

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 179
DOCKET NO. E-100, SUB 190

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-100, SUB 179)	
)	
In the Matter of)	
Duke Energy Progress, LLC, and Duke)	
Energy Carolinas, LLC, 2022 Biennial)	
Integrated Resource Plans and Carbon Plan)	
)	
DOCKET NO. E-100, SUB 190)	ORDER DENYING THE PUBLIC
)	STAFF’S MOTION TO EXPEDITE
)	OFFSHORE WIND ACQUISITION
In the Matter of)	REQUEST FOR INFORMATION
Biennial Consolidated Carbon Plan and)	
Integrated Resource Plans of Duke Energy)	
Carolinas, LLC, and Duke Energy)	
Progress, LLC, Pursuant to N.C.G.S.)	
§ 62-110.9 and § 62-110.1(c))	

BY THE COMMISSION: North Carolina General Statutes Section 62-110.9 (Carbon Plan Statute) directs the Commission to take all reasonable steps to achieve a seventy percent reduction in emissions of carbon dioxide in the State from electric generating facilities owned or operated by Duke Energy Carolinas, LLC (DEC), and Duke Energy Progress, LLC (DEP; collectively with DEC, Duke), from 2005 levels by the year 2030 and carbon neutrality by the year 2050 subject to certain discretionary limitations. In accordance with the Carbon Plan Statute, the Commission issued an Order Adopting Initial Carbon Plan and Providing Direction for Future Planning on December 30, 2022, in Docket No. E-100, Sub 179 (Initial Carbon Plan). The Carbon Plan Statute directs the Commission to review the plan every two years after the adoption of the Initial Carbon Plan. The Initial Carbon Plan provided for the consolidation of the Carbon Plan and Integrated Resource Plan (IRP) processes (CPIRP, as consolidated) and required Duke to file its first proposed biennial CPIRP by no later than September 1, 2023.

On August 17, 2023, Duke filed a verified petition seeking the Commission’s approval of its proposed 2023 CPIRP, and on September 1, 2023, Duke prefiled direct testimony and exhibits of witnesses in support of its verified petition and proposed 2023 CPIRP. Duke subsequently amended its proposed 2023 CPIRP on January 31, 2024 (Amended Petition). In pertinent part, Duke requests that the Commission approve its plans to issue an Acquisition Request for Information (ARFI) in early 2025 for up to 2,400 MW of offshore wind off the coast of North Carolina “to better determine the cost and availability

of offshore wind resource options for the Companies' customers on the timelines identified in the Plan." Amended Petition at 31. Duke further requested that the Commission provide preapproval for it to incur up to \$1.4 million to develop and administer the ARFI. *Id.* at 31.

PUBLIC STAFF'S MOTION TO EXPEDITE OFFSHORE WIND ARFI

On April 17, 2024, the Public Staff filed a Motion Requesting Issuance of Commission Order (Motion) which urges the Commission to issue an order requiring Duke to proceed with the development and issuance of the offshore wind ARFI on an expedited basis. Motion at 7. In support of the Motion, the Public Staff states:

It is imperative that Duke proceed with the development and issuance of the ARFI as soon as possible, rather than waiting until early 2025 following issuance of a final Commission order in the current CPIRP proceeding. The parties are aware of the urgency inherent in meeting the emission reduction goals set forth in [N.C.G.S. § 62-110.9] in a least-cost manner while ensuring a reliable grid. Resource planning in this context requires accurate and up-to-date resource information, and when such information must be obtained by third parties, solicitation must be conducted in a timely manner. Waiting until early 2025 to issue the ARFI, as currently planned by the Companies, will unnecessarily delay the receipt of key information necessary for examining the role of offshore wind in North Carolina's resource portfolio.

Id. at 6-7.

