

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. SP-13695, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition for Relief of Orion Renewable)	ORDER SCHEDULING
Resources LLC)	HEARING

BY THE CHAIR: On March 9, 2020, Orion Renewable Resources LLC (Orion) filed a Verified Petition for Relief in Docket No. SP-13695, Sub 1 challenging a decision by the Independent Administrator of the Competitive Procurement of Renewable Energy (CPRE) Program, Accion Group, Inc. (Accion or IA), to disqualify Orion's Proposal 129-01 (Proposal) because it failed to pass the IA's "Net Benefit" test.

On April 9, 2020, Accion filed a response in opposition to Orion's petition.

On May 26, 2020, Orion filed a reply in support of the petition.

On May 29, 2020, the Public Staff filed a Motion for Leave to File Comments and Comments.

Lastly, on June 12, 2020, Accion filed an additional response to Orion's reply comments.

DISCUSSION AND CONCLUSIONS

As an initial matter, the Chair notes that the Public Staff has been actively involved in both the development and implementation of the CPRE Program and this dispute and that its Motion for Leave to File Comments should, therefore, be granted and its comments accepted. Further, the Chair agrees with the Public Staff that Orion was timely in its efforts to pursue the issues underlying its petition. The Chair, therefore, is persuaded that Orion's petition before the Commission in this matter is timely.

After careful consideration of the comments and pleadings in this matter, the Chair has determined that there is a need for further hearing to clarify certain matters of fact that may be material to disposition of the petition. Only some of the submissions by the parties are sworn, and none of the factual statements and contentions has been subject to cross-examination or Commission questions. In particular, it cannot be determined with any degree of confidence from the parties' filings what exactly happened to the Proposal once it was moved to Step 2 review during Tranche 1. Orion's papers contend that its Proposal was eliminated from consideration because it failed the IA's "Net Benefit" analysis. Material submitted by the IA to the Public Staff tends to suggest that instead the Proposal was eliminated from consideration because, after accounting for system upgrade costs

associated with the Proposal, the final price of the Proposal exceeded the avoided cost cap established by N.C. Gen. Stat. § 62-110.8(b)(2).

Determination of this disputed issue of fact, the Chair believes, is required before the Commission can decide whether it is or is not necessary to address the various legal contentions of the parties in their original filings. Therefore, the Chair finds good cause to schedule a hearing to receive expert witness testimony. The scope of the hearing shall be limited to the facts and circumstances of the evaluation of the Proposal following the time it was submitted by the IA for Step 2 evaluation. At the hearing, the Commission expects to receive evidence from the petitioner, the IA, and, if it desires to present testimony, the Public Staff. In addition the Chair directs that Duke Energy Carolinas, Inc. (DEC), tender for questions by the parties and by the Commission a representative who is knowledgeable concerning the Step 2 review procedures followed in Tranche 1 and, specifically, with the application of those procedures to review of the Proposal during Step 2. The Commission will accept the documents filed in this docket in lieu of prefiled direct testimony, including the IA's responses attached to the Public Staff's comments, and will expect the parties' designated witnesses to be able to respond to questions by other parties and the Commission about factual statements made therein.

IT IS, THEREFORE, ORDERED as follows:

1. That a remote hearing shall be held via Webex on Monday, November 2, 2020, at 2 p.m., for the purpose of receiving expert witness testimony regarding the facts and circumstances of the evaluation of the Proposal following the time it was submitted by the IA for Step 2 evaluation. A link to view the hearing will be available at www.ncuc.net;
2. That, in addition to Orion, Accion, DEC, and the Public Staff shall be deemed to be parties to this docket and shall be represented by counsel at the hearing;
3. That the remote hearing shall be subject to the following conditions:
 - (1) On or before Friday, October 23, 2020, all parties shall file a statement consenting to holding the expert witness hearing by remote means, or a statement objecting to same;
 - (2) On or before Friday, October 23, 2020, all parties, including DEC, shall file a statement identifying the witness(es) they intend to present at the hearing;
 - (3) On or before Friday, October 23, 2020, all parties shall send the email addresses of the attorneys, witnesses, and other persons that will participate in the hearing on the party's behalf directly to the Commission via email at ncucwebex@ncuc.net;
 - (4) On or before Monday, October 26, 2020, parties shall file a list of potential cross-examination exhibits and provide written copies of said exhibits, pre-

marked but not numbered, to the other parties and to the Commission via email at ncucexhibits@ncuc.net;

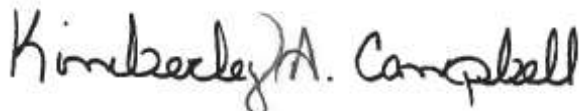
- (5) On or before Wednesday, October 28, 2020, the parties shall file a list of potential redirect examination exhibits and provide written copies of said exhibits, pre-marked but not numbered, to the other parties and the Commission via email at ncucexhibits@ncuc.net;
- (6) Within three business days after the hearing, parties shall file their cross-examination and redirect exhibits used in the hearing marked as indicated during the hearing;
- (7) Parties and witnesses will be required to refrain from disclosing confidential information during the hearing, including during direct examination, cross-examination, and redirect examination. If a party believes that this requirement will materially affect the party's presentation of evidence or examination of a witness, the party shall bring this to the attention of the Presiding Commissioner at the beginning of the hearing; and

4. That the Chief Clerk shall serve this Order on Orion, Accion, DEC, and the Public Staff.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of October, 2020.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Kimberley A. Campbell". The signature is written in a cursive, flowing style.

Kimberley A. Campbell, Chief Clerk