

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 113

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Rulemaking Proceeding to Implement)	ORDER CONSOLIDATING
Session Law 2007-397)	REPORTING REQUIREMENTS

BY THE COMMISSION: Prior to the implementation of Senate Bill 3 (Session Law 2007-397), qualifying facilities, as defined in the federal Public Utility Regulatory Policies Act of 1978, that received from the Commission a certificate of public convenience and necessity (CPCN) to construct a generation facility were required by Rule R1-37(d)(2) to file annual progress reports during construction. On February 29, 2008, in its Order Adopting Final Rules implementing Senate Bill 3, the Commission recodified Rule R1-37 as Rules R8-64 and R8-65. Specifically, the requirement of Rule R1-37(d)(2) was continued as Rule R8-64(e) in the recodified rule.

On June 3, 2014, the Commission issued an Order Requesting Comments regarding the potential changes to Rules R8-64 and R8-65, as well as the reporting requirements in Docket No. E-100, Subs 101, 83, and 41B (June Order). In the June Order, the Commission took note that, over the past few years, a large number of facilities, particularly solar photovoltaic, have been filing applications for CPCNs. However, it is currently unclear whether certificate holders for solar facilities are complying with this construction progress report requirement. Further, due to the fact that there is no requirement for notice of completion, the Commission cannot easily discern how many facilities are actually being built. The June Order requested that interested parties file comments by June 30, 2014, and that reply comments be filed by July 21, 2014.

On June 30, 2014, the North Carolina Sustainable Energy Association ("NCSEA"), Virginia Electric and Power Company, d/b/a Dominion North Carolina Power, Duke Energy Carolinas, LLC and Duke Energy Progress, Inc. (collectively "NC Utilities"), and the North Carolina Utilities Commission – Public Staff ("Public Staff") filed comments. On July 18, 2014, the NC Utilities filed a Motion for Extension of Time to file reply comments. On July 23, 2014, the Commission issued an Order extending the due date for reply comments to July 28, 2014. On July 28, 2014, the NC Utilities filed reply comments. On July 29, 2014, the Public Staff filed a Motion for Leave to File Comments Out of Time and Reply Comments on Reporting Requirements. The Commission finds good cause to accept the Public Staff's reply comments out of time.

I. Comments

A. NCSEA

In its filing, NCSEA initially summarizes the current status of the North Carolina Renewable Tracking System (NC-RETS). In 2012, NCSEA realized that it could not easily identify how many non-utility generating facilities were actually being built. At that time, the downloadable spreadsheet on the NC-RETS website did not include a North Carolina Utilities Commission (NCUC) Docket No. column. In 2013, the NCSEA worked with the NC-RETS stakeholder group to add a NCUC Docket No. column at NCSEA's expense. This spreadsheet, however, does not give a complete picture of all of the non-utility generating facilities that have commenced operation in North Carolina.

The Commission's June Order asked for comments as to whether or not Rule R8-64 should be modified to require a notice of completion of construction. NCSEA does not support such an amendment to Rule R8-64. NCSEA states that this change will not provide any additional information from the information that can now be obtained from NC-RETS. NCSEA also opposes the change due to the additional administrative work that filing such a notice will create.

NCSEA does not support amending Rule R8-65 to impose an annual progress report until construction is complete, similar to the reporting requirement contained in Rule R8-64. Although NCSEA recognizes that Rule R8-65 applies to persons exempt from the CPCN process and such construction cannot be discerned from NC-RETS, NCSEA argues there is a more efficient means to obtaining such information.

