

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH
STAFF CONFERENCE AGENDA
May 13, 2024
Commission Hearing Room 2115, 10:00 a.m.

ELECTRIC

*CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC CONVENIENCE
AND NECESSITY*

Duke Energy Progress, LLC

1. Docket No. E-2, Sub 1346 – Application of DEP for a CECPCN and motion for waiver of notice and hearing requirements to relocate a segment of the existing Rockingham – West End 230kV transmission line (*T. Williamson/Creech*)

WATER AND WASTEWATER

MOTION FOR APPROVAL OF ASSET TRANSFER

Old North State Water Company, Inc.

2. Docket No. W-1300, Sub 94 and W-1320, Sub 4 – Motion for Approval of Asset Transfer (*Coxton/Feasel/Darden*)

The Public Staff recommends approval of these agenda items as described above and reflected in proposed orders provided to the Commission Staff.

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1346

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Duke Energy Progress, LLC, for))	
a Certificate of Environmental Compatibility))	ORDER WAIVING NOTICE AND
and Public Convenience and Necessity and))	HEARING REQUIREMENT AND
Motion for Waiver of Notice and Hearing))	ISSUING CERTIFICATE
Pursuant to N.C. Gen. Stat. §§ 62-100 <u>et seq.</u>))	
to Relocate a Transmission Line in Richmond))	
County, North Carolina))	

BY THE COMMISSION: On April 9, 2024, pursuant to N.C. Gen. Stat. §§ 62-101 and 62-102, Duke Energy Progress, LLC (DEP or the Company), filed with the Commission a letter of intent to file for a waiver of the notice and hearing requirements of N.C.G.S. §§ 62-102 and 62-104. On that same date, pursuant to Commission Rule R8-62(k), DEP prefiled with the Public Staff an application for a certificate of environmental compatibility and public convenience and necessity to relocate approximately 4,100 feet of the Rockingham-West End 230-kV transmission line (Line) to accommodate industrial development in Richmond County, North Carolina.

On April 29, 2024, DEP formally filed the application for a certificate and motion for waiver of notice and hearing.

North Carolina Gen. Stat. § 62-101(d)(1) authorizes the Commission to waive the notice and hearing requirements of N.C.G.S. §§ 62-102 and 62-104 when it finds that the owners of the land to be crossed by the proposed transmission line do not object to the waiver and the transmission line is for the purpose of relocating an existing transmission line segment to accommodate an industrial development conflict. The application states that the Company will relocate the Line onto property for which it has acquired an easement from the property owner, and that the property owner does not object to the waiver of notice or hearing. Thus, the conditions of N.C.G.S. § 62-101(d)(1) for a waiver of notice and hearing have been met. The application is also supported by a Certificate Application Report. This report satisfies the requirements of N.C.G.S. § 62-102(a).

The Public Staff presented this matter at the Commission's regular Staff Conference on May 13, 2024. The Public Staff stated that the application meets the requirements of N.C.G.S. § 62-102 and Commission Rule R8-62 for a certificate and the conditions of N.C.G.S. § 62-101(d)(1) for waiver of the notice and hearing requirements of N.C.G.S. §§ 62-102 and 62-104. The Public Staff recommended that the Commission grant the motion for waiver and issue the requested certificate.

Based on the foregoing and the recommendation of the Public Staff, the Commission finds and concludes that the notice and hearing requirements of N.C.G.S. §§ 62-102 and 62-104 should be waived as allowed by N.C.G.S. § 62-101(d)(1) and that a certificate of environmental compatibility and public convenience and necessity should be issued to accommodate industrial development.

IT IS, THEREFORE, ORDERED as follows:

1. That, pursuant to N.C.G.S. § 62-101, the requirement for publication of notice and hearing is hereby waived; and

2. That, pursuant to N.C.G.S. § 62-102, a Certificate of Environmental Compatibility and Public Convenience and Necessity to relocate approximately 4,100 feet of the Rockingham-West End 230-kV line in Richmond County, North Carolina, as described in DEP's application shall be, and is hereby, issued, and the same is attached as Appendix A.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of May, 2024

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1346

Know All People by These Presents, That

DUKE ENERGY PROGRESS, LLC

is hereby issued this

**CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC
CONVENIENCE AND NECESSITY PURSUANT TO N.C. GEN. STAT. § 62-102**

to relocate approximately 4,100 feet of the
Rockingham-West End 230-kV transmission line
in Richmond County, North Carolina

subject to receipt of all federal and state permits as required by existing and
future regulations prior to beginning construction and further subject to all other orders,
rules, regulations, and conditions as are now or may hereafter be lawfully made by the
North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of May, 2024.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

[Back to Agenda](#)

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1300, SUB 94
DOCKET NO. W-1320, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Approval of Asset Transfer of Wastewater)
Force Main Serving Briar Chapel, and related)
property, from ONSWC - Chatham North, LLC)
to Old North State Water Company, Inc.)

