

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 101
DOCKET NO. E-2, SUB 1159
DOCKET NO. E-7, SUB 1156

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-100, SUB 101)	
)	
In the Matter of)	
Petition for Approval of Generator)	
Interconnection Standard)	
)	
DOCKET NO. E-2, SUB 1159)	
DOCKET NO. E-7, SUB 1156)	ORDER GRANTING STAY
)	
In the Matter of)	
Joint Petition of Duke Energy Carolinas,)	
LLC, and Duke Energy Progress, LLC, for)	
Approval of Competitive Procurement of)	
Renewable Energy Program)	

BY THE CHAIRMAN: On May 15, 2015, in Docket No. E-100, Sub 101, the Commission issued an Order Approving Revised Interconnection Standard. In Ordering paragraph 3, the Commission instructed the Public Staff – North Carolina Utilities Commission (Public Staff) to convene a stakeholder process not later than two years after the date of the order and to report recommendations from the stakeholder group within four months from the first meeting of the group.

On December 15, 2017, the Public Staff filed a letter in which it stated that even though the parties had had significant discussion and identified numerous issues that merit revision, no consensus was reached regarding what revisions should be made to the Interconnection Standard. On December 20, 2017, the Commission issued an Order Requesting Comments regarding modifications to the North Carolina Interconnection Procedures (NCIP), Forms, and Agreements (collectively referred to as the NC Interconnection Standard).

On February 21, 2018, in Docket Nos. E-2, Sub 1159 and E-7, Sub 1156, the Commission issued its Order Modifying and Approving the Joint Competitive Procurement of Renewable Energy (CPRE) Program for DEC and DEP.

On July 10, 2018, in Docket Nos. E-2, Sub 1159 and E-7, Sub 1156, and pursuant to Commission Rule R8-71(f)(2)(i), the Independent Administrator (IA) of the CPRE

Program transmitted to the market participants the final documents to be used in the Tranche 1 CPRE Request for Proposal (RFP) Solicitation. By that transmittal, the IA opened the Tranche 1 CPRE RFP Solicitation response period and established September 11, 2018, as the deadline for submission of proposals.

On August 10, 2018, the Chairman issued an Order Scheduling Hearing, Requesting Comments, and Extending Tranche 1 CPRE RFP Solicitation Response Deadline. The order established an evidentiary hearing to consider all of the modifications to the NC Interconnection Standard and established an oral argument on September 17, 2018, regarding the establishment of interim modifications to the NC Interconnection Standard to accommodate Tranche 1 of the CPRE program. The Commission subsequently continued the oral argument to September 24, 2018. The August 10, 2018 order also established October 9, 2018, as the new deadline for responses to the Tranche 1 CPRE RFP Solicitation.

On September 24, 2018, the parties appeared before the Commission for oral argument, with appearances made by Duke, NCSEA, IREC, North Carolina Pork Council, NCCEBA and the Public Staff. On September 28, 2018, Duke filed Post-Hearing Responses to Commission Questions in which it provided additional information relative to questions that had been raised during the oral argument.

Also on September 28, 2018, the Commission issued an order entitled Request for Clarification of Statements Made During Oral Argument in which the Commission required Duke to clarify its oral argument comments by a filing due October 1, 2018. On October 1, 2018, Duke filed a response to the Commission's September 28 Order, as did the Public Staff.

On October 1, 2018, the Commission provided Duke with confidential questions via email, to which the Company provided confidential responses via email on October 2, 2018. Contemporaneously, the Commission emailed all parties to the docket placing them on notice that the questions had been emailed to the Company and Public Staff. On October 5, 2018, the Commission issued an order in the above-referenced dockets. Paragraph 2 of the ordering paragraphs ordered:

[t]hat Interconnection Customers affected by Section 4.3.9. that are currently in the facilities study stage of the NCIP shall have 30 business days from the date of this Order to submit a prepayment for network upgrades. For a given Interconnection Request, if no such payment is received, the Interconnection Request shall be removed from the interconnection queue.