NCSEA posits that the most efficient way for the Commission to obtain the requested information is to require the NC Utilities to provide it. NCSEA states that currently electric utilities must provide the Commission with information regarding small power producers and interconnection. In Docket Nos. E-100, Sub 41 and Sub 57, the Commission issued an Order Regarding Cogeneration and Small Power Production Status Reports on June 6, 1989. In the Order, the Commission directed electric utilities to provide status reports annually providing information on the following categories:

(1) cogenerators and small power producers which have contacted the utility but not yet executed a contract (2) cogenerators and small power producers which have executed a contract with the utility, but not yet begun producing power; and (3) cogenerators and small power producers which have executed a contract and begun producing power. As to category (1) the reports shall provide the name and address of the cogenerator or small power producer, the project's projected capacity, the project's fuel and technology; and the status of negotiations. As to categories (2) and (3), the report shall provide the name and address of the cogenerator or small power producer, the project's capacity, the project's fuel and technology, the contract term and rates, and the actual or anticipated date of initial power production.

In the interconnection docket, Docket No. E-100, Sub 101, the Commission issued an Order Approving Tariffs, Riders and Regulations Implementing Net Metering and Consolidating Reporting Requirements on December 27, 2005. In this Order, the Commission directed electric utilities to file an annual report providing detailed information regarding any interconnection requests, including the type and size of the generator, the impact on the distribution circuit, whether the proposed generator passed the Impact Screens, and the status of the interconnection requests.

NCSEA recommends that, to the extent that any supplementation is needed to information available on the NC-RETS website, the utilities should provide this information to the Commission. NCSEA recommends that the two separate reports that are currently being filed in Commission Docket Nos. E-100, Sub 41B and Sub 101A be revised and consolidated into one report that the utilities file in March and September of each year. NCSEA suggests additional information that should be included in this consolidated report as follows:

1. The report be a complete report as opposed to an update;
2. The report cover all interconnections/interconnection requests for the grid as opposed to only requests for projects that are 100 kW or less;
3. The report includes a column that identifies the project by Commission Docket No. in which the facility filed a report of proposed construction, registration or a certificate of convenience and necessity.

Lastly, NCSEA recommends that the electric utilities make the filed reports available in electronic spreadsheet form to parties to the dockets.

B. The NC Utilities

In the joint comments filed, the NC Utilities recommend that the annual construction progress reporting requirement currently provided in Commission Rule R8-64(e) should be maintained and that the Rule be revised to require 1) that the report of construction progress be submitted by February 1 of each year, 2) that a qualifying facility (QF) be required to submit a notice of completion of construction and 3) that if any QF fails to submit an annual construction progress report, the QF will have its CPCN revoked without prejudice to refile for a new CPCN. The NC Utilities state that these recommendations are reasonable to enable the Commission to ensure that CPCNs that the Commission has issued are actually being implemented. The NC Utilities further recommend that Commission Rule R8-65 should be modified to insert a requirement that each QF submit a notice of completion of construction within 30 days of completion. This requirement would capture QFs under 2 MW.

The NC Utilities state that it is more appropriate for the QF to file the report of notice of completion than the utility because the QF is the entity that currently is required to file annual construction progress reports and requiring the QF to file should be more efficient and timely.

C. The Public Staff

The Public Staff recommends that the Commission not add new reporting requirements to Rules R8-64 and R8-65 due to the fact that there is so little compliance with the existing requirements. Rather, the Public Staff recommends that the NC Utilities provide additional information to the Commission. Specifically, the Public Staff recommends that the Commission cancel the utilities' existing annual generation facility reporting requirements in Docket Nos. E-100, Sub 41B and Sub 101A and submit three different reports in a new docket, Docket No. E-100, Sub 113B. The Public Staff states that creating a single docket for all of the reporting requirements will make the information more accessible and easier to manage. The Public Staff states that the electric utilities should submit this consolidated report containing the three lists electronically, in EXCEL format, to the Commission and the Public Staff and that each list should be complete and not merely an update. The Public Staff further recommends that the electronic version of the lists should be made available on the Commission's website and that the lists should not be confidential. The consolidated reports should be filed on a quarterly basis on March 1, June 1, September 1, and December 1 of each year.

