

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. SP-2221, SUB 0
DOCKET NO. SP-2221, SUB 1
DOCKET NO. E-7, SUB 1079

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of First Solar Development,)	
LLC, f/k/a Rocky River Solar, LLC, for a)	ORDER TRANSFERRING
Certificate of Public Convenience and)	CERTIFICATE OF PUBLIC
Necessity to Construct a 59.4-MW Solar)	CONVENIENCE AND NECESSITY
Facility in Union County, North Carolina)	

BY THE COMMISSION: On January 29, 2013, in Docket No. SP-2221, Sub 0, the Commission issued a certificate of public convenience and necessity (CPCN), to Rocky River Solar, LLC (Rocky River), for construction of a 40-MW_{AC} solar photovoltaic (PV) electric generating facility to be located in Union County, North Carolina (Facility).

On December 15, 2015, First Solar Development, LLC, sole member of Inactive SPE Holdings, LLC, and Inactive SPE Holdings, LLC, successor by merger with Rocky River, and Duke Energy Carolinas, LLC (DEC or Company), filed a Verified Joint Notice and Request for Approval to Transfer Certificate of Public Convenience and Necessity (Application) in Docket Nos. SP-2221, Sub 1, and E-7, Sub 1079, pursuant to G.S. 62-110.1 and G.S. 62-111(a), and Commission Rules R8-61, R8-64, and R8-67. The Application requests that the Commission approve the transfer of the CPCN for the Facility from Rocky River to DEC.

As part of their application, DEC and Rocky River request that the CPCN be amended from a 40-MW_{AC} facility to a 59.4-MW_{AC} facility. On February 10, 2016, DEC filed an updated site layout for the proposed facility. On February 11, 2016, the Commission issued an Order Requiring Publication of Notice. On March 21, 2016, DEC filed an affidavit of publication from The Enquirer-Journal (Monroe, North Carolina), stating that the publication of notice was completed on March 11, 2016. No complaints have been received. On March 22 and 24, 2016, the State Clearinghouse filed comments, with the second letter requesting additional information from the North Carolina Department of Cultural Resources. DEC provided the updated site layout information to the Department of Cultural Resources on April 12, 2016.

In the Application, Rocky River and DEC state, among other things, that DEC seeks to acquire the Facility to further its compliance efforts with the North Carolina Renewable Energy and Energy Efficiency Portfolio Standard (REPS). DEC further stated that the 2014 joint solar request for proposals (RFP) issued by DEC and Duke Energy

Progress, LLC (DEP), and the 2015 Rider GS RFP issued by DEC indicated the limited opportunities available for large, utility-scale solar available in DEC's service territory. The Application includes the following assertions:

- That DEC estimates that it will need to procure for retirement more than 7.5 million RECs in 2021 and annually thereafter to meet its long-term REPS obligation of 12.5% of North Carolina retail sales.
- That the project economics are favorable given the 30% Federal investment tax credit (ITC) available for project.
- That the total installed cost of the project compares favorably to the recently approved DEP utility-owned facilities.
- That it is a cost-effective source of renewable energy certificates (RECs) for DEC and its customers.
- That the facility will help DEC comply with the REPS obligations, and given the lack of RECs available to procure from similar facilities located in DEC territory that may qualify for the 30% Federal ITC, it is a prudent opportunity to secure a long-term REC supply.

The Application states that DEC plans to recover the cost of its investment in the Rocky River facility, once it is used and useful in providing electric service and RECs, under the same methodology it uses to recover the cost of other REPS compliance projects. Thus, "incremental costs" as defined in G.S. 62-133.8(h)(1)a. will be recovered through DEC's annual REPS cost recovery rider, and the remaining costs will be recovered through DEC's base rates.

The Public Staff filed Comments on May 3, 2016, describing its review of the Application, setting forth its conclusions, and stating its recommendation that the proposed transfer of the CPCN should be approved, subject to certain conditions. The Public Staff agreed that DEC has a significant REPS compliance need starting in 2020, and that solar resources continue to be cost-effective resources relative to other renewable energy resources.