Further, the Public Staff notes that the Initial Carbon Plan directed Duke to evaluate the three wind energy areas (WEAs) off the coast of North Carolina. *Id.* at 2. Specifically, the Commission required that Duke:

study and consider each of the three WEAs off the coast of North Carolina before pursuing acquisition of a leasehold. This evaluation should include best estimates of all relevant costs to acquire and develop a WEA and deliver energy to the point of injection into Duke's grid. To the greatest extent practicable, this evaluation should compare the WEAs on a similar basis to one another, including a comparison of the levelized cost of energy to the point of injection into Duke's grid.

Initial Carbon Plan at 102. The Public Staff maintains that in accordance with the Initial Carbon Plan, Duke issued a non-binding Request for Information (RFI) to the entities holding leaseholds for the three WEAs, which gathered information regarding in-service dates, capital and development costs, operating costs, transmission costs, generation profiles, and net capacity factors so as to calculate a levelized cost of energy (LCOE) for various project scenarios across the three WEAs. However, the Public Staff contends that additional information to be sought by Duke's proposed ARFI is critical enough to warrant expedited

approval by the Commission and that the proposed ARFI's scope falls within the parameters of the offshore wind study already authorized by the Initial Carbon Plan. *Id.* at 7.

The Motion finally notes that Duke authorized the Public Staff to represent that while Duke does not agree "that the 2022 Carbon Plan Order requires the Companies to issue an ARFI or equivalent RFI, the Companies are willing to proceed with the ARFI on an expedited basis if the Commission finds that it is reasonable to do so." *Id.*

On April 25, 2024, the Public Staff filed two attachments (copies of data requests to Duke and Duke's responses that were discussed in the Motion) which it states were inadvertently omitted from its Motion.

COMMENTS OF INTERESTED PARTIES

In response to the Public Staff's Motion, the Commission issued an Order Requesting Comments on the Public Staff's Motion Requesting Issuance of Commission Order (Order Requesting Comments). In the Order Requesting Comments, the Commission noted that the Motion provides the positions of only the Public Staff and Duke, and accordingly requested comments on the Motion from other interested parties by no later than April 25, 2024. Further, the Commission indicated that it would not receive reply comments on this matter.

On April 25, 2024, the following parties provided comments and letters on the Motion: TotalEnergies Renewables USA, LLC (TotalEnergies); the Southern Alliance for Clean Energy, Sierra Club, and Natural Resources Defense Council (appearing together as SACE et al.) commenting jointly with the North Carolina Sustainable Energy Association (NCSEA); the Carolina Industrial Group for Fair Utility Rates II and III (appearing together as CIGFUR) commenting jointly with the Carolina Utility Customers Association, Inc. (CUCA); the North Carolina Attorney General's Office (AGO); Avangrid Renewables, LLC (Avangrid Renewables); and the Environmental Defense Fund (EDF).

TotalEnergies Letter

TotalEnergies states that it supports the Public Staff's Motion and particularly "supports any process that expedites action on the production and development of offshore wind, as it is imperative to address the urgency inherent in meeting the emission reduction goals set forth in House Bill 951 . . . in a least-cost manner while ensuring a reliable grid." TotalEnergies Letter at 1 (internal citation omitted).

Joint Comments of SACE et al. and NCSEA

SACE et al. and NCSEA support the Public Staff's Motion to expedite Duke's proposed offshore wind ARFI, but they recommend modifications to the proposed ARFI process stating that "we believe the Commission, Public Staff, and intervenors will benefit from the ARFI process having more structure, with interim updates to the Commission prior to the next biennial Carbon Plan IRP filing." Joint Comments of SACE et al. and NCSEA at 1.

