

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 134

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Filing Requirements for New Electric) ERRATA ORDER
Generators)

BY THE COMMISSION: On November 4, 2014, the Commission issued an Order Amending Rules and Requesting Comments on Additional Proposed Rule Changes in the above-captioned docket. Among other things, the Order renumbered and amended the filing requirements for an application for a certificate of public convenience and necessity for a qualifying cogenerator or small power producer set forth in Rule R8-64(b). It has come to the Commission's attention that the Order did not revise a cross reference in R8-64(d)(3) to conform with the amendments to R8-64(b). This omission inadvertently reduced the scope of "significant changes" that would trigger an update by an applicant under Rule R8-64(d)(3).

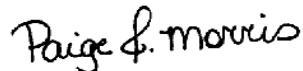
Therefore, the Commission finds good cause to issue this Errata Order to revise the cross reference in Rule R8-64(d)(3), as shown in the attached Appendix A, consistent with the intent of the Commission's November 4, 2014 revisions to Rule R8-64.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION

This the 23rd day of May, 2016.

NORTH CAROLINA UTILITIES COMMISSION



Paige J. Morris, Deputy Clerk

Commissioner Brian E. Beatty and Commissioner James G. Patterson did not participate in this decision.

R8-64 APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY BY QUALIFYING COGENERATOR OR SMALL POWER PRODUCER; PROGRESS REPORTS.

(a) Scope of Rule.

- (1) This rule applies to applications for a certificate of public convenience and necessity pursuant to G.S. 62-110.1(a) filed by any person seeking the benefits of 16 U.S.C. 824a-3 or G.S. 62-156 as a qualifying cogenerator or a qualifying small power producer as defined in 16 U.S.C. 796(17) and (18) or as a small power producer as defined in G.S. 62-3(27a), except persons exempt from certification by the provisions of G.S. 62-110.1(g).
- (2) For purposes of this rule, the term “person” shall include a municipality as defined in Rules R7-2(c) and R10-2(c), including a county of the State.
- (3) The construction of a facility for the generation of electricity shall include not only the building of a new building, structure or generator, but also the renovation or reworking of an existing building, structure or generator in order to enable it to operate as a generating facility.
- (4) This rule shall apply to any person within its scope who begins construction of an electric generating facility without first obtaining a certificate of public convenience and necessity. In such circumstances, the application shall include an explanation for the applicant’s beginning of construction before the obtaining of the certificate.

(b) The Application. The application shall be comprised of the following five exhibits:

- (1) Exhibit 1 shall contain:
 - (i) The full and correct name, business address, business telephone number, and electronic mailing address of the facility owner;
 - (ii) A statement of whether the facility owner is an individual, a partnership, or a corporation and, if a partnership, the name and business address of each general partner and, if a corporation, the state and date of incorporation and the name, business address, business telephone number, and electronic mailing address of an individual duly authorized to act as corporate agent for the purpose of the application and, if a foreign corporation, whether domesticated in North Carolina; and
 - (iii) The full and correct name of the site owner and, if the owner is other than the applicant, the applicant’s interest in the site.
- (2) Exhibit 2 shall contain:
 - (i) A color map or aerial photo showing the location of the generating facility site in relation to local highways, streets, rivers, streams,

- and other generally known local landmarks, with the proposed location of major equipment indicated on the map or photo, including: the generator, fuel handling equipment, plant distribution system, startup equipment, the site boundary, planned and existing pipelines, planned and existing roads, planned and existing water supplies, and planned and existing electric facilities. A U.S. Geological Survey map or an aerial photo map prepared via the State's geographic information system is preferred; and
- (ii) The E911 street address, county in which the proposed facility would be located, and GPS coordinates of the approximate center of the proposed facility site to the nearest second or one thousandth of a degree.
- (3) Exhibit 3 shall contain:
- (i) The nature of the generating facility, including the type and source of its power or fuel;
 - (ii) A description of the buildings, structures and equipment comprising the generating facility and the manner of its operation;
 - (iii) The gross and net projected maximum dependable capacity of the facility as well as the facility's nameplate capacity, expressed as megawatts (alternating current);
 - (iv) The projected date on which the facility will come on line;
 - (v) The applicant's general plan for sale of the electricity to be generated, including the utility to which the applicant plans to sell the electricity;
 - (vi) Any provisions for wheeling of the electricity, if applicable;
 - (vii) Arrangements for firm, non-firm or emergency generation, if applicable;
 - (viii) The service life of the project;
 - (ix) The projected annual sales in kilowatt-hours; and
 - (x) Whether the applicant intends to produce renewable energy certificates that are eligible for compliance with the State's renewable energy and energy efficiency portfolio standard.
- (4) Exhibit 4 shall contain:
- (i) A complete list of all federal and state licenses, permits and exemptions required for construction and operation of the generating facility and a statement of whether each has been obtained or applied for.
 - (ii) A copy of those that have been obtained should be filed with the application; a copy of those that have not been obtained at the time of the application should be filed with the Commission as soon as they are obtained.
- (5) Exhibit 5 shall contain the expected cost of the proposed facility.

