STATE OF NORTH CAROLINA UTILITIES COMMISSION RALEIGH

DOCKET NO. E-2, SUB 1089

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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 752-MW Natural Gas-Fueled Electric Generation Facility in Buncombe County Near the City of Asheville

ORDER GRANTING MOTION FOR EXTENSION OF TIME TO FILE PROPOSED RECORD ON APPEAL

BY THE CHAIRMAN: On March 28, 2016, the Commission issued an Order in the above-captioned docket (CPCN Order) which, among other things, granted Duke Energy Progress, LLC (DEP) a certificate of public convenience and necessity to construct two 280 MW combined cycle natural gas-fired electric generating units in Buncombe County, North Carolina (the facility).

On April 25, 2016, the North Carolina Waste Awareness and Reduction Network and The Climate Times (collectively, NC WARN) filed a Motion To Set Bond pursuant to G.S. 62-82(b) requesting that the Commission set the bond amount at \$250.00 and requesting an oral argument or evidentiary hearing on the bond requirement.

On May 10, 2016, the Commission issued its order setting undertaking or bond pursuant to G.S. 62-82(b). The Commission required NC WARN to file an executed undertaking in the sum of \$10 million or a bond in the sum of \$10 million prior to filing a notice of appeal.

On May 19, 2016, NC WARN filed in the court of appeals a Petition for Writ of Certiorari, Petition for Writ of Supersedeas, and Motion for Temporary Stay of the Commission's May 10, 2016 order setting undertaking or bond. On May 24, 2016, the Court of Appeals denied NC WARN's Motion for Temporary Stay.

On May 27, 2016, NC WARN filed a notice of appeal and exceptions in Docket No. E-2, Sub 1089 without filing the undertaking or appeal bond.

On May 31, 2016, DEP filed a motion to dismiss the appeal for NC WARN's failure to file the required undertaking or appeal bond. On June 3, 2016, NC WARN filed a response opposing the dismissal. The Commission has not ruled on DEP's motion.

On June 7, 2016, the Court of Appeals allowed NC WARN's petition for certiorari for the limited purpose of vacating and remanding the Commission's order setting bond. The Court of Appeals stated that on remand "the Commission shall, in its discretion, set

bond in an amount that is in accordance with N.C. Gen. Stat. 62-82(b) and based upon competent evidence."

On June 8, 2016, the Commission issued an order setting hearing providing DEP and NC WARN an evidentiary hearing on the issue of setting an undertaking or bond pursuant to G.S. 62-82(b). The Commission ordered both DEP and NC WARN to sponsor witness(es) on the issue of the amount of the bond.

In paragraph 10 of its present motion NC WARN contends that "the Commission has allowed NC WARN and The Climate Times the opportunity to submit additional testimony." The Chairman did not provide NC WARN with the opportunity to submit additional testimony. At the June 17, 2016 hearing, NC WARN indicated that it had not consulted with any potential witnesses. The Commission only provided NC WARN the opportunity to indicate to the Commission whether or not it had any additional testimony so that the Commission could rule on whether to allow additional time. The Commission gave NC WARN until June 22, 2016, to provide that information. On June 22, 2016, NC WARN indicated that it needed until June 24, 2016. On Friday, June 24, 2016, NC WARN filed Update by NC WARN and The Climate Times indicating that NC WARN conferred with its expert Bill Powers and that NC WARN would be filing an affidavit from him on Monday, June 27, 2016. NC WARN did file William Powers' affidavit on Monday, June 27, 2016; however, the Commission has not ruled on whether to allow the affidavit into evidence at the present time.

As indicated above, the Commission has not ruled on DEP's motion to dismiss NC WARN's appeal nor has the Commission set the bond pursuant to the North Carolina Court of Appeals' decision. DEP maintains no valid notice of appeal is pending.

Nevertheless, after careful consideration and without determining whether a valid notice of appeal is pending and if so, the operative date of the notice of appeal, and based upon the fact that at least two issues remain open before the Commission, the Chairman finds good cause to extend the time for NC WARN to file its proposed record on appeal to July 31, 2016.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 30^{th} day of June, 2016.

NORTH CAROLINA UTILITIES COMMISSION

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Janice H. Fulmore, Deputy Clerk