STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 137

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of the Integrated Resource Plans in North Carolina for 2012	)))	NC WARN'S MOTION TO REVIEW COSTS OF PROPOSED PLANT IN SOUTH CAROLINA

NOW COMES NC WARN, through the undersigned attorney, with a motion requesting the Commission to use its discretionary authority for a full review of the costs and need of Duke Energy's proposed 750 MW combined cycle ("CC") generating plant near Anderson, South Carolina (hereinafter the "Anderson plant"), as part of its on-going review of the utility integrated resource plans ("IRPs") OR IN THE ALTERNATIVE, to open a separate docket on the costs and need for the Anderson plant. In support of the motion is the following:

1. On October 24, 2013, Duke Energy Carolina ("DEC") and the N.C. Electric Membership Corporation ("NCEMC") filed an application with the Public Service Commission ("PSC") of South Carolina for a Certificate of Environmental Compatibility and Public Convenience and Necessity to construct and operate the Anderson plant. S.C. PSC Docket No. 2013-392-E. At present, the expected cost of the Anderson plant is a minimum of $750 million. It would be expected to provide service to both the North Carolina and South Carolina jurisdictions, with

costs allocated to each. DEC proposes to own 650 MWs of the plant, and NCEMC the other 100 MW. To date, the PSC has not issued the certificate.[1]

2. DEC and NCEMC have not demonstrated to the Commission the Anderson plant is necessary to provide reliable power for the ratepayers of North Carolina or that it is in the public interest. They have not shown that the construction costs and financing charges they forecast are reasonable and prudent. It appears DEC simply intends to construct the plant and then offer it as a *fait accompli* at the next rate case in North Carolina, without any preliminary scrutiny by the Commission or any determination it is necessary or in the North Carolina ratepayer's interest.

3. The application for the South Carolina certificate, S.C. Code Ann. ¶ 58-33-110(1), is parallel to one in the North Carolina statute, G.S. 62-110.1(a), in that the utility is required to receive a certificate showing the costs of the plant are reasonable prior to construction. The South Carolina statutes states:

> No person shall commence to construct a major utility facility without first having obtained a certificate issued with respect to such facility by the Commission. The replacement of an existing facility with a like facility, as determined by the Commission, shall not constitute construction of a major utility facility. Any facility, with respect to which a certificate is required, shall be constructed, operated and maintained in conformity with the certificate and any terms, conditions and modifications contained therein. A certificate may only be issued pursuant to this chapter; provided, however, any authorization relating to a major utility facility granted under other laws administered by the Commission shall constitute a certificate if the requirements of this chapter have been complied with in the proceeding leading to the granting of such authorization.

[1] The other major approval necessary before construction can begin is an air quality permit issued by the S.C. Department of Health and Environmental Control, pursuant to S.C. Regulation 61-62 (Air Pollution Control Regulations and Standards). To date, this permit has not been issued.

The North Carolina statute similarly states:

> no public utility or other person shall begin the construction of any steam, water, or other facility for the generation of electricity to be directly or indirectly used for the furnishing of public utility service, even though the facility be for furnishing the service already being rendered, without first obtaining from the Commission a certificate that public convenience and necessity requires, or will require, such construction.

NCUC Rule 8-61 additionally provides the detailed information required by the Commission to determine whether the plant is in the public interest.

4. The certificate is an important step in that it allows the Commission to determine ***prior to the onset of construction*** whether the undertaking is justified in the public interest, rather than after the plant is completed, and after all construction costs and financing are expended. It makes more sense to deal proactively with the significant cost of the Anderson plant now rather than include it as just one of a multitude items in a future rate case. The principal purpose of the IRP statute, G.S. 62 110.1, including the need for a certificate of public convenience and necessity, is to prevent costly overbuilding. *State ex. rel Utils. Comm'n v. High Rock Lake Ass'n*, 37 NC App. 138, 245 S.E.2d 787, cert. denied, 295 N.C. 646, 248 S.E.2d 257 (1978). That case states in part

> the primary mandate of G.S. 62-110.1 to the Commission, which is to regulate the expansion policy of electric utility plants in North Carolina to provide for the public need for electricity without wasteful duplication or overexpansion of generating facilities.

5. The purpose of the cost analysis inherent in the certificate process is to comply with the Commission’s mandate as declared in G.S. 62-2(a)(3), i.e., "to promote adequate, reliable and economical utility service to all of the citizens and residents of the State." G.S. 62-2(a)(4) continues this theme and states that rates

set by the Commission should be "consistent with long term management and conservation of energy resources by avoiding wasteful, uneconomic and inefficient uses of energy."