JOINT PROPOSED ORDER

BY THE COMMISSION: On November 9, 2023, Old North State Water Company, Inc. (ONSWC), filed a Motion for Approval of Asset Transfer (Transfer Motion) in the above-captioned docket. The Transfer Motion seeks Commission approval to transfer the force main providing service at the Briar Chapel development in Chatham County, North Carolina, and related assets (Force Main), from ONSWC-Chatham North, LLC (ONSWC-CN), to ONSWC under terms set out in an Asset Purchase Agreement.

As stated in the Transfer Motion, in its Order Requiring Further Reporting and Directing Old North State Water Company, Inc. to Refrain from Certain Actions, issued in Docket No. W-1300, Sub 60, on May 19, 2023 (May 2023 Order), the Commission noted that ONSWC loaned Chatham North Holdings, Inc. (Chatham North Holdings), the sum of \$5,000,000 in December 2020 with a maturity date of December 2024; the loan was recorded as a note receivable in ONSWC's accounting books and records. In connection with that loan, Chatham North Holdings granted ONSWC a security interest in all its assets and signed a promissory note. ONSWC-CN is owned by Chatham North Holdings, so the security interest granted by Chatham North Holdings extends to the assets of ONSWC-CN.

Ordering Paragraph 2 of the May 2023 Order states that "ONSWC shall take no action with respect to the loan to [Chatham North Holdings] and the guarantee from [ONSWC-CN] without submitting such action to the Commission for review and approval." ONSWC filed the Transfer Motion in Docket No. W-1300, Sub 94, to comply with this requirement.

On January 5, 2024, ONSWC filed an Asset Purchase Agreement Amendment and Supplement accompanied by a confidential list of Purchased Assets (labeled Confidential Exhibit A). The list of Purchased Assets itemizes the property that would be transferred from ONSWC-CN to ONSWC in the proposed transaction. The Asset Purchase Agreement Amendment and Supplement (Amended APA) revised the purchase price to reflect a revised valuation of the assets proposed for transfer. The January 5, 2024 filing thus amends the original Transfer Motion.

The Public Staff has conducted discovery and investigated the proposed transfer of assets.

On April 29, 2024, ONSWC filed a Settlement Agreement and Stipulation (Settlement Agreement), including a Confidential Settlement Exhibit A, between ONSWC and the Public Staff. No other parties have intervened in this proceeding.

Based upon the verified Transfer Motion, the Settlement Agreement, and the records of the Commission, the Commission makes the following:

FINDINGS OF FACT

1. The Force Main is used and useful in providing wastewater service to the Briar Chapel subdivision. ONSWC's present use of the Force Main is pursuant to an informal agreement with ONSWC-CN.

2. The transfer will formally provide ONSWC with ownership rights to assets needed to provide utility service, rather than rely on an informal agreement to use those assets.

3. Transfer of the Force Main will remove most of a paper asset (the note receivable) on ONSWC books and replace it with physical property that is used and useful in providing utility service to ONSWC customers.

4. The valuation of the Force Main, as shown in Confidential Settlement Exhibit A, is considerably less than the cost to construct the Force Main today.

5. The Transfer Motion, as amended, does not include any change of rates or change in service to utility customers.

6. Transfer of the Force Main will not adversely affect utility customers.

7. The valuation shown in Confidential Settlement Exhibit A is reasonable, prudent, and the proper amount to reflect in rate base for ONSWC.

8. ONSWC-CN and Chatham North Holdings have no ongoing business activity and no revenues. The other pipeline assets of ONSWC-CN and Chatham North Holdings, constructed adjacent and parallel to the Force Main, are not being used and have no usefulness.

9. It is reasonable for ONSWC to accept the Force Main in partial satisfaction of the debt owed by Chatham North Holdings. Because neither Chatham North Holdings nor ONSWC-CN own anything else of value to ONSWC, transfer of the Force Main is the only realistic recourse that ONSWC has to obtain payment on the debt owed by Chatham North Holdings.

10. Because neither Chatham North Holdings nor ONSWC-CN own anything else of value to ONSWC, and have no prospects for future revenues, it is reasonable for ONSWC to write off and cancel the remainder of the debt owed by Chatham North Holdings.

CONCLUSIONS

Based on the foregoing, the Commission concludes that transfer of the Force Main and related assets, as listed in Confidential Exhibit A to the Amended APA, and as valued in Confidential Settlement Exhibit A, to ONSWC should be approved by the Commission prior to closing on the transfer.

IT IS, THEREFORE, ORDERED as follows:

1. That the Transfer Motion, as amended, is hereby approved consistent with the terms of the Settlement Agreement;
2. That approval of the Transfer Motion does not change the rates or any aspect of the Certificate of Public Convenience and Necessity granted to ONSWC to provide wastewater utility service to the Briar Chapel development in Chatham County, North Carolina; and
3. That ONSWC shall provide written notification to the Commission that the transfer has been completed within five business days after the closing.

ISSUED BY ORDER OF THE COMMISSION.

This the __ day of May, 2024.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

[Back to Agenda](#)