

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-2, SUB 1311

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Duke Energy Progress, LLC, for a Certificate of Public Convenience and Necessity to Construct a 9.5 MW Solar Photovoltaic Generating Facility in Buncombe County, North Carolina	) ) ) ) ) )	ORDER SCHEDULING HEARINGS, REQUIRING FILING OF TESTIMONY, ESTABLISHING PROCEDURAL GUIDELINES AND REQUIRING PUBLIC NOTICE
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BY THE CHAIR: On January 23, 2023, Duke Energy Progress, LLC (DEP or Applicant) filed an application, testimony and exhibits in the above-captioned docket pursuant to N.C. Gen. Stat. § 62-110.1 and Commission Rule R8-61 requesting a certificate of public convenience and necessity (CPCN) to construct a 9.5 MW solar photovoltaic electric generating facility to be located at DEP's existing Asheville Plant, approximately one mile from Asheville, 46 Duke Energy Lane, Arden, Buncombe County, North Carolina.

In summary, DEP stated that the facility, known as the Asheville Plant Solar Facility (Asheville Solar Facility), will be built at the existing site of DEP's natural gas-fired generating plant owned by DEP. DEP stated that the Asheville Solar Facility is consistent with the Commission's March 28, 2016 Order Granting Application, in Part, with Conditions, and Denying Application in Part in Docket No. E-2, Sub 1089, and DEP's efforts working with government and other organizations in the Western Carolinas Modernization Project. In addition, DEP's application sets forth in detail DEP's position regarding the need for the facility and the cost justification for the facility.

Based on the foregoing and the record, the Chair is of the opinion that good cause exists to schedule a public witness hearing and an expert witness hearing to consider DEP's application. The guidelines regarding discovery in this docket, subject to modification for good cause shown, are as follows.

1. Any deposition which a party desires to take shall be taken before the deadline for filing of Public Staff and intervenor testimony. Notice of deposition shall be served on all parties at least seven days prior to the taking of the deposition. Notice of deposition and all other discovery notices, requests and motions shall be served on the appropriate parties by hand delivery or facsimile, or by electronic delivery if the receiving party has agreed to receipt by electronic delivery.

2. Any motion for subpoena of a witness to appear at the evidentiary hearing shall be filed with the Commission before the deadline for filing of Public Staff and intervenor testimony, shall be served by hand delivery or facsimile to the person sought

to be subpoenaed at or before the time of filing with the Commission, and shall make a reasonable showing that the evidence of such person will be material and relevant to an issue in the proceeding. See N. C. Gen. Stat. 62-62. Unless an objection is filed, the Chief Clerk shall issue the requested subpoena 24 hours after such motion is filed.

3. Formal discovery requests related to the application and the Applicant's prefiled direct testimony shall be served on the Applicant not later than fourteen days prior to the deadline for filing of Public Staff and intervenor testimony. The party served shall have up to ten calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than ten days prior to the deadline for filing of Public Staff and intervenor testimony.

4. Formal discovery requests of the Public Staff or intervenors shall be served not later than three days after such testimony is filed. The party served shall have up to three calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than five days after that party's testimony was filed.

5. Formal discovery requests related to the Applicant's prefiled rebuttal testimony shall be served on the Applicant not later than two days after such testimony is filed. The party served shall have up to two calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than three days after the rebuttal testimony was filed. Discovery related to rebuttal testimony shall be limited to new material introduced in such rebuttal testimony and will be carefully scrutinized upon objection that such discovery should have been sought during the initial period of discovery from the Applicant.

6. Discovery requests need not be filed with the Commission when served; however, any party filing objections shall attach a copy of the relevant discovery request to the objections. Each discovery request, or part thereof, to which no objection is filed shall be answered by the time objections are due, subject to other agreement of the affected parties or other order of the Commission. Upon the filing of objections, the party seeking discovery shall have two days to file a motion to compel with the Commission, and the party objecting to discovery shall have one day thereafter to file a response. All objections, motions to compel, and responses shall be served on the other affected party at or before the time of filing with the Commission.

7. A party shall not be granted an extension of time to pursue discovery because of that party's late intervention or other delay in initiating discovery.

The Chair recognizes that in the past most discovery has been conducted in an informal manner without the need for Commission involvement or enforcement, and that such has been generally successful. The above guidelines are without prejudice to the parties conducting informal discovery or exchanging information by agreement at any time with the understanding that such will not be enforceable by the Commission if outside the guidelines.

