

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, Sub 1288

In the Matter of:)	
)	
Application of Duke Energy Progress, LLC for)	DUKE ENERGY PROGRESS,
a Certificate of Environmental Compatibility)	LLC’S PROPOSED ORDER
and Public Convenience and Necessity)	
Pursuant to N.C. Gen. Stat. §§ 62-100 <u>et. seq.</u>)	
to Construct Approximately 1.3 Miles of New)	
230 kV Transmission line in Chatham County,)	
North Carolina)	

HEARD ON: Tuesday, June 7, 2022 at 7:00 p.m., at the Historic Chatham County Courthouse, 9 Hillsboro Street, 2nd Floor, Pittsboro, North Carolina: Cancelled pursuant to *Order Cancelling Public Witness Hearing*, issued May 31, 2022.

Tuesday, June 20, 2022, at 10:00 a.m., in Commission Hearing room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina: Cancelled pursuant to *Order Cancelling Expert Witness Hearing*, issued June 2, 2022.

APPEARANCES:

For Duke Energy Progress, LLC:

Kathleen H. Richard, Counsel, Duke Energy Corporation, NCRH 20/Post Office Box 1551, Raleigh, North Carolina 27602

Brady W. Allen, The Allen Law Offices, PLLC, 4030 Wake Forest Rd., Suite 115, Raleigh, North Carolina 27609.

For Using and Consuming Public:

William E. H. Creech, Staff Attorney, Public Staff, North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699.

BY THE COMMISSION: On February 7, 2022, pursuant to N.C. Gen. Stat. § 62-100 et seq. and Commission Rule R8-62, Duke Energy Progress, LLC (“DEP”) filed an application for a certificate of environmental compatibility and public convenience and

necessity (the “Application”) to construct approximately 1.3 miles of new 230kV transmission line in Chatham County, North Carolina. The application was filed simultaneously with the direct testimony and exhibits of Clifton M. Cates and Micah E. Retzlaff. The new transmission line will connect the Pittsboro Hanks Chapel Substation to the existing Harris Plant – Siler City 230 kV Transmission line.

On February 21, 2022, the Commission issued its *Order Scheduling Hearings and Requiring Public Notice*, scheduling a public hearing in Pittsboro, North Carolina and an evidentiary hearing in Raleigh, North Carolina, allowing the filing of petitions to intervene, allowing the filing of direct and rebuttal testimony, and requiring DEP to give public notice of the application and of the scheduled hearing. DEP's Application was properly served on the parties designated by N.C. Gen. Stat. § 62-102.

On April 20, 2022, DEP, as required by Commission Order, filed affidavits of proof of publication confirming that the Public Notice had been published for four successive weeks in Chatham County beginning on February 24, 2022.

On April 22, 2022, the State Clearinghouse filed its State Environmental Review Clearinghouse Comments with the Commission stating that no further review is needed by the Commission for compliance with the North Carolina Environmental Policy Act.

On May 18, 2022, the Public Staff filed a letter stating:

Based upon our investigation of the application, exhibits, and other matters of record, the Public Staff believes that DEP has complied with the requirements of N.C.G.S. §. 62-102 and has demonstrated as required by N.C.G.S. §. 62-105 that: (1) the proposed transmission line is necessary; (2) when compared with reasonable alternative courses of action, construction of the line in the proposed location is reasonable; (3) the estimated costs associated with the line are reasonable; (4) the impact of the line on the environment is justified considering the state of available technology; and (5) the environmental compatibility, public convenience, and necessity requires the transmission line.

The Public Staff, therefore, “recommends that the Commission issue the certificate requested in this proceeding.”

On May 27, 2022, DEP filed a motion to cancel hearings scheduled in Pittsboro, North Carolina and Raleigh, North Carolina. The Commission issued an *Order Cancelling Public Witness Hearing* on May 21, 2022, upon a finding of good cause.

On June 2, 2022, the Commission issued an *Order Cancelling the Expert Witness Hearing* that upon review of the application and supporting testimony and the entire record in this proceeding and for good cause, recognizing no other comments have been filed in the docket and no other party has intervened, cancelled the expert witness hearing and ordered DEP to file a proposed order on or before July 2, 2022.

