

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. SP-13695, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Orion Renewable Resources LLC)	ORDER RESCHEDULING SECOND REMOTE HEARING

BY THE PRESIDING COMMISSIONER: On March 9, 2020, Orion Renewable Resources LLC (Orion), filed a Verified Petition for Relief in Docket No. SP-13695, Sub 1 (Petition) seeking the Commission's review of the Competitive Procurement of Renewable Energy (CPRE) Program Independent Administrator, Accion Group, Inc.'s (IA or Accion), disqualification of Orion's Proposal 129-01 (Proposal or Bid) for an 80-megawatt solar project (Project) in Duke Energy Carolinas, LLC's (DEC) CPRE Program Tranche 1.

On October 21, 2020, the Commission issued an Order Scheduling Hearing setting this matter for remote hearing November 2, 2020, for the purpose of receiving expert witness testimony regarding the facts and circumstances of the evaluation of the Proposal following the time it was submitted by the IA for Step 2 evaluation, and further granting the Public Staff's Motion for Leave to File Comment and accepting its comments, finding that Orion's Petition was timely made, and ordering joinder of DEC as party to the docket.

This matter came for remote hearing as scheduled on November 2, 2020. Accion presented the testimony and exhibits of witnesses Judd, Ball, Layfield, Monsalvatge, and Rozier; DEC presented the testimony of witness Piper; and Orion presented the testimony of witness Lasocki. The testimony and exhibits were accepted into evidence. During the hearing, the Presiding Commissioner requested a Late-Filed Exhibit from the IA disclosing information about two proposals, which were higher ranked than Orion, but which were likewise eliminated during Step 1 of the Tranche 1 evaluation process for having negative net benefits. Tr. 80:19-82:18.¹ The Presiding Commissioner further stated that he would give DEC and the IA to collaborate on the Late-Filed Exhibit. Tr. 91:12-92:7.

On November 24, 2020, DEC filed a Late-Filed Exhibit in the above-captioned matter. And on November, 25, 2020, DEC filed a Corrected Late-Filed Exhibit.

¹ The form of the transcript reference in this Order for the November 2, 2020 evidence is, for example, "Tr. 1:1," with the number prior to the colon representing the page of the transcript and the number after the colon representing the line number.

On January 4, 2021, Orion filed a post-hearing brief and proposed order, and Accion and DEC each filed post-hearing briefs.

On January 25, 2021, Orion filed a Motion to Strike or in the Alternative Reopen Hearing (Motion). Particularly, Orion objects to the Late-Filed Exhibit on the basis that Orion contends that Items 3, 4, 5, and 6 of the Late-Filed Exhibit, and corresponding portions of DEC's post-hearing brief, introduce "factual considerations never raised in this docket, without providing sufficient detail to allow Orion to respond or the Commission to make an informed decision." Motion at 5.

On February 15, 2021, DEC and Accion each filed responses in opposition to Orion's Motion.

On February 22, 2021, Orion filed a reply in support of its Motion.

On April 14, 2021, citing to *State ex rel. Utilities Com. v. Carolina Tel. & Tel. Co.*, 267 N.C. 257, 269, 148 S.E.2d 100, 109-110 (1966), the Presiding Commissioner issued an Order denying the Motion to Strike, but reopening the record to accept into evidence the Late-Filed Exhibit and to receive supporting and rebuttal testimony related to the facts and circumstances underlying the Late-Filed Exhibit and the information contained therein (April 14, 2021 Order).

On April 28, 2021, pursuant to the April 14, 2021 Order, Accion filed the direct testimony of witnesses of Ball, Judd, Layfield, Monsalvatge, and Rozier, and DEC filed the direct testimony of witnesses Cathcart and Piper.

On May 12, 2021, also pursuant to the April 14, 2021 Order, Orion filed rebuttal testimony of its witness Lasocki.

