



On October 9, 2019, the Public Staff filed a letter stating:

Based upon our investigation of the application, exhibits, and other matters of record, the Public Staff believes that Duke Energy Progress has complied with the requirements of G.S. 62-102, and has demonstrated as required by G.S. 62-105 that the proposed transmission line is necessary and that when compared with reasonable alternative courses of action, construction of the line in the proposed location is reasonable, that the estimated costs associated with the line are reasonable, that the impact of the line on the environment is justified considering the state of available technology, and that the environmental compatibility, public convenience, and necessity requires [sic] the transmission line.

The Public Staff, therefore, “recommends that the Commission issue the certificate requested in this proceeding after receipt of a letter from the State Clearinghouse stating no further State Clearinghouse review action 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.

Stating that there were no remaining disputed issues in this docket requiring Commission resolution, DEP filed a motion on October 18, 2019, to cancel the expert witness hearing scheduled in Raleigh, North Carolina. The Commission issued an Order Cancelling 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 action by the Commission is needed 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 in 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.G.S. § 62-100 et. seq. and Commission Rule R8-62, a public utility must receive a

certificate of environmental compatibility and public convenience and necessity prior to constructing a transmission line of 161 kV or above in North Carolina.

3. The proposed transmission line 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 230-kV transmission line. The approximate total length of the proposed transmission line is 4.6 miles.

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

5. DEP’s application meets the requirements of N.C.G.S. § 62-102.

6. DEP has carried its burden of proof under N.C.G.S. § 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 DEP witnesses Umbdenstock and Retzlaff, the consumer statement

of position filed by Mr. Canaday, the study filed by DEP, and the recommendation of the Public Staff.

The parties' respective burdens of proof in this proceeding are governed by statute. N.C.G.S. § 62-105(a). The Commission has in the past interpreted the burden of proof requirement set forth in N.C.G.S. § 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, Application of Carolina Power and Light Company for a Certificate of Environmental Compatibility and Public Convenience and Necessity to Construct Approximately 19.6 Miles of 230-kV Transmission Line in Wayne, Duplin, and Sampson Counties, North Carolina, No. E-2, Sub 796, at 2 (N.C.U.C. Aug. 29, 2002).*

In considering other "relevant and material" factors pursuant to N.C.G.S. § 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.G.S. § 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.G.S. § 113A-3.

### **Showing of need**

DEP witness Umbdenstock testified regarding the need to build a new 230-kV 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 230-kV 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.

DEP witness Umbdenstock further testified that the Scotts Hill 230-kV substation, which is located in Pender County, has two feeders (Edgewater 23-kV and Scotts Hill Loop Road 24-kV) that were previously overloaded and were relieved with the addition of a new circuit breaker (Kirkland 24-kV) 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 230-kV 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 that both transformer banks at the Wilmington Ogden 230-kV substation are projected to be loaded above their nameplate rating by January 2022.

DEP 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 routing study and selection process**

After having established the need for the transmission of power to the Porters Neck area, DEP 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, to assist DEP with the line siting and soliciting necessary public input for the project. Burns & McDonnell prepared the Routing Study and Environmental Report 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 study allowed DEP to consider alternatives and ultimately select the route identified as 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.

DEP 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, including 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, N.C. 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.

As noted in the routing study and DEP witness Retzlaff's testimony, DEP held two public information workshops: a study area workshop and a route alternatives workshop. The intent of these public information workshops was to both request data on sensitive features located in the study area and on private properties and to 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.

DEP witness Retzlaff testified that invitations to the July 2018 study area workshop were sent to all owners of property in the study area. Witness Retzlaff further 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 DEP 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.

DEP witness Retzlaff testified that to gather public input on the route alternatives, DEP held a subsequent route alternatives public workshop on January 22, 2019. 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.

Burns & McDonnell identified 49 distinct routes using a combination of 33 line segments. After analyzing route alternatives based on social, environmental, and engineering factors, DEP determined that Route 34 was the preferred route for the following reasons: the route tied for the lowest Residential Proximity Score, an indication of minimal potential impacts to residences and property owners; the total length of the route is the shortest amongst all routes; the route has the least amount of length through planned residential zones, including the least number of residences within 300 feet of centerline; the route has no stream crossings; the proposed right-of-way crosses the least amount of wetland and hydric soils; and the route has the lowest estimated total cost of \$15.8 million.

Route 34 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 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 route then extends to the northwest for approximately 2,555 feet before terminating at the selected tap location on the existing Castle Hayne–Folkstone 230-kV transmission line.

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 line. Mr. Canaday's concern relates to the cost data provided for the route alternatives considered. The Commission allowed Mr. Canaday the ability to file any supplemental information on or before October 21, 2019, but none was provided.

## **Discussion and conclusions**

Having carefully reviewed the application, and based upon all the evidence of record and the recommendation of the Public Staff, the Commission concludes (1) that DEP has carried its burden of proof pursuant to N.C.G.S. § 62-105(a) in demonstrating that the proposed transmission line is necessary for an adequate and reliable supply of electric energy to its service area, and (2) that DEP has carried its burden of proof in successfully demonstrating that Route 34 is the preferred transmission line route, that construction of a transmission line along Route 34 is in the public interest, and that the proposed costs associated therewith are reasonable.

IT IS, THEREFORE, ORDERED as follows:

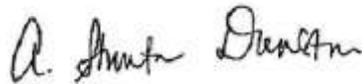
1. That pursuant to N.C.G.S. § 62-102, a certificate of environmental compatibility and public convenience and necessity to construct approximately 4.6 miles of new 230-kV transmission line New Hanover County, North Carolina, as described in DEP's application is hereby issued to DEP, and the same is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

2. That prior to DEP's construction of the transmission line, DEP is required to provide written notice to affected landowners of their option to designate their land as a "no-spray area," consistent with DEP's Revised Vegetation Management Plan and Policies.

ISSUED BY ORDER OF THE COMMISSION.

This the 10<sup>th</sup> day of January, 2020.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink, appearing to read "A. Shonta Dunston".

A. Shonta Dunston, Deputy Clerk

Commissioner Floyd B. McKissick, Jr., did not participate.

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-2, SUB 1215

KNOW ALL PERSONS BY THESE PRESENTS THAT

DUKE ENERGY PROGRESS, LLC  
410 South Wilmington Street  
Raleigh, North Carolina 27601

is hereby issued this

**CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC CONVENIENCE  
AND NECESSITY PURSUANT TO N.C. GEN. STAT. § 62-102**

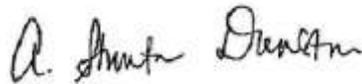
to construct approximately 4.6 miles of new 230-kV transmission line  
in New Hanover County, North Carolina, that will originate at the proposed  
Porters Neck transmission-to-distribution 230-kV/23-kV substation and terminate at the  
tap point along the existing Castle Hayne–Folkstone 230-kV transmission line

subject to receipt of all federal and state permits as required by existing and future  
regulations prior to beginning construction and further subject to all other orders, rules,  
regulations, and conditions as are now or may hereafter be lawfully made by the  
North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 10<sup>th</sup> day of January, 2020.

NORTH CAROLINA UTILITIES COMMISSION



A. Shonta Dunston, Deputy Clerk