The suggested three lists for the consolidated report are:

1. An Interconnection Application List of all applications in the utility's interconnection queue that provides the owner's name, Commission Docket No., AC capacity (kW), fuel type(s), application date, county and interconnection application status.
2. An Interconnection List of all generators interconnected with the utility's system in North Carolina that provides the owner's name, Commission Docket No., AC capacity (kW), fuel type(s), power delivery date, county and whether the facility is net metering.
3. A Purchased Power Agreement (PPA) List of all facilities with which the utility has a purchased power agreement that provides the owner's name, Commission Docket No., AC capacity (kW), fuel type(s), energized date, tariff name(s), term (years), county and PPA application status.

The Public Staff provided a suggested format for each of the lists in Appendices A-C of its filing. In addition to the lists, the Public Staff recommends that the Commission require the electric utilities to file in the consolidated report (1) any claims for personal injury or property damage caused by the interconnection or operation of a customer-generator, and (2) any customer-generators removed or rejected from net metering and the reason for the rejection or removal.

II. Reply Comments

A. The NC Utilities

In the reply comments, the NC Utilities indicate disagreement with the Public Staff's and NCSEA's comments recommending that the Commission direct electric utilities to file a combined report with the requested information. The NC Utilities state that if the Commission accepts the proposals offered by NCSEA and the Public Staff, the cost and the majority of the burden of reporting information regarding QF development and interconnection will shift from the QFs themselves to the utilities. The NC Utilities further state that the rationale that the QFs have not been fulfilling their current reporting requirements so the Commission should have the utilities perform those duties is not a valid reason to shift these responsibilities from the QFs to the utilities. The NC Utilities state that even though a utility tracks information pertaining to the utility's own processing of interconnection requests, the utility does not track the developer's own progress in constructing their facility. Therefore, the NC Utilities recommend that the most efficient manner to obtain the information is from the QFs, which is also the most appropriate entity to provide the information.

The NC Utilities request that if the Commission decides to accept any portion of the NCSEA's or Public Staff's proposals to impose reporting requirements on the utilities, the utilities should be permitted to file as confidential any information that they typically treat as such, subject to the execution of a Confidentiality Agreement by any party seeking access to that information. The NC Utilities do not support increasing the frequency of any utility reporting requirements.

B. The Public Staff

In its reply comments, the Public Staff reiterates that the current system of utility reporting in Docket Nos. E-100, Sub 41B and Sub 101A are difficult to review and analyze because the reports are not in mathematical format and do not contain all of the information that is necessary for a reasonable analysis. The Public Staff states that although NC-RETS keeps track of all renewable facilities that have an account, many facilities with a CPCN or a Report on Proposed Construction do not have an NC-RETS account. The Public Staff provides that the proposed system of utility reporting will be helpful to respond to the frequent requests from the public and the Commission Staff for renewable facility information.

The Public Staff agrees with most of the comments filed by NCSEA and specifically agrees that the reports filed by utilities be complete and not merely updates; include all interconnection requests, interconnections completed and proposals for construction of new generating facilities; include the Commission docket number for the facility; be in electronic spreadsheet format; and be consolidated into one report. In addition, the Public Staff recommends that the report should indicate what information has been updated since the last report, which can be accomplished through italicizing, underlining, bolding or capitalizing.

The Public Staff specifically disagrees with two of the NCSEA's recommendations. The NCSEA suggests that the consolidated reports be filed semiannually. The Public Staff recommends that the reports be filed quarterly to provide the most current information as possible. The Public Staff does not believe that NC-RETS is the best venue for the filing of the reports. Rather, the reports should continue to be filed with the Commission and be made available on the Commission's website.

The Public Staff disagrees with the NC Utilities that non-utility generators (NUGs), which consist of QFs (cogenerators and small power producers) and merchant generators, should be responsible for the reporting on the construction progress of the facility and that if the NUG does not file such reports is subject to revocation of its CPCN. The Public Staff states that this creates an unnecessary administrative burden on the Commission. In this vein, the Public Staff recognizes that the NC Utilities will have to expend time and effort to prepare the reports suggested by the Public Staff, but posits that after the initial work of creating the spreadsheet is completed that updating and filing should not be difficult for the NC Utilities.