IT IS, THEREFORE, ORDERED as follows:

1. That a public witness hearing shall be held on Wednesday, April 5, 2023, at 7:00 p.m., at the Buncombe County Courthouse, 60 Court Plaza, Courtroom 1A, Asheville, North Carolina, for the purpose of receiving public witness testimony regarding DEP's application for a CPCN;

2. That an expert witness hearing solely for the purpose of receiving expert testimony of the parties shall be held on Monday, May 22, 2023, at 1:00 p.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, for the purpose of considering DEP's application for a CPCN;

3. That any person having an interest in this proceeding may file a petition to intervene stating such interest on or before Friday, May 5, 2023;

4. That the direct testimony and exhibits of the Public Staff and other intervenors shall be filed on or before Friday, May 5, 2023;

5. That DEP may file rebuttal testimony and exhibits on or before Monday, May 15, 2023;

6. That the Chief Clerk of the Commission shall deliver copies of the application and the Public Notice attached hereto as Appendix A 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;

7. That DEP shall publish the Public Notice attached hereto as Appendix A in a newspaper having general circulation in Buncombe County once a week for four successive weeks, with the first publication being at least 30 days prior to the public witness hearing;

8. That all parties filing supporting exhibits in PDF format shall provide to the Commission Staff electronic versions of the exhibits filed in native Excel format via email at NCUCexhibits@ncuc.net, where applicable, including all of the supporting tabs and formulas, within three days of the filing of such exhibits; and that Red Bird and all other parties filing exhibits and workpapers that include tables of numbers and calculations shall provide the Public Staff and any other party upon request an electronic version of all such exhibits and workpapers, with formulas intact;

9. That DEP shall file affidavits of publication on or before the date of the expert witness hearing;

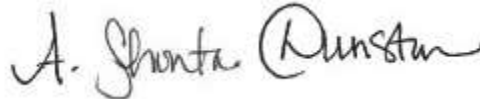
10. That the parties shall comply with the discovery guidelines established herein; and

11. That the Commission may cancel the public witness hearing if no substantial written complaints regarding the proposed facility are received by the Commission's Chief Clerk on or before Friday, March 24, 2023.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of February, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "A. Shonta Dunston". The signature is written in a cursive style with a large, prominent "D" in "Dunston".

A. Shonta Dunston, Chief Clerk

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
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DOCKET NO. E-2, SUB 1311

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Application of Duke Energy Progress, LLC,            )  
for a Certificate of Public Convenience                )  
and Necessity to Construct a 9.5 MW                 )  
Solar Photovoltaic Generating Facility in             )  
Buncombe County, North Carolina                    )       PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission has scheduled a public hearing on Wednesday, April 5, 2023, at 7:00 p.m., at the Buncombe County Courthouse, 60 Court Plaza, Courtroom 1A, Asheville, North Carolina. The purpose of the hearing is to receive public witness testimony regarding the application of Duke Energy Progress, LLC (DEP), filed in the above-captioned docket on January 23, 2023, for a certificate of public convenience and necessity (CPCN) to construct a 9.5 MW solar photovoltaic electric generating facility to be located at DEP's existing Asheville Plant, approximately one mile from Asheville, 46 Duke Energy Lane, Arden, Buncombe County, North Carolina. Public witness testimony will be received in accordance with Commission Rule R1-21(g).

The hearing will resume in Raleigh on Monday, May 22, 2023, at 1:00 p.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, solely for the purpose of receiving expert testimony from the parties.

In summary, DEP stated in the application that the facility, known as the Asheville Plant Solar Facility (Asheville Solar Facility), will be built at the existing site of DEP's natural gas-fired generating plant owned by DEP. DEP stated that the Asheville Solar Facility is consistent with the Commission's March 28, 2016 Order Granting Application, in Part, with Conditions, and Denying Application in Part in Docket No. E-2, Sub 1089, and DEP's efforts working with government and other organizations in the Western Carolinas Modernization Project. In addition, DEP's application sets forth in detail DEP's position regarding the need for the facility and the cost justification for the facility.

Specific information about DEP's application for a CPCN may be obtained from the Office of the Chief Clerk, North Carolina Utilities Commission, Raleigh, North Carolina, where a copy of DEP's application and supporting documents are available for review by the public, and on the Commission's website at [www.ncuc.gov](http://www.ncuc.gov).

The Public Staff is authorized by statute to represent consumers in proceedings before the Commission. Written statements to the Public Staff should include any

information that the writers wish to be considered by the Public Staff in its investigation of the matter. Such statements should be addressed to Mr. Christopher J. Ayers, Executive Director, Public Staff, 4326 Mail Service Center, Raleigh, North Carolina 27699-4326.

The Attorney General is also authorized by statute to represent consumers in proceedings before the Commission. Statements to the Attorney General should be addressed to The Honorable Josh Stein, Attorney General, c/o Consumer Protection – Utilities, 9001 Mail Service Center, Raleigh, North Carolina, 27699-9001. Written statements may be emailed to utilityAGO@ncdoj.gov.

Written statements are not evidence unless persons appear at a public hearing and testify concerning the information contained in their written statements.


Any person desiring to intervene in the proceeding as a formal party of record should file a petition under North Carolina Utilities Commission Rules R1-5 and R1-19 on or before Friday, May 5, 2023. Such petitions should be filed with the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325. The direct testimony and exhibits of expert witnesses to be presented by intervenors should also be filed with the Commission on or before Friday, May 5, 2023.

***The Commission may cancel the public witness hearing if no substantial written complaints regarding the proposed Asheville Solar Facility are received by the Commission's Chief Clerk on or before Friday, March 24, 2023.***

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of February, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "A. Shonta Dunston".

A. Shonta Dunston, Chief Clerk

**NOTE TO PRINTER:** DEP shall pay advertising costs. It is required that an Affidavit of Publication be filed with the Commission by DEP.