On November 9, 2018, Cypress Creek Renewables (Cypress Creek), filed a motion to intervene, and separately filed a motion to stay. The Commission granted intervention on November 9, 2018. In its motion to stay, Cypress Creek requests that the Commission, as to the Cypress Creek projects, stay the effectiveness of ordering paragraph 2 of its October 5, 2018 Order Approving Interim Modifications to North Carolina Interconnection Procedures for Tranche 1 of CPRE RFP and the associated last two sentences of the

Commission's modification of Section 4.3.9 of the NCIP until December 11, 2018.

In support of its motion, Cypress Creek states that, among other changes to the NCIP, Duke requested that the Commission amend Section 4.3.9 to require Interconnection Customers that have been identified through the System Impact Study process as triggering Network Upgrades to provide either a nonrefundable prepayment for those Network Upgrades or Financial Security reasonably acceptable to the Utility (the Milestone Payment) prior to entering the facilities study stage of the interconnection process. Cypress Creek indicates that in its October 5, 2018 Order, in addition to Duke's requested changes to Section 4.3.9, the Commission amended Section 4.3.9 to require Interconnection Customers that have already received their system impact studies, and have proceeded to the facilities study phase to make the non-refundable prepayment for Network Upgrades within 30 business days from the date of the Order and failure to timely make such prepayment will result in the Utility removing the Interconnection Request from the interconnection queue.

Cypress Creek states that it is the developer for two solar projects that are uniquely and negatively impacted by this aspect of the Commission's October 5 Order, Fair Bluff Solar, LLC and Homer Solar, LLC (collectively the Cypress Projects). Cypress Creek states that the Cypress Projects have signed Facilities Study Agreements and are both interdependent with an earlier-queued FERC-jurisdictional Interconnection Customer, Friesian Solar LLC, and that Friesian Solar has triggered Network Upgrades which exceed \$100 million. Cypress Creek posits that the Cypress Projects have interdependent Network Upgrades that total approximately \$9.6 million. Cypress Creek argues that the retroactive application of the nonrefundable Milestone Payment requirement would require Cypress Creek to prepay or post a nonrefundable Financial Security of approximately \$9.6 million within 30 business days after the issuance of the Order, which is November 20, 2018.

Cypress Creek argues that the Friesian project, a FERC-jurisdictional project, is not required to make the Milestone Payment and that Friesian Solar LLC, will not make that determination prior to November 20, 2018. Cypress Creek argues that if Friesian Solar does not commit to paying for its Network Upgrades, those additional costs well in excess of \$100 million would make the Cypress Projects non-viable and cause them to exit the queue and forfeit the \$9.6 million Milestone Payment for Network Upgrades.

Cypress Creek further argues that the Cypress Projects will be unable to make the \$9.6 million Milestone Payment on November 20, 2018, and will be forced to withdraw from the queue, resulting in irreparable harm to Cypress Creek. Cypress Creek indicates that it is in discussion with other parties to this docket as to what relief may be appropriate and will seek such relief from the Commission in the near future; however, in the meantime Cypress Creek requests that the Commission preserve the status quo for the Cypress Projects by staying the effectiveness of ordering paragraph 2 of its October 5, 2018 Order Approving Interim Modifications to North Carolina Interconnection Procedures for Tranche 1 of CPRE RFP and the associated last two sentences of the Commission's modification of Section 4.3.9 of the NCIP until December 11, 2018.

No other party has filed any response or opposition to Cypress Creek's motion to stay.

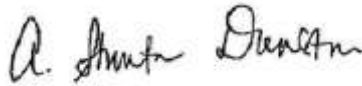
The Chairman is of the opinion that good cause exists to stay the effectiveness of ordering paragraph 2 of its October 5, 2018 Order Approving Interim Modifications to North Carolina Interconnection Procedures for Tranche 1 of CPRE RFP and the associated last two sentences of the Commission's modification of Section 4.3.9 of the NCIP until December 11, 2018, as to the Cypress Projects.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of November, 2018.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script, appearing to read "A. Shonta Dunston".

A. Shonta Dunston, Acting Deputy Clerk