

July 25, 2021

Ms. Lynn Jarvis  
Chief Clerk  
North Carolina Utilities Commission  
430 N. Salisbury Street  
Raleigh, NC 27603

Re: Timbermill Wind, LLC's (Timbermill) Certificate of Environmental  
Compatibility and Public Convenience Application and Hearing

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Dear Ms. Jarvis:

On behalf of my wife, Belinda Flynn, and myself, we herewith submit, via electronic filing with the Commission, a Petition regarding Docket No. EMP-118, Sub 1 and a request to appear as a public witness for said hearing.

If you should have any questions concerning this filing, please let me know.

Thank you.

Sincerely,

/s/ Patrick Flynn

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION  
**Docket No. EMP-118, Sub 1**

In the Matter of: ) PETITION FOR INVESTIGATION  
Docket No. E-118, Sub 1 ) AND RULEMAKING OF  
 ) TIMBERMILL WIND, LLC’S  
 ) CERTIFICATE OF  
 ) ENVIRONMENTAL  
 ) COMPATIBILITY AND PUBLIC  
 ) CONVENIENCE

Patrick And Belinda Flynn (“Petitioners”) petition the North Carolina Utilities Commission (“Commission”) to investigate the issues surrounding Timbermill Wind, LLC’s Certificate of Environmental Compatibility and Public Convenience Application.

In support of this petition, Patrick and Belinda Flynn state the following:

1. The name and mailing address of the Petitioners are:  
Patrick and Belinda Flynn  
1924 Paradise Road  
Edenton, NC 27932
2. The Petitioners are not represented by an attorney and are individuals who have an interest in promoting the fairness and equality of issues relevant to qualified facility applications, construction and operations in North Carolina, and are impacted and will be impacted should Timbermill Wind, LLC be built.
3. A petition was added to Docket No. E-100, Sub 171 has not been addressed.
4. Petitioners were denied opposition to a reopened 2018 Chowan County Timbermill Wind, LLC CUP hearing where a monitoring facility and transmission lines were added to the project we opposed during its original hearing.

I. PETITIONERS maintain:

1. Dominion Energy, Inc. (Dominion), Timbermill or Apex Clean Energy Holdings, LLC (Apex) has not shown that 220,000 utility customers will need Timbermill energy. If Timbermill were really needed, an additional gas or nuclear utility generating plant would be required and will more practically substitute to maintain Dominion's customer needs, rather than unreliable wind energy. Timbermill's estimate of aiding 47,000 homes unfairly burdens the majority of Dominion's other utility customers living outside Chowan County with the greatest percentage of an estimated \$1.42B in additional utility billings, (plus the cost of a new utility generating plant). The Utility Commission has already increased rates in this regard during its Docket No. E-100, Sub 158 decision increasing utility rates for the 2018 Biennial Determination of Avoided Cost Rates for Electric Utility Purchases from Qualifying Facilities.

[Utility/Developer income retails at 11.43 cents per kWh X 8.623M kWh output = \$985,623 per turbine yearly. \$985,623 X 48 turbines = \$47,309,904 total Utility/Developer income (Timbermill Report says 45, but 48 turbines were discussed during the CUP hearing). \$47,309,904 X 30 years = \$1,419,297,120 (\$1.42B) total Utility/Developer income over 30 years.]

Recouping renewable energy costs for its residential and commercial customers for the NC Renewable Mandate is already in play according to Albemarle EMC's July 2021 Carolinas Country magazine. More, unnecessary rate increases are preventable/delayed by denying Timbermill's application.

2. Under the Public Utility Regulatory Policies Act (PURP A) the North Carolina (NC) legislature and federal authority producing/requiring the implementation of PURPA, a State regulatory authority regulating utility rates in one state applies energy regulations to that state only and does not exercise energy

regulatory standing in any other state. Our petition on this issue was added to Docket No. E-100, Sub 171 and has not been addressed. That ruling will impact the Timbermill Wind, LLC application/hearing, which suggests its application/hearing is premature and should be denied until Docket No. E-100, Sub 171 is satisfactorily concluded.

3. Petitioners maintain that publicly presented economic data and financial considerations surrounding the Timbermill Project have been grossly manipulated in order to create a positive “public spin” for Delaware owner Apex Clean Energy Holdings, LLC’s future business dealings in Chowan County and in North Carolina, even though the opposite is true; specifically their application for Timbermill’s Certificate of Public Convenience and Necessity, a bait and switch ruse. Should Timbermill be built, Apex bypasses one CUP hearing understanding by lengthening Timbermill’s project life from 20 years to 30 years.

## II. NCUC Mission Opposition

NCUC’s mission, in part, is to: Provide fair regulation of public utilities in the interest of the public; Promote the inherent advantage of regulated public utilities; Promote adequate, reliable, and economical utility service; Promote least cost energy planning; Provide just and reasonable rates and charges for public utility services and promote conservation of energy; Assure that facilities necessary to meet future growth can be financed on reasonable and fair terms.

