



February 3, 2016

To: Chief Clerk Gail Mount  
The North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, NC 27699-4325

From: North Carolina Sustainable Energy Association  
4800 Six Forks Road, Suite 300  
Raleigh, NC 27628

Re: *Pantego Wind Energy LLC's Request for Declaratory Ruling*  
(Commission Docket No. EMP-49, Sub 0)

Honorable Clerk and Commissioners:

On January 27, 2016, Pantego Wind Energy, LLC ("Pantego Wind") filed a *Request for Declaratory Ruling* in which it requested that the North Carolina Utilities Commission ("Commission") issue a ruling that clarifies that amended Commission Rule R8-63(e)(3) applies to the certificate of public convenience and necessity ("CPCN") for the 80 MW wind facility secured by Pantego Wind on March 8, 2012 and renewed on June 30, 2014 ("*Request*").

I serve as regulatory counsel for the North Carolina Sustainable Energy Association ("NCSEA"). NCSEA was granted intervenor status by the Commission on November 10, 2011.

Commission Rule R8-63(e)(3), as amended by the Commission on November 4, 2014 (with an effective date of January 21, 2015), provides that a CPCN "must be renewed if the applicant does not begin construction within *three* years after the date of the Commission order granting the certificate" (emphasis added). Prior to the amendment (and at the time Pantego Wind received both its CPCN and its renewed CPCN), the rule required renewal every *two* years.

As NCSEA understands Pantego Wind's *Request*, the operative effect of granting the requested ruling would be to permit Atlantic Wind to defer seeking renewal of its CPCN from 2016 to 2017. As Pantego Wind states in the *Request*, granting the requested ruling will not result in prejudice to any party. NCSEA, similarly, is unaware of any prejudice that would be precipitated by granting the requested ruling.

Beyond absence of prejudice, NCSEA believes Pantego Wind's legal argument is persuasive: Ordering Paragraph 2 of the March 8, 2012 order granting Pantego Wind a CPCN provided that the CPCN was "*subject to the conditions of Commission Rule R8-63(e) and (f),*" and Finding of



Fact 11 provided that “The CPCN should be conditioned upon: . . . *other applicable conditions in Commission orders, rules and regulations as are or may hereafter be lawfully made by the Commission*” (emphasis added). As asserted by Pantego Wind, it reasonably follows that the Commission’s November 14, 2014 order amending Rule R8-63(e)(3), which became effective on January 21, 2015, relates back to the March 8, 2012 order granting Pantego Wind its CPCN.

**Accordingly, NCSEA supports issuance of the ruling requested by Pantego Wind.**

Sincerely,

/s/ Peter H. Ledford  
Peter H. Ledford  
Regulatory Counsel

**CERTIFICATE OF SERVICE**

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing Comments by hand delivery, first class mail deposited in the U.S. mail, postage pre-paid, or by email transmission with the party’s consent.

This the 3rd day of February, 2016.

/s/ Peter H. Ledford  
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