

**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 Certificate of Public Convenience and Necessity to Construct a 70-MW Solar Facility in Scotland County, North Carolina)))))	INTERLOCUTORY ORDER ON LEGAL ISSUES, SCHEDULING HEARING, ALLOWING FILING OF TESTIMONY, AND ESTABLISHING DISCOVERY GUIDELINES
--	-----------------------	--

BY THE COMMISSION: On May 15, 2019, in the above-captioned proceeding, 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 to be located in Scotland County, North Carolina.

On June 13, 2019, the Commission issued an Order scheduling hearings in this matter, requiring the filing of testimony, establishing discovery guidelines, and requiring the Applicant to publish notice of the public hearing.

On August 5, 2019, in response to a motion by the Public Staff, the Commission issued an Order suspending the procedural schedule established pursuant to the Commission's June 13 Order and allowing the parties to file briefs addressing the following issues:

- (1) The appropriate standard of review for the Commission to apply in determining the public convenience and necessity 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 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.”

On August 26, 2019, the Applicant, DEP, the Public Staff, and NCCEBA filed briefs; on September 9, 2019, the Applicant, DEP, the Public Staff, and NCCEBA and NCSEA (jointly) filed reply briefs.

On October 3, 2019, the Commission issued an Order scheduling oral arguments in this proceeding for the purpose of receiving arguments from the parties addressing the issues noted in the Commission’s August 5 Order, and, additionally, the questions of whether and, if so, how the July 14, 2017 decision of the U.S. Court of Appeals for the D.C. Circuit in Orangeburg v. FERC, 862 F.3d 1071 (2017), applies to the issues noted in the Commission’s August 5 Order.

On October 21, 2019, this matter came on for oral argument as scheduled.

Based upon the foregoing and the entire record herein, and in the interest of resuming this proceeding in a timely manner, the Commission finds good cause to issue this Order notifying the parties of the Commission’s decisions on the legal issues noted in the Commission’s August 5 Order and, additionally, the question of the application of Orangeburg to those issues. After careful consideration, the Commission agrees with the arguments of DEP and the Public Staff that the Commission may consider the costs for future network upgrades that are required to accommodate a proposed electric generating facility when considering an application for a CPCN pursuant to N.C.G.S. § 62-110.1 and Commission Rule R8-63. The Commission’s final order on the merits of the CPCN application will include the Commission’s full discussion and conclusions relevant to these issues, along with the Commission’s findings of fact and ultimate decision to either issue or deny the CPCN requested by the Applicant. The Commission, therefore, further finds good cause to resume the procedural schedule in this matter by scheduling a hearing for the purpose of receiving expert witness testimony, establishing deadlines for the filing of testimony as an opportunity for the parties to address any factual issues that, because of the Commission’s decisions on these legal issues, should be resolved in addressing the merits of the Applicant’s application for a CPCN, and requiring the parties to comply with the discovery guidelines established pursuant to the Commission’s June 13 Order.

IT IS, THEREFORE, ORDERED as follows:

1. That a hearing solely for the purpose of receiving expert witness testimony from the parties shall be held on Wednesday, December 18, 2019, at 10:00 a.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, for the purpose of considering the Applicant’s CPCN application;

2. That on or before Tuesday, November 26, 2019, the Applicant may file supplemental direct testimony and exhibits;

3. That on or before Friday, December 6, 2019, the Public Staff and intervenors may file direct testimony and exhibits;

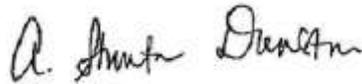
4. That on or before Thursday, December 12, 2019, the Applicant may file rebuttal testimony and exhibits; and

5. That the parties shall comply with the discovery guidelines established pursuant to the Commission's Order issued in this proceeding on June 13, 2019.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of October, 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink, appearing to read "A. Shonta Dunston".

A. Shonta Dunston, Deputy Clerk