SACE et al. and NCSEA state that they agree with the Public Staff that “[w]aiting until early 2025 to issue an ARFI, as currently planned by the Companies, will unnecessarily delay the receipt of key information necessary for examining the role of offshore wind in North Carolina’s resource portfolio.” *Id.* at 2. SACE et al. and NCSEA further state “that the data and assumptions underlying offshore wind’s selection in [Duke’s preferred resource portfolio] were insufficient for resource selection beyond a generic offshore wind resource.” *Id.* at 3. They contend:

Not having portfolios grounded with sufficient, up-to-date data, that accurately reflects the potential capacity, development timeline, and costs for each WEA lease jeopardizes the validity of [Duke’s preferred resource portfolio]. For example, parties are now left speculating whether Duke’s assumptions for a generic offshore wind resource are reasonable for planning purposes, whether more offshore wind capacity greater than 800 MW can be procured earlier than 2033, and whether other large generator resources would not have been selected by [Duke’s preferred resource portfolio] if the Companies had sufficient data regarding the WEAs. Once [Duke’s preferred resource portfolio] informed Duke that offshore wind would need to be accelerated by five years to reliably serve its updated load forecast, the Companies should have immediately reengaged the WEA leaseholders to collect the relevant information outlined in its proposed ARFI to further supplement their portfolio analyses.

Id.

SACE et al. and NCSEA also assert that “[t]he timeline Duke proposes for issuing this ARFI also has practical, real-world implications.” *Id.* at 4. They cite to Duke’s January 31, 2024 Supplemental Planning Analysis which concedes: “Given the expected timeline to execute the ARFI and obtain necessary approvals, it will likely not be possible to achieve a 2033 in-service date for the first 800-MW block of offshore wind as currently modeled However, a 2034 in-service date may be achievable assuming proposed NTAP actions progress.” Supplemental Planning Analysis at 53. Accordingly, SACE et al. and NCSEA contend that “given the urgency to meet HB 951’s emission reduction mandates, and offshore wind’s role in 2030 compliance and the need to reliably serve whatever load ultimately materializes during the planning period, deems this delay unreasonable.” Joint Comments of SACE et al. and NCSEA at 4.

SACE et al. and NCSEA recognize that “starting the ARFI process earlier does not guarantee it reaches its conclusion earlier” and note Duke’s intent to make the results of the ARFI available in the 2025 CPIRP proceeding. *Id.* They request that the Commission require Duke to provide interim updates to the Commission on the progress of the ARFI. More particularly, they recommend that the Commission receive written filings or convene a technical conference for this purpose “in the Fall of 2024” so as to “inform the Commission’s decision-making related to next steps for the development and procurement of offshore wind in *this* proceeding.” *Id.* at 5 (emphasis original). SACE et al. and NCSEA contend that “[a]

decisive signal from the Commission on offshore wind in this proceeding will help open a path to market for these resources to support the goals of the Carbon Plan IRP.” *Id.*

Finally, SACE et al. and NCSEA recommend that the Commission direct Duke to work with the WEA leaseholders to “to jointly develop procurement schedules for each WEA lease, with achievable milestones through 2032, to guide the development of all, or a portion of, each lease to achieve, at a minimum, the proposed 2.4 GW of offshore wind generation in Duke’s supplemental portfolio and analysis.” *Id.* They assert that their proposal will “produce a more fulsome study and likely avoid the same shortcomings of the initial non-binding RFI convened in 2023.” *Id.* In conclusion, SACE et al. and NCSEA assert: “[S]wift, decisive Commission action in this proceeding on an expedited ARFI and its results is necessary for the offshore wind’s path to market in North Carolina. The Commission, the Public Staff, and intervenors cannot afford further delays and further restudy on this resource in its pursuit of meeting [the Carbon Plan Statute’s] mandates.” *Id.* at 6.

Joint Comments of CIGFUR and CUCA

Commenting jointly, CIGFUR and CUCA oppose the Public Staff’s Motion contending that “the Public Staff asks the Commission to address a single issue presented in the Companies’ Amended CPIRP filing in isolation from the other issues presented as well as the evidence and arguments to be presented by the other parties to the proceeding.” Joint Comments of CIGFUR and CUCA at 3. CIGFUR and CUCA argue that if the Commission were to grant the Public Staff’s Motion it would be prejudging a single issue “where multiple parties have differing views about interrelated matters.” *Id.* “At root, this proceeding is a planning effort where all aspects of the plan must be considered and balanced together and the Commission may wish to avoid piecemeal determinations on single issues.” *Id.* They further note the cost associated with the ARFI and assert that “Duke’s position that pre-approval should be sought for each step of the process as part of a comprehensive resource planning process is reasonable.” *Id.*

Next, CIGFUR and CUCA disagree with the Public Staff’s assertion that waiting until early 2025 to issue the ARFI will result in unnecessary delay and point to the customer bill impacts projected by Duke in association with implementing its preferred portfolio which includes the offshore wind ARFI.

