

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. SP-100, SUB 31

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Petition by North Carolina Waste Awareness and Reduction Network for a Declaratory Ruling Regarding Solar Facility Financing Arrangements and Status as a Public Utility )  
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 ) ORDER REQUESTNG COMMENTS  
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BY THE CHAIRMAN: On June 17, 2015, North Carolina Waste Awareness and Reduction Network (NC WARN) filed a petition for a declaratory ruling in the above-captioned docket. NC WARN describes itself as a nonprofit corporation under North Carolina law, with more than one thousand individual members and families across the state. NC WARN states that its purpose is to reduce hazards to public health and the environment from global climate change by promoting energy efficiency and renewable energy resources.

In summary, NC WARN states that it has entered into a power purchase agreement (PPA) with the Faith Community Church in Greensboro, North Carolina. The PPA, which is attached to the petition as Attachment A, provides that NC WARN will install a 5.2-kW solar photovoltaic (PV) system on the church's roof and sell the electricity produced by the PV facility to the church. NC WARN states that this project, named Solar Freedom, is investigating funding mechanisms to provide affordable solar electricity to nonprofit organizations. Further, NC WARN states that Solar Freedom is a test case to determine if the up-front costs of solar equipment and installation can be financed through the sale of electricity generated by the PV facility. According to NC WARN, under the PPA the church's electricity for on-site usage will be priced at less than half the kilowatt-hour price that the church pays to its current energy supplier, Duke Energy Carolinas, LLC (DEC), with additional reduction of the church's electricity bills from its interconnection and net metering with DEC. The PPA also provides that NC WARN will donate the PV system to the church if the Commission or a court having jurisdiction determines that NC WARN cannot sell the electricity produced by the PV facility to the church. In addition, NC WARN states that the application for interconnection with DEC is awaiting final approval, and the formal ribbon cutting ceremony at the church was held on June 17, 2015. Photos of the solar panels are attached to the petition as Attachment B.

In its petition, NC WARN describes its efforts in developing up-front funding mechanisms for solar systems, which include providing free solar panels and/or solar hot water heaters to three nonprofit organizations in the Triangle Area, and initiating Solarize

NC programs in Durham, Chatham County, the Triad and western Wake County, primarily for residential owners.

NC WARN submits that the key issue to be resolved is whether state law prohibits third parties, such as NC WARN, from installing a PV system and selling the power produced by the system to a non-profit entity. It states that Duke Energy does not have a similar program to provide this type of funding mechanism for solar PV projects. In addition, NC WARN discusses several prior Commission decisions on the subject, and notes that there is a proposed statute on the subject, House Bill 245, that was at that time being considered by the North Carolina General Assembly.

In conclusion, NC WARN requests a declaratory ruling that its proposed activities would not cause it to be regarded as a public utility pursuant to G.S. 62-3(23) and other pertinent statutes in Chapter 62, the Public Utilities Act.

On July 6, 2015, North Carolina Sustainable Energy Association (NCSEA) filed a letter requesting that the Commission review its existing Orders that are related to the topic of third-party sales. NCSEA summarized several Commission Orders that it perceives to be related to third-party sales and the issues presented by NC WARN's petition.

On September 18, 2015, NC WARN filed a report of its activities under the PPA. NC WARN states that on August 28, 2015, it sent its first invoice to Faith Community Church. Further, NC WARN states that the invoice was for 1423 kilowatt hours (kWh) of electricity at a rate of \$0.05 per kWh, a total bill of \$76.49, including tax at 7.5%.

On May 19, 2015, the North Carolina Senate passed Senate Bill 513 (SB 513). Section 21 of SB 513 provided for the establishment of a Renewable Energy Economic Development Study Committee. Under SB 513, one of the subjects to be studied was third-party sales of electricity. However, on September 30, 2015, SB 513 was adopted by the General Assembly after several amendments, including the deletion of the provision establishing a Renewable Energy Economic Development Study Committee.

Based on the foregoing and the record in this docket, the Chairman finds good cause to request that interested persons file comments and reply comments regarding NC WARN's petition for a declaratory ruling. In addition, the Chairman finds good cause to make the investor owned electric utilities - Duke Energy Carolinas, LLC, Duke Energy Progress, LLC, and Virginia Electric and Power Company, d/b/a Dominion North Carolina Power - as well as North Carolina Electric Membership Corporation, parties to this docket without requiring them to file petitions to intervene. Further, the Chairman finds good cause to request that the parties address the following questions as part of their initial and reply comments.

1. Does the Commission have the express legal authority to allow third-party sales of Commission regulated electric utility services? If so, please provide a citation to all such legal authority.

2. If the Commission has the authority to allow third-party sales of regulated electric utility service, should the Commission approve such sales by all entities desiring to engage in such sales, or limit third-party sales authority to non-profit organizations?

3. What authority, if any, does the Commission have to regulate the electric rates and other terms of electric service provided by a third-party seller?

4. To the extent that the Commission is without authority to authorize third-party sales or to the extent the Commission's express authorization is required before third-party sales may be initiated, what action should the Commission take in response to NC WARN's sales in this docket?

IT IS, THEREFORE, ORDERED as follows:

1. That on or before October 30, 2015, persons having an interest in NC WARN's petition may file petitions to intervene in this docket.

2. That Duke Energy Carolinas, LLC, Duke Energy Progress, LLC, Virginia Electric and Power Company, d/b/a Dominion North Carolina Power, and North Carolina Electric Membership Corporation shall be, and are hereby, made parties to this docket without the necessity of filing a petition to intervene.

3. That the Chief Clerk shall serve this Order Requesting Comments on Duke Energy Carolinas, LLC, Duke Energy Progress, LLC, Virginia Electric and Power Company, d/b/a Dominion North Carolina Power, and North Carolina Electric Membership Corporation.

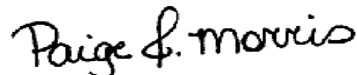
4. That on or before October 30, 2015, all parties may file initial comments regarding NC WARN's petition.

5. That on or before November 20, 2015, all parties may file reply comments regarding NC WARN's petition.

ISSUED BY ORDER OF THE COMMISSION.

This the 30<sup>th</sup> day of September, 2015.

NORTH CAROLINA UTILITIES COMMISSION



Paige J. Morris, Deputy Clerk