The Public Staff states that the proposed asset purchases are also based in part on DEC's desire to add solar generation to its generation portfolio in order to increase the diversity of the fuel supply mix under its ownership and control, that the terms of the asset purchase agreement and engineering, procurement and construction contract appear to be reasonable, and that the Rocky River project appears to have attributes demonstrating a probability of timely completion in 2016 and operational success thereafter.

The Public Staff states that although DEC is not seeking approval of its proposed cost recovery methodology in these applications, it is necessary and appropriate to address certain cost recovery parameters in order to ensure that the transfer of the CPCN for the Facility and associated assets is justified by the public convenience and necessity

and is in the public interest. In the course of its review, the Public Staff identified three areas of concern to ratepayers, including: (1) the possibility that DEC may be unable to take advantage of all the tax benefits currently available to the facility; (2) the costs associated with the Rocky River facility relative to the price DEC offered for RECs at the time of the transfer request; and (3) the potential availability of other low-cost REPS compliance options that are not being fully utilized by DEC.

In its Comments filed on May 3, 2016, the Public Staff notes that the cost-effectiveness of DEC's ownership of each facility is substantially dependent upon DEC's ability to monetize the following four tax benefits:

- (a) the federal Section 199 deduction;
- (b) the federal ITC of 30% of the cost of eligible property;
- (c) the five-year Modified Accelerated Cost Recovery System (MACRS) tax depreciation; and
- (d) a property tax abatement of 80% on solar property.

The Public Staff opines that absent these tax benefits the Facility might not be a cost-effective REPS compliance resource under DEC's ownership. In addition, whether the facility proves over the long term to be a cost-effective resource for REPS compliance compared to alternative resources depends on several factors, among which are the accuracy of DEC's avoided cost projections, the impact on solar development of the expiration of the State renewable energy tax credit, changes to the federal ITC, whether the installed cost of solar PV continues to decline, and other uncertainties related to the development of renewable energy resources.

To address its concerns regarding DEC's ability to realize the full tax benefits associated with the Facility, the Public Staff recommends that the Commission's approval of the applications should also include a condition providing that, in the appropriate REPS rider and general rate case proceedings, DEC will separately itemize the actual monetization of all the tax benefits listed above within its calculation of the levelized revenue requirement per megawatt-hour for the Facility so that it may be compared with the monetization of such tax benefits within the Company's revenue requirement analysis of the Facility. To the extent that DEC's actual monetization of the tax credits listed in items (a), (c), and (d) above is less than the full realization reflected in the Company's revenue requirement analysis, a presumption will be created that the costs associated with the additional revenue requirement were unreasonable and imprudently incurred. In that event, DEC will have the opportunity in the proceeding to rebut the presumption with evidence supporting the reasonableness and prudence of its actual monetization of the tax credits. To the extent that DEC's actual monetization of the federal ITC tax benefit listed in item (b) above is less than the full realization reflected in the Company's revenue requirement analysis, no presumption of unreasonableness or imprudence will be created and no adjustment will be made to the revenue requirement for that reason. The additional revenue requirement that results from DEC's less than full realization of the ITC, however, will be

recovered only in base rates. The Public Staff also recommended that within 180 days of completion of construction of the project, DEC should file a final cost accounting report for the project with the Commission and provide a copy to the Public Staff (Condition No. 1).

To address the Public Staff's concern regarding the prices that DEC was offering for RECs to other QFs at the time of the application, the Public Staff also recommended that Commission's approval of the application be subject to the following additional conditions:

- a) The incremental costs DEC will be allowed to recover through the REPS rider will be capped by developing an appropriate percentage to limit the recovery of its costs based on the standard REC offer price that DEC was offering to QFs at the time the purchase agreement was executed for the facility, as computed in the revenue requirements model provided in response to Public Staff data requests.
- b) The additional revenue requirements that exceed avoided costs and the REPS cost cap will be recovered only in base rates, based on the reasonableness and prudence of the additional costs (Condition No. 2).

