 2019, Order Approving Revised Interconnection Standard and Requiring Reports and Testimony, issued in Docket No. E-100, Sub 101, in which the Commission directed the utilities as follows: "to the greatest extent possible, to continue to seek to recover from Interconnection Customers all expenses ... associated with supporting the generator interconnection process under the NC Interconnection Standard."

Motion for the Establishment of Due Dates for Pre-Hearing Briefs and Suspension of Evidentiary Hearing, at p. 3, Docket No. EMP-105, Sub 0 (filed August 1, 2019) (citing Order Approving Revised Interconnection Standard and Requiring Reports and Testimony, p. 18, Docket No. E-100, Sub 101 (June 14, 2019)). In addition, the Public

Staff states that additional issues may be appropriately raised in this proceeding and, therefore, suggests that the Commission allow the pre-hearing briefs to include a discussion of other issues raised by Friesian's application that are appropriate for consideration in this proceeding.

The Public Staff further recommends that, if an intervening party desires to file a pre-hearing brief, the due date for such brief should be Monday, August 26, 2019, and that the Applicant be allowed the opportunity to file a reply brief on or before Monday, September 9, 2019. In addition, the Public Staff recommends that the Commission indefinitely suspend the deadlines for the filing of expert witness testimony and the date of the expert witness hearing until the Commission has resolved the legal issues identified herein. The Public Staff notes that the Applicant has already completed publication of notice for the public hearing scheduled for August 15, 2019, and no complaints have been filed, nor does the Public Staff anticipate that complaints will be filed. Therefore, the Public Staff does not believe that the public hearing should be rescheduled nor does the Public Staff believe that an extension of time for the filing of petitions to intervene is required. Finally, the Public Staff states that it has shared the contents of its motion with the other parties (the Applicant and NCEMC), and with those persons whose petitions to intervene are pending in this docket (DEP and NCSEA).

Based upon the foregoing and the entire record herein, the Chair finds good cause to suspend the procedural schedule previously established in this proceeding and to allow for the filing of pre-hearing briefs. The parties herein are not required to file pre-hearing briefs; however, those parties that avail themselves of the opportunity to do so should brief the issues noted in the Public Staff's motion and may brief other legal issues. Finally, the Chair notes that the opportunity for the filing of complaints in this proceeding remains available and that the potential cancellation of the public hearing will be addressed, as appropriate, by further order of the Commission.

IT IS, THEREFORE, ORDERED as follows:

1. That the convening of the expert witness hearing in this proceeding that is currently scheduled for August 27, 2019, 2019 at 10:00 a.m., shall be, and is hereby, suspended pending further order of the Commission;
2. That the deadline for the filing of the direct testimony and exhibits of the Public Staff and other intervenors that is currently set for Monday, August 5, 2019, shall be, and is hereby, suspended pending further order of the Commission;
3. That the deadline for the Applicant to file rebuttal testimony and exhibits, that is currently set for Friday, August 9, 2019, shall be, and is hereby, suspended pending further order of the Commission;
4. That, on or before Monday, August 26, 2019, the parties may file pre-hearing briefs;

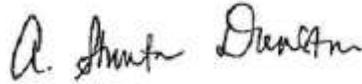
5. That, on or before Monday, September 9, 2019, the parties may file pre-hearing reply briefs; and

6. That, upon the receipt of the parties' pre-hearing briefs and reply briefs, the Commission shall proceed as appropriate.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of August, 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "A. Shonta Dunston".

A. Shonta Dunston, Deputy Clerk