

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 )  
)

**MOTION FOR THE  
ESTABLISHMENT OF DUE  
DATES FOR PRE-HEARING  
BRIEFS AND SUSPENSION  
OF EVIDENTIARY HEARING**

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Christopher J. Ayers, and respectfully moves the Commission establish due dates for pre-hearing briefs to be filed in the above captioned proceeding, and to suspend the filing of expert testimony and the evidentiary hearing. In support of this motion, the Public Staff shows the following:

1. This proceeding was initiated with the filing of an Application for Certificate of Public Convenience and Necessity (Application), by Friesian Holdings, LLC (Applicant) on May 15, 2019. The Applicant plans to construct a 70-MW<sub>AC</sub> solar photovoltaic electric generating facility in Scotland County, North Carolina. The Applicant will interconnect with the transmission grid owned by Duke Energy Progress, LLC (DEP), and has executed a power purchase agreement with the North Carolina Electric Membership Corporation (NCEMC).

2. On May 31, 2019, the Public Staff filed a Notice of Completeness stating that the Public Staff has reviewed the Application as required by Commission Rule R8-63(d) and that the Public Staff considered the Application to

be complete. In addition, the Public Staff requested that the Commission issue a procedural order setting the application for hearing, requiring public notice pursuant to N.C. Gen. Stat. § 62-82, and addressing other procedural matters.

3. On June 13, 2019, the Commission issued an *Order Scheduling Hearings, Requiring Filing of Testimony, Establishing Procedural Guidelines, and Requiring Public Notice* (Procedural Order). The Procedural Order established the following procedural schedule:

- a. Interested persons may seek to intervene on or before Monday, August 5, 2019;
- b. The filing of testimony and exhibits of the Public Staff and other intervenors to be filed on or before Monday, August 5, 2019;
- c. The filing of rebuttal testimony by the Applicant on or before Friday, August 9, 2019;
- d. A public witness hearing on Thursday, August 15, 2019, in Laurinburg, North Carolina, subject to cancellation if no substantial written complaints are filed on or before Monday, August 5, 2019; and
- e. An expert witness hearing on Tuesday, August 27, 2019, in Raleigh, North Carolina.

4. On June 21, 2019, NCEMC filed a petition to intervene, which was granted by the Commission on July 2, 2019. On July 23, 2019, DEP filed a petition to intervene. On July 29, 2019, the North Carolina Sustainable Energy Association (NCSEA) filed a petition to intervene.

5. As part of its investigation, the Public Staff has identified several issues that are legal in nature, and believes that rather than addressing those in testimony, it may be more efficient for the Commission in its decision-making process to first allow the filing of pre-hearing briefs to address the legal issues.

6. The Public Staff believes the following issues should be addressed in pre-hearing briefs: (a) the appropriate standard of review for the Commission to apply in determining the public convenience and necessity (CPCN) for a certificate to construct a merchant generating facility pursuant to N.C. Gen. Stat. § 62-110.1 and Commission Rule R8-63; (b) 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 and interconnection facilities 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 (c) 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 in its June 14, 2019, *Order Approving Revised Interconnection Standard and Requiring Reports and Testimony*, in which the Commission directed the utilities, "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."

7. The Public Staff also believes that additional issues may be appropriately raised in this proceeding. Therefore, a Commission order granting this motion should indicate that the pre-hearing briefs can include a discussion of other issues raised by Friesian's application that are appropriate for consideration in this proceeding.

8. The Public Staff recommends that, if an intervening party wishes to file a pre-hearing brief, the due date for such briefs should be Monday, August 26, 2019. The Applicant should be allowed the opportunity to file a reply brief no later than Monday, September 9, 2019.

9. If the Commission modifies the procedural order to include the filing of pre-hearing briefs, the Public Staff requests that the Commission indefinitely suspend the deadlines for the filing of expert witness testimony and the date of the expert witness hearing as provided in the Procedural Order until the Commission has resolved the legal issues identified above.

10. The Public Staff notes that the Applicant has already completed publication of notice for the August 15, 2019, public hearing and that no complaints or objections to the project have been raised. At this time, the Public Staff does not believe that the public hearing should be rescheduled, nor does the Public Staff believe an extension on the deadline for intervention is required.

11. The Public Staff has shared this motion with the other parties to this proceeding, and those with pending petitions to intervene, including the Applicant, DEP, NCEMC, and NCSEA. The other parties indicated that they do not oppose the Public Staff's motion.

Therefore, the Public Staff moves that the Commission:

1. Suspend the schedule for the filing of expert testimony and the evidentiary hearing originally established in the Commission's Procedural Order;
2. Allow the Public Staff and other interested parties to file pre-hearing briefs on or before August 26, 2019;
3. Allow the Applicant to file reply briefs on or before September 9, 2019; and
4. For such further and other relief as the Commission may deem just and proper.

Respectfully submitted this the 1<sup>st</sup> day of August, 2019.

PUBLIC STAFF  
Christopher J. Ayers  
Executive Director

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Electronically submitted  
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**CERTIFICATE OF SERVICE**

I certify that a copy of this Motion has been served on all parties of record or their attorneys, or both, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 1<sup>st</sup> day of August, 2019.

Electronically submitted  
/s/ Tim R. Dodge