6. NC WARN is aware DEC and NCEMC are not required by statute to apply for a certificate in North Carolina pursuant to G.S. 62-110.1. Indeed, the N.C. Supreme Court determined a utility is not required to apply for a certificate before beginning construction of generating plant in South Carolina that would provide service to customers in North Carolina. *State ex rel. Utilities Comm'n v. Eddleman*, 320 N.C. 344, 358. S.E.2d 339 (1987). It should be noted though that this case does not preclude the Commission from fully and closely reviewing the costs of any utility practice, no matter where or when, that has the potential to impact rates in North Carolina. G.S. 62-30. The Commission has wide discretionary authority, and often uses it in matters that are consequential, i.e., have a potential rate impact.

7. Additionally relevant to the present motion is the provisions of G.S. 62-110.6 which allows the utility to apply for the equivalent of a certificate for convenience and necessity for an out-of-state plant. In part, the statute states

> (a) The Commission shall, upon petition of a public utility, determine the need for and, if need is established, approve an estimate of the construction costs and construction schedule for an electric generating facility in another state that is intended to serve retail customers in this State.
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> (b) The petition may be filed at any time after an application for a certificate or license for the construction of the facility has been filed in the state in which the facility will be sited. The petition shall contain a showing of need for the facility, an estimate of the construction costs, and the proposed construction schedule for the facility.

This provision, part of Senate Bill 3, Session Law 2007-297, recognized the construction and financing costs of most new generating plants, and in particular new nuclear plants, will be extremely expensive. Senate Bill 3 allowed recovery for the construction costs, but only if the utility received a certificate from the Commission first. NCUC Rule R8-61(f) delineates the information the utility is required to make for the out-of-state facility. Under these provision, the burden of proof is on the utility to show "the need for the facility" and that is estimated costs and construction schedule are reasonable.

8. Cost estimates allow a utility, or reviewing commission, to measure the overall competitiveness of different technologies, albeit in fairly broad terms. Although DEC and NCEMC did not publicly disclose their estimated cost of the Anderson plant in the South Carolina proceeding, the costs of new generation resources are readily available. For the proposed 750 MW plant, the cost would be at least $750 million although the site-specific issues and delays in construction could significantly increase that estimate. 9. This estimate of $750 million is based on the most recent report by the U.S. Energy Information Administration ("EIA") on levelized costs of new generation resources from January 2013.[2] In that report, the overnight capital costs in 2012 dollars for a conventional CC natural gas plant is $917/ kW capacity, with advanced CC costs slightly higher at $1,023 / kW capacity. On top of the overnight capital costs, annual fixed O&M costs are estimated to be in the range of $13.17 – 15.37/ kW-

[2] US EIA, "Levelized Cost of New Generation Resources in the Annual Energy Outlook 2013," Table 1 (updated estimate of power plant capital and operating costs). www.eia.gov/forecasts/aeo/electricity_generation.cfm

year, with variable O&M costs in the $3.60 – 3.27/ MWh range. A large portion of the unknown costs for the natural gas plant depend on the fuel price of natural gas with current forecasts highly dependent on what may become a highly variable natural gas market, and especially over the expected life of a new plant. Regardless of the actual costs, the forecasted cost for the Anderson plant is a significant one, and DEC and NCEMC will expect North Carolina ratepayers to bear their share of the cost of construction and the operating costs, and for DEC, their annual return on equity.

10. The need for the Anderson plant should also be examined, in light of the potential use of the Anderson plant as a baseload unit, DEC's high reserve margin and the viable alternatives. There has been no showing to the Commission that the ratepayers in North Carolina need a unit like the Anderson plant. Without any evidence to the contrary, NC WARN assumes the Anderson plant will be used as primarily a baseload and intermediate load unit, based on its size and DEC's shift to using more natural gas as fuel. These assumptions are supported by Public Staff witnesses in its latest rate case, who testified that several of their natural gas plants were currently be used to meet baseload demand, rather than for peak purposes. Docket E-7, Sub 1026; Tr. Vol. 8, p. 167. In its IRP, page 24, DEC reports its reserve margins over the planning horizon are between 14 and 22% with a goal of 14.5% (for both it and DEP); the Anderson plant increases DEC's reserve margin beyond its goal. In its comments on the IRPs, NC WARN will file additional support that there are a wide range of competitive alternatives to the Anderson plant. It simply is not needed.

THEREFORE, in light of the above, NC WARN prays that the Commission will use its discretionary authority to examine both the costs and need for the proposed Anderson plant.

Respectfully submitted, this is the 10th day of March 2014.

/s/ John D. Runkle

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NC WARN'S MOTION TO REVIEW COSTS OF PROPOSED PLANT IN SOUTH CAROLINA (E-100, Sub 137) upon each of the parties of record in this proceeding or their attorneys of record by deposit in the U.S. Mail, postage prepaid, or by email transmission.

This is the 10th day of March 2014.

/s/ John D. Runkle

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Attorney at Law