On May 14, 2021, Orion filed a Motion to Compel Discovery and for Leave to Provide Supplemental Testimony (Motion to Compel). Orion sought an order from the Commission requiring Accion to provide adequate responses to Orion's April 20, 2021 First Data Request to Accion and also to Orion's May 6, 2021 Second Data Request to Accion.

On May 18, 2021, Orion filed a statement consenting to holding the hearing by remote means.

On May 24, 2021, DEC filed a statement consenting to holding the hearing by remote means.

On May 25, 2021, Accion filed a statement consenting to holding the hearing by remote means.

On May 28, 2021, Accion filed a Response to Orion's Motion to Compel.

On June 4, 2021, the Presiding Commissioner issued an Order that Postponed the evidentiary hearing, required Accion to file a supplemental exhibit containing the information addressed by Orion's Motion to Compel, and permitting Orion to file limited supplemental testimony (June 4, 2021). The June 4, 2021 Order noted that the hearing to receive supporting and rebuttal testimony related to the facts and circumstances underlying the Late-Filed Exhibit and the information contained therein would be rescheduled by further order.

IT IS, THEREFORE, ORDERED as follows:

1. That a remote hearing shall be held via Webex on Wednesday, June 30, 2021, at 9 a.m., for the purpose of receiving expert witness testimony regarding the facts and circumstances underlying the Late-Filed Exhibit. A link to view the hearing will be available at www.ncuc.net;
2. That all witnesses having filed testimony in this matter pursuant to the April 14, 2021 Order shall appear at the remote hearing unless excused by order of the Commission;
3. That the remote hearing shall be subject to the following conditions:
 - (1) On or before Tuesday, June 15, 2021, for administrative hearing purposes, parties shall provide the name, phone number, and email address of each attorney and witness that will participate in the hearing on the party's behalf directly to the Commission via email at ncucwebex@ncuc.net;
 - (2) On or before Thursday, June 24, 2021, parties shall file a list of potential cross-examination exhibits and provide copies of the exhibits labeled with the party name and numbered sequentially. Further, parties shall provide this same information to the other parties and to the Commission via email at ncucexhibits@ncuc.net;
 - (3) On or before Monday, June 28, 2021, the parties shall file a list of potential redirect examination exhibits and provide copies of the exhibits labeled with the party name and numbered sequentially to the other parties and the Commission via email at ncucexhibits@ncuc.net;
 - (4) Parties may utilize witness testimony summaries in their discretion. On or before Monday, June 28, 2021, parties electing to utilize witness testimony summaries shall provide a copy of witness testimony summaries to the other parties and the Commission via email at ncucexhibits@ncuc.net;
 - (5) On or before Monday, June 28, 2021, counsel appearing at the remote hearing shall submit an appearance sheet — available at <https://www.ncuc.net/Hearings/ncucappearance.pdf> — to the Commission's Court Reporter via email at reporter@ncuc.net;

- (6) Within two business days after the hearing, parties shall file their cross-examination and redirect exhibits used in the hearing marked as indicated during the hearing;
- (7) Parties and witnesses will be required to refrain from disclosing confidential information during the hearing, including during direct examination, cross-examination, and redirect examination. If a party believes that this requirement will materially affect the party's presentation of evidence or examination of a witness, the party shall bring this to the attention of the Presiding Commissioner at the beginning of the hearing;
- (8) Each attorney and witness appearing at the remote hearing shall have an individual audiovisual connection to the hearing. Two or more individuals should not share an audiovisual connection;
- (9) Attorneys and witnesses should appear on camera at all times that the proceeding is on the record, unless otherwise directed by the Presiding Commissioner, but should mute their microphone if they are not speaking; and
- (10) Attorneys and witnesses should logon to the Webex event at least 15 minutes before the start of the hearing for the purpose of testing their audiovisual connection.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of June, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, appearing to read "Joann R. Snyder". The signature is fluid and cursive, with the first name "Joann" being more prominent.

Joann R. Snyder, Deputy Clerk