Finally, CIGFUR and CUCA note that they are not taking a position on the offshore wind ARFI and they “expressly reserve the right to take any position in the instant dockets and/or in any future proceeding regarding the merits of including offshore wind in North Carolina’s resource portfolio.” *Id.* at 7.

AGO Letter

The AGO states that it supports the Public Staff’s Motion and agrees that “the information that would be sought by Duke in its proposed AFRI is important enough to warrant expedited approval by the Commission and that waiting until early 2025 to issue

the ARFI would delay receipt of potentially relevant information regarding the role of offshore wind in North Carolina's resource portfolio." AGO Letter at 2.

Comments of Avangrid Renewables

Avangrid Renewables states its agreement with the Public Staff's Motion and "urges the Commission to order and oversee the design of an efficient procurement process and issue a corresponding schedule that will enable completion of the procurement process by the end of 2024." Comments of Avangrid Renewables at 1-2.

Avangrid Renewables, which holds a lease on one of the offshore WEAs, notes that it participated in Duke's initial offshore wind RFI and that "all three offshore wind leaseholders participated and provided feedback to developing the Offshore Wind Study over the course of more than a year." *Id.* at 5. "Avangrid Renewables believes that this initial study enables a more expedited second round of engagement with, and information gathering from, developers through an ARFI or some other procurement process approved by the Commission." *Id.* More particularly, Avangrid Renewables recommends that the Commission apply its existing competitive solar procurement processes to offshore wind.

Finally, Avangrid Renewables notes that "[p]rompt procurement steps are required for offshore wind developers to gain clarity regarding their path to market in North Carolina and, as necessary, secure the significant financing required to support long-lead development and construction of these massive clean energy projects." *Id.* at 7.

EDF Letter

EDF states that it supports the Public Staff's Motion "for the Commission to issue an order expediting the procurement process for offshore generation resources." EDF Letter at 1. EDF notes that Duke's "analysis has forecasted the need for *at least* 2.4 GW of offshore wind generation to meet the interim carbon emissions reduction requirement and an unnecessary delay of the procurement process may endanger Duke's ability to meet the interim carbon emissions reduction requirement." *Id.* (emphasis original). Finally, EDF states that it "supports the expeditious procurement of offshore wind energy resources." *Id.*

DISCUSSION AND CONCLUSIONS

After careful consideration of the Public Staff's Motion and late-filed attachments, including Duke's position as represented in the Motion, the comments and letters submitted by interested parties on this issue, and the entire record in Docket No. E-100, Sub 190, the Commission is not persuaded that it is reasonable and appropriate to grant the Public Staff's Motion and require Duke to conduct the proposed offshore wind ARFI on an expedited basis.

The Commission notes that the Motion seeks a decision from the Commission about whether to direct Duke to issue an ARFI on an expedited basis without evidence and arguments from the parties and in advance of the procedures that the Commission has put in place to assess and rule on its next biennial Carbon Plan pursuant to N.C.G.S.

§ 62-110.9. The Commission has already received public witness testimony during the public witness hearings, and in the upcoming weeks and months, the Commission will receive direct testimony and exhibits from the Public Staff and other intervenors on May 28, 2024; rebuttal testimony and exhibits from Duke on July 1, 2024; and expert witness testimony during a hearing to be convened on July 22, 2024. Each of these milestones is part of the Commission's planned process to develop the record of evidence in this proceeding upon which it will base its decision about whether Duke should issue an offshore wind ARFI. The Commission further notes that the record of evidence ultimately received might include different perspectives from the parties on the issue of offshore wind and issuance of an ARFI that need to be considered by the Commission. The Commission therefore finds it premature to issue a decision on the Public Staff's Motion before receiving expert witness testimony at the expert witness hearing and considering all of the evidence in the record.