Based upon DEP’s verified application, the testimony and exhibits received into evidence and the entire record of this proceeding the Commission makes the following:

FINDINGS OF FACT

1. DEP is a public utility providing electric service to customers in its service area in North Carolina and is subject to the jurisdiction of the Commission.
2. The Commission has jurisdiction over DEP’s application. Pursuant to N.C. Gen. Stat. § 62-100 et. seq. and Commission Rule R8-62, a public utility must receive a Certificate for Environmental Compatibility and Public Convenience and Necessity (“CPCN”) prior to constructing transmission lines at or above 161 kV in North Carolina.
3. The proposed transmission tapline would originate at the site of a new Pittsboro Hanks Chapel Substation, near Pittsboro in Chatham County, North Carolina, and would terminate at a selected tap location along the existing Harris Plant – Siler City

230kV transmission line. The approximate total length of the proposed transmission tapline is 1.3 miles.

4. The Commission did not receive any written complaints or other written opposition regarding the proposed transmission line.

5. DEP's application meets the requirements of N.C. Gen. Stat. § 62-102.

6. DEP has carried its burden of proof under N.C. Gen. Stat. § 62-105(a) through substantial, competent evidence showing that:

- (a) the proposed transmission line is necessary to satisfy the reasonable needs of the public for an adequate and reliable supply of electricity;
- (b) when compared with reasonable alternative courses of action, construction of the transmission line in the proposed location is reasonable, preferred, and in the public interest;
- (c) the costs associated with the proposed transmission line are reasonable;
- (d) the impact that the proposed transmission line will have on the environment is justified considering the state of available technology, the nature and economics of the alternatives, and other material considerations; and
- (e) the environmental compatibility, public convenience and necessity require the construction of the transmission line.

7. It is in the public interest, reasonable, and appropriate to grant the requested certificate.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-2

These findings of fact are essentially informational, jurisdictional, and procedural in nature and uncontroverted.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 3-7

The evidence supporting these findings of fact appear in DEP's application, the direct testimony of DEP witnesses Cates and Retzlaff, the study filed by DEP, and the recommendation of the Public Staff.

The parties' respective burdens of proof in this proceeding are governed by statute. N.C. Gen. Stat. § 62-105(a). The Commission has in the past interpreted the burden of proof requirement set forth in N.C. Gen. Stat. § 62-105(a) as follows:

In interpreting this statute, the Commission concludes that the electric utility applying for approval to site a transmission line has the initial burden of proof, including that it examined "reasonable alternative courses of action" and that "construction of the transmission line in the proposed location is reasonable, preferred, and in the public interest." A landowner or other intervenor who believes that an alternative route studied by the utility is preferable to that proposed or that the utility did not consider or appropriately weigh relevant factors in reaching its decision may introduce evidence and otherwise argue that the utility has not met its burden of proof. Once the utility has sustained its burden of proof, a landowner or other intervenor proposing an alternative not originally examined by the utility has the burden under the statute of proving that its alternative should have been studied and is preferable to the proposed route.

Final Order Overruling Exceptions and Affirming Recommended Order, *Application of Carolina Power and Light Company for a Certificate of Environmental Compatibility and Public Convenience and Necessity to Construct Approximately 19.6 Miles of 230-kV Transmission Line in Wayne, Duplin, and Sampson Counties, North Carolina* Docket No. E-2, Sub 796, at 2 (August 29, 2002).

In considering other "relevant and material" factors pursuant to N.C. Gen. Stat. § 62-105(a), the Commission notes that "[i]t is hereby declared to be the policy of North Carolina: ... (5) To encourage and promote harmony between public utilities, their users

and the environment.” N.C. Gen. Stat. § 62-2. In addition, the Commission considers the following declaration of State environmental policy:

The General Assembly of North Carolina, recognizing the profound influence of man's activity on the natural environment, and desiring, in its role as trustee for future generations, to assure that an environment of high quality will be maintained for the health and well-being of all, declares that it shall be the continuing policy of the State of North Carolina to conserve and protect its natural resources and to create and maintain conditions under which man and nature can exist in productive harmony. Further, it shall be the policy of the State to seek, for all of its citizens, safe, healthful, productive and aesthetically pleasing surroundings; to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety; and to preserve the important historic cultural elements of our common inheritance.