- (6) An applicant who desires to enter into a contract for 5 years or more for the sale of electricity, whose facility will have a nameplate capacity of 5 megawatts alternating current or more, and whose facility is not a solar photovoltaic facility, shall include the three additional exhibits as described in R8-64(b)(6)(i), (ii), and (iii) below, except an applicant who desires to enter into a contract of 5 years or more for the sale of electricity from a solar photovoltaic facility of 25 megawatts alternating current or more shall also include the three additional exhibits referenced herein.
- (i) Exhibit 6 shall contain:
- a. A statement detailing the experience and expertise of the persons who will develop, design, construct and operate the project to the extent such persons are known at the time of the application;
 - b. Information specifically identifying the extent to which any regulated utility will be involved in the actual operation of the project; and
 - c. A statement obtained by the applicant from the electric utility to which the applicant plans to sell the electricity to be generated setting forth an assessment of the impact of such purchased power on the utility's capacity, reserves, generation mix, capacity expansion plan, and avoided costs.
- (ii) Exhibit 7 shall contain:
- a. The most current available balance sheet of the applicant;
 - b. The most current available income statement of the applicant;
 - c. An economic feasibility study of the project; and
 - d. A statement of the actual financing arrangements entered into in connection with the project to the extent known at the time of the application.
- (iii) Exhibit 8 shall contain:
- a. A detailed explanation of the anticipated kilowatt and kilowatt-hour outputs, on-peak and off-peak, for each month of the year. The explanation shall include a statement of the specific on-peak and off-peak hours underlying the applicant's quantification of anticipated kilowatt and kilowatt-hour outputs;
 - b. A detailed explanation of all energy inputs and outputs, of whatever form, for the project, including the amount of energy and the form of energy to be sold to each purchaser; and
 - c. A detailed explanation of arrangements for fuel supply, including the length of time covered by the arrangements, to the extent known at the time of the application.

- (7) All applications shall be signed and verified by the applicant or by an individual duly authorized to act on behalf of the applicant for the purpose of the application.
 - (8) Applications filed on behalf of a corporation are not subject to the provision of R1-5(d) that requires corporate pleadings to be filed by a member of the Bar of the State of North Carolina. Should a public hearing be required, the requirements of G.S. 84-4 and G.S. 84-4.1 shall be applicable.
 - (9) Falsification of or failure to disclose any required information in the application may be grounds for denying or revoking any certificate.
 - (10) The application and 12 copies shall be filed with the Chief Clerk of the Utilities Commission.
 - (11) If an applicant considers certain of the required information to be confidential and entitled to protection from public disclosure, it may designate said information as confidential and file it under seal. Documents marked as confidential will be treated pursuant to applicable Commission rules, procedures, and orders dealing with filings made under seal and with nondisclosure agreements.
- (c) Procedure upon receipt of Application. — Upon the filing of an application appearing to meet the requirements set forth above, the Commission will process it as follows:
- (1) The Commission will issue an order requiring the applicant to publish notice of the application once a week for four successive weeks in a newspaper of general circulation in the county where the generating facility is proposed to be constructed and requiring the applicant to mail a copy of the application and the notice, no later than the first date that such notice is published, to the electric utility to which the applicant plans to sell the electricity to be generated. Each electric utility shall provide on its website a mailing address to which the application and notice should be mailed. The applicant shall be responsible for filing with the Commission an affidavit of publication and a signed and verified certificate of service to the effect that the application and notice have been mailed to the electric utility to which the applicant plans to sell the electricity to be generated.
 - (2) If the applicant does not file the affidavit of publication and certificate of service within twelve months of the Commission's publication order, the Commission will automatically dismiss the application.

- (3) The Chief Clerk will deliver 2 copies of the application and the notice to the Clearinghouse Coordinator of the Office of Policy and Planning of the Department of Administration for distribution by the Coordinator to State agencies having an interest in the application.
 - (4) If a complaint is received within 10 days after the last date of the publication of the notice, the Commission will schedule a public hearing to determine whether a certificate should be awarded and will give reasonable notice of the time and place of the hearing to the applicant and to each complaining party and will require the applicant to publish notice of the hearing in the newspaper in which the notice of the application was published. If no complaint is received within the time specified, the Commission may, upon its own initiative, order and schedule a hearing to determine whether a certificate should be awarded and, if the Commission orders a hearing upon its own initiative, it will require notice of the hearing to be published by the applicant in the newspaper in which the notice of the application was published.
 - (5) If no complaint is received within the time specified and the Commission does not order a hearing upon its own initiative, the Commission will enter an order awarding the certificate.
- (d) The Certificate.
- (1) The certificate shall be subject to revocation if any of the other federal or state licenses, permits or exemptions required for construction and operation of the generating facility is not obtained and that fact is brought to the attention of the Commission and the Commission finds that as a result the public convenience and necessity no longer requires, or will require, construction of the facility.
 - (2) The certificate must be renewed by re-compliance with the requirements set forth in this Rule if the applicant does not begin construction within 5 years after issuance of the certificate.
 - (3) Both before the time construction is completed and after, all certificate holders must advise both the Commission and the utility involved of any plans to sell, transfer, or assign the certificate or the generating facility or of any significant changes in the information set forth in subsections (b)(1) thru (b)(5) of this Rule, and the Commission will order such proceedings as it deems appropriate to deal with such plans or changes.
- (e) Repealed.