Further, the Commission notes that Duke projects that if the ARFI is conducted according to its proposal, the ARFI process will be completed in time to report on the results in its next biennial CPIRP proposal to be filed in 2025. See Supplemental Planning Analysis at Table SPA 4-1. Despite assertions of the Public Staff and several commenters that issuance of the ARFI on Duke's proposed timeline would result in unnecessary delay, no party has claimed that expediting the ARFI would enable the ARFI results to be admitted into the record in the current CPIRP proceeding according to the Commission's established procedural schedule. In the absence of such information, the Commission can only assume that regardless of whether the ARFI were to be conducted on an expedited basis or on Duke's proposed timeline, the information will not be available for the Commission's consideration until the 2025 CPIRP proceeding.

Accordingly, the Public Staff's Motion is denied.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of May, 2024.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script, reading "Tamika D. Conyers".

Tamika D. Conyers, Deputy Clerk

Commissioner Jeffrey A. Hughes dissents. Commissioner Floyd B. McKissick, Jr., concurs.

DOCKET NO. E-100, SUB 179
DOCKET NO. E-100, SUB 190

Commissioner Jeffrey A. Hughes, dissenting:

I understand the majority's concerns with how this motion was presented to us and share their reluctance at this critical point in the CPIRP process to specifically "direct" Duke to carry out this planning effort or any similar planning efforts. I read the Public Staff's portrayal of Duke's position to clearly state that *all they would need to know* is that the Commission thought this planning effort was reasonable and they would make the decision to proceed. I would not have issued an order that directed Duke to do this study but was willing to go on the record acknowledging that I believe it is reasonable for Duke to proceed with the ARFI on an expedited basis just as I think it's reasonable for Duke and the parties to be continually considering and carrying out information gathering efforts on a wide range of topics. Given the pace of change in the energy sector, it seems reasonable that parties would not stop all their information and planning activities for the extended time periods between when the Dukes Petition was filed and the statutory deadline for plan approval. What seems unreasonable is that the parties would find the need to come to the Commission to direct every information gathering effort done during this time. My endorsement of expediting a relatively modest information gathering effort is reasonable should in no way be interpreted as preapproval for cost recovery or support for any specific portfolio or technology.

/s/ Jeffrey A. Hughes
Commissioner Jeffrey A. Hughes

DOCKET NO. E-100, SUB 179
DOCKET NO. E-100, SUB 190

Commissioner Floyd B. McKissick, Jr., concurring:

I concur with the majority's determination that it is premature to issue a decision on the Public Staff's Motion before receiving expert witness testimony at the expert witness hearing. However, I agree to a limited degree with the Public Staff's assertion that the ARFI falls within the scope of Ordering Paragraph No. 26 of the Initial Carbon Plan Order, in addition to the directives contained on page 102 of the Initial Carbon Plan Order. While the Public Staff contends that the Initial Carbon Plan Order "requires the Companies to issue an ARFI or equivalent RFI," I believe that the completed ARFI falls within the scope of a permissive action consistent with the Commission's directive. Motion at ¶ 16.

I am not persuaded, however, that good cause exists to require Duke to expedite the ARFI at the cost of disregarding the Commission's established procedures in the immediate CIPRP proceeding, particularly because the Public Staff and other parties that support the Motion have failed to describe with sufficient particularity the need for urgency, including realistically when the expedited ARFI results could become available and how not receiving the ARFI results on an expedited basis will specifically hinder the evaluation of offshore wind.

/s/ Floyd B. McKissick, Jr.
Commissioner Floyd B. McKissick, Jr.