In addition, the Public Staff maintains that costs associated with the Facility that are recovered in base rates should be allocated among jurisdictions and customer classes in the same manner as any other plant in DEC's generation portfolio. However, no portion of any of the costs that are directly assigned, allocated, or otherwise attributable to another jurisdiction should be recovered from North Carolina retail customers, even if recovery of those costs are disallowed or denied, in whole or in part, in another jurisdiction. Further, subject to the specific conditions provided above, the reasonableness and prudence of DEC's costs associated with the Facility and the methodology for recovering those costs should be addressed in future REPS rider and general rate case proceedings (Condition No. 3).

The Public Staff further recommends that the Commission approve DEC and Rocky River's request that the CPCN be amended from 40-MW_{AC} to 59.4-MW_{AC}, subject to the condition that no construction commences until the State Clearinghouse indicates that no further State Clearinghouse review action by the Commission is required for compliance with the North Carolina Environmental Policy Act (Condition No. 4).

On May 16, 2016, the Public Staff presented the Application to the Commission at the Commission's Regular Staff Conference. In summary, the Public Staff recommended that the Commission issue an order finding that the Application to transfer the CPCN is justified by the public convenience and necessity and should be approved, subject to the specific conditions set forth above. The Public Staff states that DEC has agreed to these conditions.

Based on the foregoing and the record, the Commission finds that DEC's application for the transfer of the CPCN for the Facility from Rocky River to DEC is justified

by the public convenience and necessity and should be approved, subject to Condition Nos. 1 through 4 proposed by the Public Staff and agreed to by DEC.

IT IS, THEREFORE, ORDERED as follows:

1. That the CPCN for the Rocky River facility is amended from 40-MW_{AC} to 59.4-MW_{AC}, subject to the condition that no construction commences until the State Clearinghouse indicates that no further State Clearinghouse review action by the Commission is required for compliance with the North Carolina Environmental Policy Act.

2. That the application filed by Rocky River and DEC to transfer the certificate of public convenience and necessity for construction of a 59.4-MW photovoltaic electric generating facility to be located near the corner of S. Rocky River Road and Doster Road in Monroe, Union County, to Duke Energy Carolinas, LLC, shall be, and is hereby, approved.

3. That this approval is subject to Condition Nos. 1 through 4 proposed by the Public Staff and accepted by Duke Energy Carolinas, LLC, as set forth expressly in the body of this Order.

4. That this Order shall not preclude any party from contesting the reasonableness and prudence of DEC's costs associated with this facility and the methodology for recovering those costs in future REPS rider, general rate case, and other appropriate proceedings.

5. That Appendix A shall constitute the amended certificate of public convenience and necessity reflecting the transfer of the certificate to DEC.

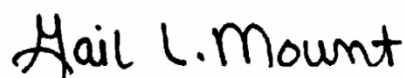
6. That the certificate of public convenience and necessity issued to Rocky River in Docket No. SP-2221, Sub 0, for this solar photovoltaic facility shall be, and is hereby, cancelled.

7. That the Chief Clerk shall close Docket No. SP-2221, Sub 0.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of May, 2016.

NORTH CAROLINA UTILITIES COMMISSION



Gail L. Mount, Chief Clerk

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 1079

Duke Energy Carolinas, LLC
Post Office Box 1321
Charlotte, North Carolina
28201-1006

is hereby issued this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
PURSUANT TO G.S. 62-110.1

for a 59.4-MW_{AC} solar photovoltaic electric generating facility

located

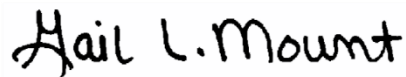
near the corner of S. Rocky River Road and Doster Road in Monroe, Union County, North
Carolina,

subject to all 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 16th day of May, 2016.

NORTH CAROLINA UTILITIES COMMISSION



Gail L. Mount, Chief Clerk