

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, Sub 1215

In the Matter of:)	
)	
Application of Duke Energy Progress, LLC for)	DUKE ENERGY PROGRESS,
a Certificate of Environmental Compatibility)	LLC'S PROPOSED ORDER
and Public Convenience and Necessity)	
Pursuant to N.C. Gen. Stat. §§ 62-100 <u>et. seq.</u>)	
to Construct Approximately 4.6 Miles of New)	
230 kV Transmission line in the northeast area)	
of Wilmington, New Hanover County, North)	
Carolina)	

HEARD ON: Wednesday, October 23, 2019 at 7:00 p.m., at the New Hanover County Courthouse, 316 Princess Street, Wilmington, North Carolina: Cancelled pursuant to *Order Cancelling Hearing*, issued October 18, 2019.

Thursday, October 24, 2019, at 11:00 a.m., in Commission Hearing room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina: Cancelled pursuant to *Order Cancelling Hearing, Accepting Evidence and Requiring Filing of Proposed Order*, issued October 22, 2019.

APPEARANCES:

For Duke Energy Progress, LLC:

Jack Jirak, Associate General Counsel, Duke Energy Corporation, NCRH 20/Post Office Box 1551, Raleigh, North Carolina 27602

Brady W. Allen, The Allen Law Offices, PLLC, 1514 Glenwood Ave., Suite 200, Raleigh, North Carolina 27608.

For Using and Consuming Public:

Heather Fennell, Staff Attorney, Public Staff, North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699.

BY THE COMMISSION: On August 13, 2019, pursuant to N.C. Gen. Stat. § 62-100 et seq. and Commission Rule R8-62, Duke Energy Progress, LLC ("DEP" or the "Company") filed an application for a certificate of environmental compatibility and

public convenience and necessity (the “Application”) to construct approximately 4.6 miles of new 230kV transmission line in New Hanover County, North Carolina. The application was filed simultaneously with the direct testimony and exhibits of James T. Umbdenstock and Micah E. Retzlaff. The new transmission line will originate at the proposed Porters Neck transmission-to-distribution 230kV/23kV substation and terminate at the tap point along the existing Castle Hayne-Folkstone 230kV transmission line (“Proposed Route” or “Route 34”).

On August 15, 2019, the Commission issued its Order scheduling a public hearing in Wilmington, North Carolina and an evidentiary hearing in Raleigh, North Carolina, allowing the filing of petitions to intervene, allowing the filing of direct and rebuttal testimony, and requiring DEP to give public notice of the application and of the scheduled hearing. DEP's Application was properly served on the parties designated by N.C. Gen. Stat. § 62-102.

On September 25, 2019, Oliver Canaday filed a petition to intervene. On October 1, 2019, the Company filed a response in opposition to the petition to intervene. The Commission denied Mr. Canaday's petition to intervene on October 14, 2019, noting that Mr. Canaday does not live on or own property along the proposed transmission tapline and that the interests expressed in the petition to intervene were only incidental to the issues in the proceeding. The Commission allowed Mr. Canaday's petition to intervene to be entered into the record of this proceeding as a consumer statement of position.

On October 3, 2019 DEP, as required by Commission Order, filed Affidavits of Publication, demonstrating the Company properly published notice in newspapers of general circulation.

On October 9, 2019, the Public Staff filed a letter recommending that the Commission issue the certificate requested in this proceeding after receipt of a letter from the State Clearinghouse stating no further State Clearinghouse action by the Commission is required for compliance with the North Carolina Environmental Policy Act.

On October 11, 2019, DEP filed a motion to cancel the public hearing scheduled in Wilmington, North Carolina. The Commission issued an Order Cancelling Hearing on October 18, 2019 upon a finding of good cause that, other than Mr. Canaday's petition, the Commission had not received any written complaints regarding the proposed transmission line.

Because there were no remaining disputed issues in this docket requiring Commission resolution, DEP, on October 18, 2019, filed a motion to cancel the expert witness hearing scheduled in Raleigh, North Carolina. The Commission issued an Order Cancelling the Hearing, Accepting Evidence, and Requiring Filing of Proposed Order on October 22, 2019.

