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Apr 14 2020

April 14, 2020

Via Electronic Filing

Kim Campbell
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

Re: *Docket No. E-2, Sub 1220*
Williams Solar Complaint Against Duke Energy Progress

Dear Ms. Campbell:

Transmitted on behalf of Williams Solar, LLC for filing in the above-referenced docket is Complainant's Consent Request for Approval of Revised Procedural Schedule. Please note that the Respondent, Duke Energy Progress, LLC, has authorized Williams Solar to state that Respondent is agreeable to the modified procedural schedule proposed herein.

Should any questions arise in connection with this matter, please do not hesitate to contact this office.

Very truly yours,

Marcus W. Trathen
Direct Dial: (919) 573-6207
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Enclosure

cc: Jack Jirak
Brett Breitschwerdt

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1220

In the Matter of)	
Williams Solar, LLC,)	
Complainant,)	
)	
v.)	COMPLAINANT’S CONSENT
)	REQUEST FOR APPROVAL OF
)	REVISED PROCEDURAL
Duke Energy Progress, LLC)	SCHEDULE
Respondent.)	

COMES NOW Complainant Williams Solar, LLC (“Williams Solar” or “Complainant”) proposing the approval of a revised procedural schedule to govern this proceeding. In support of this request, Williams Solar shows the Commission as follows:

1. Williams Solar initiated this proceeding by filing a Verified Complaint (“Complaint”) in the above-referenced proceedings on October 24, 2019.
2. In its Complaint, Williams Solar seeks review of certain System Upgrade costs provided by Duke Energy Progress, LLC (“DEP”) to Complainant.
3. In its Answer and Motion to Dismiss filed November 27, 2019, DEP generally denies the allegations of the Complaint and asks the Commission to dismiss the Complaint for failure to state a claim.
4. In its Order Serving Joint Answer and Motion to Dismiss dated December 2, 2019, the Commission requested Complainant to advise the Commission whether Duke’s Answer was acceptable to it, and, if not, whether Williams Solar “requests

a hearing to present evidence or to provide oral argument.” In this order, the Commission also advised Williams Solar that it “may” file a reply to the Answer and Motion to Dismiss.

5. Williams Solar submitted its Response to Respondents’ Answer and Motion to Dismiss on December 19, 2019. There, Williams Solar requested “the opportunity to conduct discovery followed by hearing and the opportunity to present evidence in support of its Complaint.”

6. On January 24, 2020, the Commission entered an order:

- a. Scheduling a hearing on Wednesday, May 27, 2020, at 10:00 a.m. in Commission Hearing Room 2115, 430 N Salisbury Street, Raleigh, North Carolina;
- b. Requiring Williams Solar to file direct testimony of its witnesses in support of the Complaint on or before Monday, April 20, 2020, and to serve a copy of the same on the Respondent;
- c. Requiring Respondent to file the direct testimony of its witnesses on or before Tuesday, May 5, 2020; and
- d. Allowing Williams Solar to file rebuttal testimony of its witnesses on or before Friday, May 15, 2020.

7. Since that time, the parties have exchanged written discovery, including interrogatories and requests for production of documents. As of this date, discovery is ongoing, including a request for certain documents in the possession of a third party vendor performing services for Respondent.

8. On March 10, 2020, Governor Cooper declared a State of Emergency in response to the COVID-19 pandemic.

9. On March 27, 2020, Governor Cooper issued Executive Order No. 121, which included a stay-at-home order until April 29, 2020 in response to the COVID-19 pandemic.

10. In response, the Commission has suspended all hearings through April 29, 2020. *See* Press Release, North Carolina Utilities Commission Extends Suspension of Scheduled Hearings and Waiver of Certain Filing Requirements Through April 29, 2020, In Response to Coronavirus (COVID-19) Pandemic (March 30, 2020).

11. Because of the travel and social distancing restrictions resulting from COVID-19, and health concerns related to public gatherings and the spread of the deadly virus, it appears unlikely that a public hearing in this matter could prudently go forward as scheduled. *See, e.g.,* Order Suspending Procedural Schedule and Continuing Hearing, Docket E-2, Sub 1219 (suspending DEP rate case hearing scheduled to commence May 5 “due to the continuing uncertainty surrounding the COVID-19 pandemic.”).

12. The parties have conferred and agree that, in light of continued uncertainty, the nature of the issues presented this case, and Williams Solar’s desire not to delay a decision in this matter, that the parties’ respective positions and evidence can be adequately presented on paper and that there is no need for live witness testimony or an in-person hearing as afforded to both parties pursuant to N.C. Gen. Stat. § 62-65, unless the Commission would so require on its own initiative.

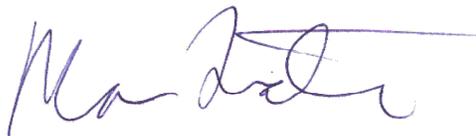
13. Accordingly, Williams Solar moves the Commission to enter a revised procedural order:

- a. Cancelling the evidentiary hearing scheduled to commence on May 27, 2020;
- b. Requiring the parties to each file with the Commission a statement (and, if appropriate, exhibits) in the form of an affidavit pursuant to N.C. Gen. Stat. § 62-68 verified by a person or persons who would be qualified to present such statement(s) as testimony setting forth its position as to the matters raised in the Complaint, on or before May 15, 2020;
- c. Allowing each party to file responsive affidavit(s) addressing the verified statement(s) of the other party, on or before May 29, 2020; and

- d. Allowing each party to file a brief and/or proposed order as provided for by N.C. Gen. Stat. § 62-78 on or before June 19, 2020.

14. DEP has authorized Williams Solar to state that DEP is agreeable to the modified procedure and revised procedural schedule requested to be approved by the Commission herein.

Respectfully submitted, this 14th day of April, 2020.



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Certificate of Service

I hereby certify that a copy of the foregoing *Consent Request for Approval of Revised Procedural Schedule* has been served this day upon counsel of record by electronic mail or by delivery to the United States Post Office, first-class postage pre-paid.

This the 14th day of April, 2020.

BROOKS, PIERCE, MCLENDON,
HUMPHREY & LEONARD, LLP

By: \s\ Marcus Trathen