III. Discussion and Conclusions

The Commission agrees with the Public Staff and the NCSEA that the current reporting requirements by the NC Utilities should be streamlined to provide a more coherent and complete picture of the status of NUGs within North Carolina. Currently, the NC Utilities are required to make filings in two different dockets, Docket Nos. E-100, Sub 41 and Sub 101. In Docket No. E-100, Sub 41¹, the utilities are required to file the following information annually pursuant to the Commission's Order Regarding Cogeneration and Small Power Production Status Reports issued on June 6, 1989:

(1) cogenerators and small power producers which have contacted the utility but not yet executed a contract (2) cogenerators and small power producers which have executed a contract with the utility, but not yet begun producing power; and (3) cogenerators and small power producers which have executed a contract and begun producing power. As to category (1) the reports shall provide the name and address of the cogenerator or small power producer, the project's projected capacity, the project's fuel and technology; and the status of negotiations. As to categories (2) and (3), the report shall provide the name and address of the cogenerator or small power producer, the project's capacity, the project's fuel and technology, the contract term and rates, and the actual or anticipated date of initial power production. The status reports may include such additional information as the utilities choose to provide in order to present a complete and current report on their cogeneration and small power production activities.

¹ The actual filing of the report occurs in Docket No. E-100, Sub 41B.

On October 20, 2005, in Docket No. E-100, Sub 83, the Commission issued an order adopting net metering in North Carolina. The October 20, 2005 Order required the utilities to:

file on or before December 1 of each year ... an annual report indicating the numbers of net metering applicants and customer-generators, the aggregate capacity of net metered generation, the size and types of renewable energy facilities, the amounts of on-peak and off-peak generation credited and ultimately granted to the utility, and the reasons for any rejections or removals of customer-generators from net metering.

In Docket No. E-100, Sub 101, on March 22, 2005, the Commission issued an Order Approving in Part, Proposed Interconnection Standard. In this Order, the Commission required the utilities to:

file a report by October 1, 2005, and every six months thereafter, providing detailed information regarding (1) any interconnection requests, including the type and size of the generator, the impact on the distribution circuit, whether the proposed generator passed the Impact Screens, and the status of the interconnection request; and (2) any claims for personal injury or property damage caused by the interconnection or operation of a customer generator.

On December 27, 2005, the Commission issued an Order Approving Tariffs, Riders, and Regulations Implementing Net Metering and Consolidating Reporting Requirements in Docket Nos. E-100, Sub 83 and Sub 101. In the December 27, 2005 Order, the Commission changed the reporting requirements and consolidated the two reports. The Commission specifically ordered that utilities file a report on March 31 of each year which incorporates and consolidates the requirements of the March 22, 2005 Order in Docket No. E-100, Sub 101 and the requirements of the October 20, 2005 Order in Docket No. E-100, Sub 83 as spelled out in the two preceding paragraphs. This interconnection report is the one currently filed annually in Docket No. E-100, Sub 101A.

As stated above, the Commission agrees that a consolidated report would be beneficial to all parties. Further, the Commission agrees with the Public Staff regarding the suggested three lists to be contained in the consolidated report, as well as the suggested format for each of the lists. The suggested three lists and the information contained in each for the consolidated report are:

1. An Interconnection Application List of all applications in the utility's interconnection queue that provides the owner's name, Commission Docket No., AC capacity (kW), fuel type(s), application date, county and interconnection application status.

2. An Interconnection List of all generators interconnected with the utility's system in North Carolina that provides the owner's name, Commission Docket No., AC capacity (kW), fuel type(s), power delivery date, county and whether the facility is net metering.
3. A Purchased Power Agreement List of all facilities with which the utility has a purchased power agreement (or application) that provides the owner's name, Commission Docket No., AC capacity (kW), fuel type(s), energized date, tariff name(s), term (years), county and PPA application status.