On October 21, 2019, the State Clearinghouse filed final comments with the Commission stating that because of the nature of the comments no further review is needed by the Commission for compliance with the North Carolina Environmental Policy Act.

Based upon DEP's verified application, the testimony and exhibits received into evidence and the entire record of this proceeding the Commission makes the following:

FINDINGS OF FACT

1. DEP is a public utility providing electric service to customers in its service area in North Carolina and is subject to the jurisdiction of the Commission.

2. The Commission has jurisdiction over DEP's application. Pursuant to N.C. Gen. Stat. § 62-100 et. seq. and Commission Rule R8-62, a public utility must receive a Certificate for Environmental Compatibility and Public Convenience and Necessity ("CPCN") prior to constructing transmission lines at or above 161 kV in North Carolina.

3. The proposed transmission tapline would originate at the site of a new Porters Neck Substation, to be located between U.S. Highway 17 and Porters Neck Road in New Hanover County, North Carolina, and would terminate at a selected tap location along the existing Castle Hayne – Folkstone 230kV transmission line. The approximate total length of the proposed transmission tapline is 4.6 miles.

4. Other than Mr. Canaday's consumer statement of position, the Commission did not receive any written complaints or other written opposition regarding the proposed transmission line.

5. DEP's application meets the requirements of N.C. Gen. Stat. § 62-102.

6. DEP has carried its burden of proof under N.C. Gen. Stat. § 62-105(a) through substantial, competent evidence showing that:

- (a) the proposed transmission line is necessary to satisfy the reasonable needs of the public for an adequate and reliable supply of electricity;
- (b) when compared with reasonable alternative courses of action, construction of the transmission line in the proposed location is reasonable, preferred, and in the public interest;
- (c) the costs associated with the proposed transmission line are reasonable;
- (d) the impact that the proposed transmission line will have on the environment is justified considering the state of available technology, the

nature and economics of the alternatives, and other material considerations; and

- (e) the environmental compatibility, public convenience and necessity require the construction of the transmission line.

7. It is in the public interest, reasonable, and appropriate to grant the requested certificate.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-2

These findings of fact are essentially informational, jurisdictional, and procedural in nature and uncontroverted.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 3-7

The evidence supporting these findings of fact appear in DEP's application, the direct testimony of witnesses Umbdenstock and Retzlaff, the consumer statement of position filed by Mr. Canaday, the study filed by DEP, and the filings of the Public Staff.

The parties' respective burdens of proof in this proceeding are governed by statute. N.C. Gen. Stat. § 62-105(a). The Commission has in the past interpreted the burden of proof requirement set forth in N.C. Gen. Stat. § 62-105(a) as follows:

In interpreting this statute, the Commission concludes that the electric utility applying for approval to site a transmission line has the initial burden of proof, including that it examined "reasonable alternative courses of action" and that "construction of the transmission line in the proposed location is reasonable, preferred, and in the public interest." A landowner or other intervenor who believes that an alternative route studied by the utility is preferable to that proposed or that the utility did not consider or appropriately weigh relevant factors in reaching its decision may introduce evidence and otherwise argue that the utility has not met its burden of proof. Once the utility has sustained its burden of proof, a landowner or other intervenor proposing an alternative not originally examined by the utility has the burden under the statute of proving that its alternative should have been studied and is preferable to the proposed route.

Final Order Overruling Exceptions and Affirming Recommended Order, Docket No. E-2, Sub 796, at 2 (August 29, 2002).

In considering other “relevant and material” factors pursuant to N.C. Gen. Stat. § 62-105(a), the Commission notes that “[i]t is hereby declared to be the policy of North Carolina: ... (5) To encourage and promote harmony between public utilities, their users and the environment.” N.C. Gen. Stat. § 62-2. In addition, the Commission considers the following declaration of State environmental policy:

The General Assembly of North Carolina, recognizing the profound influence of man's activity on the natural environment, and desiring, in its role as trustee for future generations, to assure that an environment of high quality will be maintained for the health and well-being of all, declares that it shall be the continuing policy of the State of North Carolina to conserve and protect its natural resources and to create and maintain conditions under which man and nature can exist in productive harmony. Further, it shall be the policy of the State to seek, for all of its citizens, safe, healthful, productive and aesthetically pleasing surroundings; to attain the widest range of beneficial uses of the environment without degradation, risk to health or safety; and to preserve the important historic cultural elements of our common inheritance.