N.C. Gen. Stat. § 113A-3.

Showing of need

DEP witness Cates testified regarding the need to build a new 230kV substation and the 1.3 miles of new transmission line necessary to energize the substation on the North and Southeast sides of the Town of Pittsboro in Chatham County, North Carolina. DEP witness Cates testified that the area is currently served by one existing substations, the Pittsboro Substation. The new substation site was purchased in 2018 based on the projected load center along Highway 15-501 and between US 64 Business and US 64 Bypass.

DEP witness Cates testified that the Pittsboro 230kV substation's planning limit was projected to be exceeded in the summer of 2022. Therefore, as a result, a project to increase its capacity to 40 megavolt-amperes (“MVA”) was completed in December 2021. This substation is limited to 3 feeders which greatly reduces the ability to manage load growth and transfer load for outage restoration. DEP witness Cates testified the Northwood 23 kV feeder out of the Pittsboro substation is projected to exceed its planning limit in 2022, and the Big Woods 23 kV is projected to exceed its planning limit in 2023.

Additionally, Witness Cates testified that several infrastructure projects have been completed or are planned to manage the growing load in the area. Projects in 2021 increased the capacity of the Pittsboro 230kV Substation and transferred load from the Northwood 24kV to other sources. While helpful and needed, DEP witness Cates testified these infrastructure projects will not provide a permanent solution.

DEP witness Cates testified that due to the increasing load growth along US 15-501 from the Fearington Area to Chapel Hill, limited capacity is available for extended transfers. To serve future growth in the Pittsboro area, additional substation and feeder capacity will be needed. DEP witness Cates testified that the new substation and associated transmission line, subject to this *Order Issuing a Certificate of Environmental Compatibility and Public Convenience and Necessity*, is required to provide needed capacity and enhanced service reliability to support existing customers and to allow for future residential and commercial growth.

The routing study and selection process

After having established the need for the transmission of power to the Pittsboro area, DEP witness Retzlaff testified that DEP retained JacobsCH2m Hill North Carolina, Inc., a subsidiary of Jacobs Engineering Group, Inc. (“Jacob”), an American international technical professional services firm with substantial utility and infrastructure siting experience. Jacobs was retained to assist DEP with the line siting and soliciting necessary public input for the project. Jacobs prepared the Study attached as Attachment A to DEP’s application. DEP and Jacobs established the study area, which was designed to provide a set of reasonable and geographically-distinct transmission line route options. Data was then collected from publicly available sources, grouped into categories, and then assigned a

weight from one to ten to reflect potential sensitivity to the presence of a transmission line. With this data, Jacobs developed alternative routes and conducted a quantitative analysis of potential impact to the identified area sensitivities. This allowed DEP to consider alternatives and ultimately select Route 1 as the preferred route for the transmission line. The objective of the routing analysis was to identify an economically feasible route that would supply the most reliable electric service, while also minimizing to the extent possible adverse impacts to the economic, social and natural environment.

DEP witness Retzlaff testified that the route selection process included several forms of public input to solicit study area data and determine community values relative to the proposed project, including an agency scoping meeting and other communications with Federal, State, and local agencies, as well as public information workshops held by DEP to provide and receive information from the public about the study area. All feedback received was used to identify environmental and land use sensitivities located in the study area and assess the values and attitudes of the residents and public officials regarding the project.

DEP contacted the following state and federal agencies to solicit input regarding the proposed transmission line's potential impact on threatened or endangered species, wetlands, wildlife resources, stream sensitivity, hydric soils, and other potential issues: U.S. Army Corp of Engineers, U.S. Fish and Wildlife Services, NC Wildlife Resources Commission, N.C. Natural Heritage Program, and N.C. Department of Environmental Quality, including the N.C. Division of Water Resources and the N.C. Division of Land Quality. DEP witness Retzlaff testified that, from these external agency contacts, the primary concerns identified were known within the study area including creeks that serve

as headwaters to nearby Jordan Lake and the possible presence of habitat for threatened or endangered species historically observed in Chatham County, including bald eagles.