These mission conflicts with the last mission goal to: Promote the development of renewable energy and energy efficiency through the implementation of a Renewable Energy and Energy Efficiency Portfolio Standard. The cost of renewable wind energy does not provide material or economic advantages for NC utility customers. In fact, it is just the opposite. Implementing

renewable energy multiplies utility costs as backup power plants must be built to supplement renewable energy downtime when the wind and sun don't cooperate, given the 90% in-state power plant shortage.

### III. MISALIGNMENT OF ECONOMIC FACTS

1. Apex's Timbermill Economic Report ("Report") prepared for Chowan citizens shows most information used is grossly different/exaggerated from the 2016 CUP hearing, beginning with an expanded 189 Megawatt (MW) facility output, which violates the spirit of and understanding produced there.

Using the hearing's 2.2 MW turbine reference, Timbermill's output from 2016 CUP hearing's approved 48 turbines shouldn't be larger than 105.6 MW. At 189 MW, each turbine motor is almost two times larger than the 2.2MW CUP hearing discussions, which now attempts to "paint" Timbermill in a better economic light with 30-year estimates rather than the hearing's 20-year estimate discussion presented during the original CUP hearing. The Certificate of Environmental Compatibility and Public Convenience application and hearing misinforms to satisfy NC Utility Commission mission parameters.

2. Wind industry calculations have 2MW turbines costing \$3-\$4 million each, (These figures estimate 500 ft. turbines, not Timbermill's 600 ft.) A \$4M construction average for 45 2MW turbines totals \$180M. If two times bigger (4.2 MW), it's logical that Timbermill will cost \$360M, which increases the project value utility consumers will offset, should it be built. The Timbermill Report offers \$246 million as the project's cost, each turbine costing \$5.125 million, a \$114 million difference to Dominion consumers?

3. The Construction Phase/Assumption section of the Report lists \$14.875 million in Chowan capital expenditures. The difference between capital

expenditures in the county and economic output is \$575,000. This little sleight of hand creates some missing money not explained in the Report.

$\$14.875\text{M} + \$5.5\text{M}$  in project labor =  $\$20.375\text{M}$ , not the Report's  $\$19.8\text{M}$ , and a difference of  $\$50,575$ . The  $\$20.375\text{M} - \$19.8\text{M} = \$50,575$  may be budgeted somewhere, but who really receives over  $\$500,000$  in economic benefit?

4. The Report's economic output cost should be  $\$255.36\text{M}$  of Project Cost -  $\$5.5\text{M}$  Labor Cost =  $\$249.86\text{M}$ .  $\$249.86\text{M} - \$19.8\text{M} = \$230.06\text{M}$ .  $\$230.06\text{M}$  represents the minimum money that will NOT be spent in North Carolina for Timbermill, should it be built. The maximum amount of money not being spent in Chowan or North Carolina could be as large as  $\$384\text{M} - \$5.5\text{M} = \$379.5\text{M}$ .

#### IV. TAX MANIPULATIONS

1. The Production Tax Credit (PTC) provides a tax credit of  $1\text{¢}$ – $2\text{¢}$  per kilowatt-hour for the first 10 years of electricity generation for utility-scale wind projects. Will this reduction be applied to the project value Dominion's utility consumers will offset? (Apex appears August 2, 2021 before Chowan County commissioners.)

2. Timbermill's Tax rebates are calculated at 22% or  $\$38.3$  to  $\$57.6\text{M}$  or, at 15%,  $\$82.78\text{M}$ . So, for three years, Apex doesn't pay any government  $\$57.6\text{M}$ ; or  $\$82.78\text{M}$  over 30 years, depending on which accounting method Apex selects.

3. Using the Timbermill Economic Report's  $\$246\text{M}$  facility cost,  $\$246,000,000 \times .755$  per hundred tax rate =  $\$1,857,300$ , the county's yearly property tax. The revised project cost is  $\$360\text{M}$ .  $\$360\text{M} \times .755$  per hundred =  $\$2,718,000$  for yearly county property taxes.

For the county's yearly fire tax rate of  $\$246\text{M}$ ,  $\$246\text{M} \times .055$  per hundred tax rate =  $\$135,300$  and the revised  $\$360\text{M} \times .055$  per hundred =  $\$198,000$  fire tax rate.  $\$1,857,300 + \$135,300 = \$1,992,300$ , not the Report's  $\$1.1\text{M}$  number; or

$\$2,718,000 + \$198,000 = \$2,916,000$  for Timbermill's yearly property taxes. 2016 CUP hearing estimates were \$400,000 to \$500,000 yearly over twenty years.

(\$1.1M is a lower, more advantageous number manipulation than \$2.9M.)

$\$1,992,300 \times 30 \text{ years} = \$59,769,000$  or  $\$2,916,000 \times 30 \text{ years} = \$87,480,000$ , not the Report's \$33M over 30 years. (As the project ages, the \$59,769,000 or \$87,480,000 total which will likely reduce due to depreciation.)

4. Table 3's turbine tax assessment totals are \$25,710,018 according to the depreciation schedule listed there, not the Report's \$33M. Report calculations will never offset the estimated \$1.42B in utility rate billing costs NC electric consumers could pay.