N.C. Gen. Stat. § 113A-3.

Showing of Need

Witness Umbdenstock testified regarding the need to build a new 230kV substation and the 4.6 miles of new transmission line necessary to energize the substation in the Porters Neck area that is northeast of Wilmington in New Hanover County, North Carolina. The substation site was purchased in 2016 based on the projected load center in the vicinity of the intersection of Interstate 140 and Market Street. Witness Umbdenstock testified that the area is currently served by two existing substations, Wilmington Ogden 230 kV to the south and

Scotts Hill 230kV to the north. The proposed Porters Neck substation is the approximate load center for the circuits emanating from the Scotts Hill 230 kV and the Wilmington Ogden 230 kV Substations as it is located approximately halfway between these two substations.

Witness Umbdenstock testified that the Scotts Hill 230kV substation, which is located in Pender County, has two feeders (Edgewater 23kV and Scotts Hill Loop Road 24kV) that were previously overloaded and were relieved with the addition of a new circuit breaker (Kirkland 24kV) in 2017. This new feeder became the third distribution circuit serving customers and load in the Porters Neck area more than three miles away. Likewise, there are three feeders out of the Wilmington Ogden 230kV Substation that feed three miles north towards the same Porters Neck/Market Street area. All three of those circuits are projected to be above 95% of capacity by January 2020. Additionally, witness Umbdenstock stated both transformer banks at the Wilmington Ogden 230kV substation are projected to be loaded above their nameplate rating by January 2022.

Witness Umbdenstock testified that the new substation and its associated transmission line are required to provide needed capacity and enhanced service reliability to support existing customers and to allow for future residential and commercial growth.

The Route Study and Selection Process

After having established the need for the transmission of power to the Porters Neck area, witness Retzlaff testified that DEP retained Burns & McDonnell Engineering Company, Inc. (Burns & McDonnell), a full service

international engineering and construction firm with utility and infrastructure siting experience. Burns & McDonnell was retained to assist DEP with the line siting and soliciting necessary public input for the project. Burns & McDonnell prepared the Study attached as Attachment A to DEP's application. DEP and Burns & McDonnell established the study area, which was designed to provide a set of reasonable and geographically-distinct transmission line route options. Data was then collected from publicly available sources, grouped into categories, and then assigned a weight from one to ten to reflect potential sensitivity to the presence of a transmission line. With this data, Burns & McDonnell developed alternative routes and conducted a quantitative analysis of potential impact to the identified area sensitivities. This allowed DEP to consider alternatives and ultimately select Route 34 as the preferred route for the transmission line. The objective of the routing analysis was to identify an economically feasible route that would supply the most reliable electric service, while also minimizing to the extent possible adverse impacts to the economic, social and natural environment.

Witness Retzlaff testified that the route selection process included several forms of public input to solicit study area data and determine community values relative to the proposed project. These included an agency scoping meeting and other communications with Federal, State and local agencies, as well as public information workshops held by DEP to provide and receive information from the public about the study area. All feedback received was used to identify environmental and land use sensitivities located in the study area and assess the values and attitudes of the residents and public officials regarding the project.

DEP contacted the following state and federal agencies to solicit input regarding the proposed transmission line's potential impact on threatened or endangered species, wetlands, wildlife resources, stream sensitivity, hydric soils, and other potential issues: U.S. Army Corp of Engineers, U.S. Fish and Wildlife Services, NC Wildlife Resources Commission, N.C. Natural Heritage Program, and N.C. Department of Environmental Quality, including the N.C. Division of Water Resources and the N.C. Division of Land Quality. Witness Retzlaff testified that, from these external agency contacts, the primary concerns identified were mitigation properties in the study area, the presence of federally protected species and other species of concern, and wetlands located throughout the study area.

Witness Retzlaff testified that the Company held two public information workshops. The intent of the public information workshops was to both request data on sensitive features located in the study area and on private properties and provide potentially affected landowners near the alternative routes an understanding of the need for the project, the decision-making process used to select a preferred route, and a forum to voice concerns about the proposed project.