As noted in the routing study and DEP witness Retzlaff's testimony, DEP held several public information workshops, including study area workshops on September 17, 2020 and September 22, 2020, which were held prior identifying route alternatives, and two public information meetings on December 8, 2020 and December 10, 2020 to introduce the project and receive input from residents in the study area and local public officials. The intent of the public information workshops was to both request data on sensitive features located in the study area and on private properties and provide potentially affected landowners near the alternative routes an understanding of the need for the project, the decision-making process used to select a preferred route, and a forum to voice concerns about the proposed project.

Due to the COVID-19 pandemic, DEP witness Retzlaff testified each meeting was held virtually where DEP provided a safe environment available online and via telephone conference by which members of the public could join to ask questions about the project, provide feedback and data about properties within the study area and learn about project updates. DEP witness Retzlaff testified invitations to study area community meetings were sent to all owners of property in the project study area.

Jacobs identified 3 distinct routes using a combination of seven line segments. After analyzing route alternatives based on social, environmental, and engineering factors, DEP's siting team determined that Route 1 was the preferred route for the following reasons: it maximizes distance to existing residences, and it parallels DEP's existing Bynum Tap for a majority of its length, which reduces the need for additional right-of-way

easements. Additionally, Route 1 was the least overall impacting route in the numerical evaluation performed for the project with a total estimated cost of \$6.88 million. DEP witness Retzlaff testified that by using standard construction procedures and mitigation techniques when coordinating the project with State and Federal Agencies, the construction, operation, and maintenance of the proposed project will have limited effects on the natural and social resources within the area.

Route 1, which was proposed by DEP in its application for a CPCN, originates at the site of the proposed Pittsboro Hanks Chapel Substation located 1,000 feet east of the intersection of US Highway 64 Business and Hanks Chapel Road in Chatham County, North Carolina. The route exits the substation site to the southwest and extends approximately 1,250 feet before turning south-southwest for approximately 5,500 feet before terminating at the selected tap location on the existing Harris Plant – Siler City 230kV transmission line.

The Commission did not receive any written complaints or other consumer statements of position regarding the proposed transmission line.

Discussion and conclusions

Having carefully reviewed the application, and based upon all the evidence of the record and the recommendation of the Public Staff, the Commission concludes that DEP has carried its burden of proof pursuant to N.C. Gen. Stat. § 62-105(a) in demonstrating that the proposed transmission line is necessary for an adequate and reliable supply of electric energy to its service area. The Commission next concludes that DEP has carried its burden of proof in successfully demonstrating that Route 1 is the preferred transmission

line route, that construction of a transmission line along Route 1 is in the public interest, and that the proposed costs associated therewith are reasonable.

IT IS, THEREFORE, ORDERED as follows:

1. That pursuant to N.C. Gen. Stat. § 62-102, a certificate of environmental compatibility and public convenience and necessity to construct approximately 1.3 miles of new 230kV transmission line Chatham County, North Carolina, as described in DEP's application is hereby issued to DEP, and the same is attached hereto as Appendix A, subject to the conditions set forth herein and therein.

ISSUED BY ORDER OF THE COMMISSION.

This is the _____ day of _____, 2022.

NORTH CAROLINA UTILITIES COMMISSION

Shonta Davis, Chief Clerk

CERTIFICATE OF SERVICE

I certify that a copy of the Proposed Order of Duke Energy Progress, LLC, in Docket No. E-2, Sub 1288, has been served by electronic mail, hand delivery or by depositing a copy in the United State mail, postage prepaid to the following parties:

William E. H. Creech
Public Staff
North Carolina Utilities Commission
4326 Mail Service Center
Raleigh, NC 27699-4326
zeke.creech@psncuc.nc.gov

This is the 5th day of July, 2022.

/s/ Brady W. Allen

Brady W. Allen
The Allen Law Offices, PLLC
4030 Wake Forest Rd., Suite 115
Raleigh, NC 27609
919-838-5175
Brady.Allen@theallenlawoffices.com

ATTORNEY FOR DUKE ENERGY
PROGRESS, LLC