The Commission further agrees with the Public Staff and the NCSEA that the consolidated filing shall contain complete lists and not merely the updates. The NC Utilities should indicate what information has been updated since the last report by italicizing, underlining, bolding, or capitalizing. The Commission further agrees with the Public Staff and the NCSEA that the NC Utilities should file the report in an electronic spreadsheet format.

The Commission does not agree with the Public Staff that the lists should be filed quarterly or with the NCSEA that the reports should be filed semiannually. The Commission agrees with the NC Utilities that it is placing additional burdens on the NC Utilities that may be more appropriately assigned to the QFs. In its reply comments, the Public Staff recognizes that the NC Utilities will have to expend time and effort to prepare such reports. Therefore, the Commission shall only require an annual filing, in March, of the consolidated report. The Commission also recognizes that the NC Utilities will be providing a service to non-utility generators. Therefore, the Commission encourages the parties to discuss whether compensation to the NC Utilities by the NUGs is appropriate in the proceeding in Docket No. E-100, Sub 101.

Based upon the fact that the NC Utilities will be filing an annual consolidated report and based upon the information available through NC-RETS, the Commission does not find any benefit in amending Rules R8-64 and R8-65 to add additional requirements at the present time. Rather, the Commission finds that maintaining the current construction progress report requirement in R8-64(e) is not useful. Therefore, the Commission finds good cause to repeal R8-64(e).

Lastly, in their reply comments the NC Utilities requested that if the Commission decides to accept any portion of the NCSEA's or Public Staff's proposals to impose reporting requirements on the utilities, the utilities should be permitted to file, as confidential, any information that they typically treat as such, subject to the execution of a Confidentiality Agreement by any party seeking access to that information. The Commission is not opposed to allowing the NC Utilities to maintain as confidential the information that they typically treat as such. However, before ruling on this issue, the Commission requests that the NC Utilities detail what types of information they typically treat as confidential in the dockets at issue in this matter.

IT IS, THEREFORE, ORDERED as follows:

1. That the NC Utilities shall file a consolidated annual report in Docket No. E-100, Sub 113B, by March 31, of each year, beginning March 31, 2015, containing three lists with the following information:

- a. An Interconnection Application List of all applications in the utility's interconnection queue that provides the owner's name, Commission Docket No., AC capacity (kW), fuel type(s), application date, county and interconnection application status.
- b. An Interconnection List of all generators interconnected with the utility's system in North Carolina that provides the owner's name, Commission Docket No., AC capacity (kW), fuel type(s), power delivery date, county and whether the facility is net metering.
- c. A Purchased Power Agreement List of all facilities with which the utility has a purchased power agreement (or application) that provides the owner's name, Commission Docket No., AC capacity (kW), fuel type(s), energized date, tariff name(s), term (years), county and PPA application status.

2. That the consolidated filing shall contain complete lists and not merely the updates, that the NC Utilities should indicate what information has been updated since the last report by either italicizing, underlining, bolding, or capitalizing, and that the NC Utilities should file the report in an electronic spreadsheet format.

3. That the consolidated filing shall contain (1) any claims for personal injury or property damage caused by the interconnection or operation of a customer-generator, and (2) any customer-generators removed or rejected from net metering and the reason for the rejection or removal.

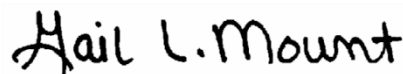
4. That Commission Rule R8-64(e) is repealed.

5. That on or before January 26, 2015, the NC Utilities provide to the Commission more details regarding what information that they are requesting be kept confidential prior to the Commission making a determination on that issue.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of December, 2014.

NORTH CAROLINA UTILITIES COMMISSION



Gail L. Mount, Chief Clerk