As recommended previously by the Commission, the Company incorporated several processes into the routing analysis meant to improve public awareness of the project which included: (1) the study area workshop, (2) the use of U.S. Postal Service certified mail to ensure delivery of the invitation to the workshops, (3) using a conspicuous stamp on the workshop invitation to differentiate it from other notices from the Company and emphasize its

importance. Invitations to the study area workshop were sent to all owners of property in the study area. Witness Retzlaff testified that the purpose of this workshop was to notify the general public of the project, present preliminary data collected and solicit information known by the attendees about area sensitivities that could help the Company identify constraints and opportunities for the line routes considered. Information gathered at the study area workshop was combined with data collected during the initial phase of the project to identify the 33 potential line segments.

Witness Retzlaff testified that to gather public input on the route alternatives, DEP held a subsequent route alternatives public workshop. A total of 146 invitations were sent to owners with property within 500 feet of any alternative route, and 25 attendees registered at the event. Witness Retzlaff testified that representatives from DEP and Burns & McDonnell were present again to provide information about the project and its need, address the public's questions and receive comments at each public workshop.

Burns & McDonnell identified 49 distinct routes using a combination of 33 line segments. Route 34, which was ultimately proposed by DEP in its application for a CPCN, originates at the site of the proposed Porters Neck substation, located southwest of the intersection of U.S. Hwy. 17/Market Street and I-140 in New Hanover County, North Carolina. The route exits the substation site to the northwest and extends for approximately 380 feet before turning north-northwest for approximately 875 feet, crossing I-140. The route then continues generally northward for approximately 3,170 feet before turning west-northwest.

From here, the preferred route extends approximately 8,105 feet and crosses the alignment of the proposed Hampstead Bypass. The route then extends to the north for approximately 6,105 feet, crosses Sidbury Road, and then continues to the north for another 2,980 feet. The preferred route then extends to the northwest for approximately 2,555 feet before terminating at the selected tap location on the existing Castle Hayne – Folkstone 230kV transmission line.

After analyzing route alternatives based on social, environmental and engineering factors, DEP's siting team determined that Route 34 was the preferred route for the following reasons: it tied for the lowest Residential Proximity Score, an indication of minimal potential impacts to residences and property owners; the total length was the shortest amongst all routes; the route had the least amount of length through planned residential zones, including the least number of residences within 300 feet of centerline; no stream crossings; the proposed right-of-way crossed the least amount of wetland and hydric soils; and the proposed route had the lowest estimated total cost of \$15.8 million.

Other than the consumer statement of position filed by Mr. Canaday, the Commission did not receive any written complaints or other consumer statements of position regarding the proposed transmission tapline. Mr. Canaday's concern was that the transmission line will increase utility rates, which is incidental to the subject matter of this CPCN proceeding. The Commission allowed Mr. Canaday the ability to file any supplemental information to be considered as a consumer statement of position on or before October 21, 2019, but no supplemental information was provided.

Summary

For the reasons discussed herein, the Commission concludes that DEP has carried its burden of proof pursuant to N.C. Gen. Stat. § 62-105(a) in demonstrating that the proposed transmission tapline is necessary for an adequate and reliable supply of electric energy to its service area. The Commission next concludes that DEP has carried its burden of proof in successfully demonstrating that Route 34 is the preferred transmission tapline route, that construction of a transmission tapline along Route 34 is in the public interest, and that the proposed costs associated therewith are reasonable.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That pursuant to N.C. Gen. Stat. § 62-102, a certificate of environmental compatibility and public convenience and necessity to construct approximately 4.6 miles of new 230kV transmission line New Hanover County, North Carolina, as described in DEP's application is hereby issued to DEP, and the same is attached hereto as Appendix A, subject to the conditions set forth herein and therein.

ISSUED BY ORDER OF THE COMMISSION.

This is the _____ day of _____, 2019.

NORTH CAROLINA UTILITIES COMMISSION

Kim Campbell, Chief Clerk

CERTIFICATE OF SERVICE

I certify that a copy of the Proposed Order of Duke Energy Progress, LLC, in Docket No. E-2, Sub 1215, has been served by electronic mail, hand delivery or by depositing a copy in the United State mail, postage prepaid to the following parties:

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This is the 25th day of November, 2019.



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