## V. ECONOMIC CONSIDERATIONS

1. According to Timbermill's Economic Report electricity production in North Carolina, or the overall NC energy market is 90% unmet by in-state suppliers. What is clear looking at the Report is North Carolina should invest in more reliable energy than wind. Wind energy must be backed up with coal, nuclear or gas facilities to offset wind energy's unreliable operating parameters. To supply NC's 90% need for energy these other states have already made their commitments, apparently making additional NC energy investments impractical; (likely topographically considerations and the ROI from NC's rural populations).

Local Economic Profile/Total Construction Employment is not relevant when 220,000 NC citizens will gain dramatic rate increases over 30 years, if Timbermill is constructed. \$5.5M in labor income does not offset \$1.42B in billing over 30 years. The benefit of 155 jobs paying \$268 weekly for three years doesn't touch the increased utility bills for hundreds of thousands more people than the project could ever employ. This \$1.42B of Utility Facility/Developer income is Delaware money (headquartered in Virginia) that won't impact NC economics.

Timbermill is too expensive and several industrial-scale wind projects in other states have already been voted down for this reason! (Precedents exist!)

2. Wind industry analysis predicts a \$255.36M to \$384M investment will be necessary to build Timbermill. Using Report figures this leaves \$255.36M - \$246M = \$9.36M up to \$384M - \$246M = \$138M as discrepancies. Unlikely that much of the \$9.36 to \$138M overhead will be spent in Chowan County or in North Carolina. The \$1.42B utility rate burden will be unfairly imposed on the majority of Dominion customers outside of Chowan County with extremely little economic return within NC.

3. The Timbermill Report says 75 Acres of farmland has a property tax value of \$944.72 per acre. If these 75 farmland acres are replaced, using them for the Timbermill project, the land becomes valued at \$91,709. The \$944.72 tax income to Chowan now magically touches the Timbermill project, pollinates and then blooms into a fragrant \$15,762 tax income for the county. The \$15,762 tax income shows an incomplete, manipulated picture of any farm's real significance to hard-working people. A farm's productive income value is also taxed at the state and Federal level whereas Chowan County won't benefit from electricity sales, the income after construction is completed. In all likelihood farmers or the five largest taxpayers in Chowan County won't burden area utility customers with \$1.42B in added rate billing costs over 30 years, offsetting any property tax advantage Apex believes their project might provide Chowan County overall.

VI. PETITIONERS motion that the NC Utility Commission:

1. Deny this Certificate of Public Convenience and Necessity application from Apex Clean Energy Holdings, LLC. Manipulation and deception are not acceptable when considering the important economic issues surrounding NCUC applications.

2. Until FERC standards are established for energy facilities connecting to the US electrical GRID in all states the Apex Clean Energy Holdings, LLC application for Timbermill Wind, LLC should be denied, especially after the May 7, 2021 ransomware cyberattack of the Colonial Pipeline that impacted computerized equipment managing it, (an American oil pipeline system that originates in Houston, Texas, and carries gasoline and jet fuel mainly to the Southeastern United States. Also, consider the Texas power outage last winter. Not a good precedent to follow!)
3. A proposed energy facility developed by an in-state or out-of-state company, needs the NC Utility Commission to investigate and write appropriate regulations regarding PURPA and FERC implementation considering Docket No. E-100, Sub 171 issue resolution.
4. Because the Petitioners were unfairly denied opposition to the Timbermill project during its reopened CUP hearing, Timbermill Wind, LLC's Certificate of Environmental Compatibility and Public Convenience should be denied.

VII. Petitioners maintain:

Failure to address these limitations within NC's legal and energy regulations will violate the due process rights of the Petitioners and/or any NC citizen opposing the approval, construction and/or operation of energy facilities in North Carolina now, or in the future.

Apex Clean Energy Holdings, LLC or Apex Clean Energy, LLC has manipulated Chowan County CUP Hearing understandings before consideration of Timbermill's Certificate of Environmental Compatibility and Public Convenience to be heard during the NC Utility Commission in Docket No. E-118, Sub 1.

Based on the information in this petition the credibility of the entire Timbermill Wind, LLC project has been tainted and needs to be restarted with a new Chowan County CUP hearing.

Timbermill Wind, LLC's Certificate of Environmental Compatibility and Public Convenience is not a public Convenience.

VIII. Petitioners request:

Any notices, filings, or other communications in this petitions should be served on the following:

Patrick Flynn  
1924 Paradise Rd.  
Edenton, NC 27932  
Telephone: 252-334-9071  
E-mail: ncwriter2001@yahoo.com

WHEREFORE, for the foregoing reasons, Patrick and Belinda Flynn respectfully request that the Commission review Petitioner's request to investigate and resolve the matters presented in this petition.

BY: /s/ Patrick Flynn

## CERTIFICATE OF SERVICE

I, Patrick Flynn, hereby certify that a true and exact copy of the foregoing Petition to Intervene has been duly served by email to the NC Utility Commission.

This the 25<sup>st</sup> day of July, 2021.

BY: /s/ Patrick Flynn