

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Duke Energy Carolinas, LLC and)
Carolina Power & Light Company) Docket No. ER13-83-000
)

**NOTICE OF INTERVENTION OF
THE NORTH CAROLINA UTILITIES COMMISSION,
MOTION TO INTERVENE OF THE
PUBLIC STAFF-NORTH CAROLINA UTILITIES COMMISSION,
AND COMMENTS IN SUPPORT OF DUKE ENERGY CAROLINAS, LLC,
AND CAROLINA POWER & LIGHT COMPANY**

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission or FERC), 18 C.F.R. §§ 385.212 and 214, the North Carolina Utilities Commission (NCUC) hereby intervenes and gives notice of its intervention and the Public Staff of the North Carolina Utilities Commission (Public Staff) hereby moves to intervene in the above-captioned proceeding. The NCUC and Public Staff further respectfully submit comments in support of the Compliance filing made by Duke Energy Carolinas, LLC (Duke), and Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc. (Progress) in response to the Commission's Order No. 1000.

The names, titles, and offices of the persons to whom correspondence, pleadings, and testimony with regard to this docket should be addressed are designated as follows:

Kimberly W. Duffley
Staff Attorney
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325
Phone: (919) 733-3969
Fax: (919) 733-7300
kduffley@ncuc.net

Gisele L. Rankin
Staff Attorney
Public Staff-North Carolina
Utilities Commission
4326 Mail Service Center
Raleigh, North Carolina 27699-4326
(919) 733-6110
gisele.rankin@psncuc.nc.gov

I. INTERVENTION

1. FERC issued Order No. 1000¹ imposing certain requirements on public utility transmission providers regarding regional and interregional transmission planning and cost allocation for the development of transmission projects. The deadline for public utility transmission providers to submit their compliance filings regarding the local and regional transmission planning and cost allocation requirements was October 11, 2012.

2. On October 11, 2012, Duke and Progress (Filing Parties) filed their compliance filing indicating that they are public utility transmission providers enrolled in the North Carolina Transmission Planning Collaborative process (NCTPC).

3. The NCUC has jurisdiction over the rates, terms and conditions of service provided by the Filing Parties to retail customers in North Carolina, as well as the need for power generating facilities and transmission lines to be built in the State. North

¹ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 76 FR 49842 (Aug. 11, 2011), FERC Stats. & Regs. ¶ 61,132 (2012).

Carolina General Statute § 62-2(b) states, in part, that “authority shall be vested in the North Carolina Utilities Commission to regulate public utilities generally, their rates, services and operations” Among the duties assigned to the NCUC is “to initiate or appear in such proceedings before federal ... courts and agencies as in its opinion may be necessary to secure for the users of public utility service in this State just and reasonable rates and service” N.C.G.S. § 62-48(a).

4. The NCUC is an administrative agency created by the North Carolina General Assembly and charged with regulating electric and other public utilities pursuant to N.C.G.S. § 62-1, et seq. It is therefore a “state commission” within the meaning of Rule 214(a)(2).

5. The Public Staff is an agency of the State of North Carolina legislatively obligated to represent the using and consuming public in North Carolina with respect to matters affecting the rates and service of public utilities. N.C.G.S. § 62-15.

II. COMMENTS

6. The NCUC and the Public Staff agree with the Filing Parties’ position that they are legally two separate, individual public utilities and that the NCTPC process meets the requirements in Order No. 1000 and is widely recognized as an appropriate region for transmission planning purposes. The NCUC regulates Duke and Progress as two separate entities, with separate service territories, separate tariffs, and separate rate schedules. The two utilities’ transmission systems in North Carolina and South Carolina, along with that of Alcoa Power Generating Inc., comprise a transmission planning “region” that fully complies with FERC’s orders. In addition, since its initial formation in 2005, the scope and scale of the NCTPC has supported meaningful and

efficient stakeholder involvement and dialogue. Staff of the NCUC and the Public Staff routinely attend the NCTPC's stakeholder meetings and can state unequivocally that (1) non-transmission owning load-serving entities play a leadership role in the NCTPC planning process, and (2) suggestions for study scenarios from stakeholders are welcomed and thoroughly addressed by the NCTPC transmission planning process. The scope and scale of the existing NCTPC region allows participants to propose realistic and aspirational transmission projects and generation scenarios, and both types of projects have been proposed and studied. Similarly, participants are able to provide meaningful feedback to the transmission planning process. Therefore, the NCUC and the Public Staff fully support the Filing Parties' proposal to comply with Order No. 1000 by evolving, rather than jettisoning, the existing NCTPC effort in favor of any alternative regional planning footprint.

7. Duke and Progress propose to amend the NCTPC transmission planning process to solicit stakeholder input regarding "public policies" that would drive the need for transmission facilities. The NCUC and the Public Staff are confident that North Carolina's robust integrated resource planning (IRP) process will continue to ensure that Duke and Progress develop transmission infrastructure that facilitates compliance with state, federal, and local laws, regulations, and orders in an economical and environmentally responsible manner. While it is highly unlikely that an NCTPC stakeholder will offer input as to laws, regulations and orders that somehow elude consideration in the IRP process, the NCUC and the Public Staff believe the Filing Parties' approach provides for such an eventuality and therefore fully complies with Order No. 1000.

8. Order No. 1000 requires Duke and Progress to provide opportunities for non-incumbent transmission developers to build and own regional transmission facilities. They have worked collaboratively with NCTPC participants to develop a compliant process for considering projects that would be proposed by non-incumbent developers. The NCUC has serious concerns regarding the construction and ownership of transmission facilities by non-incumbent developers and initiated an investigation by Order issued May 21, 2012, into such issues. On October 11, 2012, the NCUC issued a report on its “Investigation of Federal Requirements to Consider Transmission Ownership by Non-Incumbent Developers.”² In that report, the NCUC found that ownership of regional electric transmission lines by non-incumbent transmission owners would pose new kinds of risks for North Carolina’s electric consumers. Notwithstanding the Filing Parties’ robust proposal to consider third-party projects, the NCUC retains undisputed jurisdiction over the construction of new transmission facilities in North Carolina and will assert that jurisdiction to assure that the State’s citizens are served in an economical and reliable manner. (See N.C.G.S. 62-101.)

9. Finally, the NCUC and the Public Staff reserve the right to raise additional issues during the course of these proceedings.

² See Docket No. E-100, Sub 132 at www.ncuc.net.

WHEREFORE, the NCUC files this Notice of Intervention, and the Public Staff respectfully requests that the Commission grant its Motion to Intervene. The NCUC and Public Staff respectfully request that the Commission give full consideration to their comments and acknowledge that they both support Duke and Progress' Compliance filing.

Dated this 7th day of November, 2012.

Respectfully submitted,

NORTH CAROLINA UTILITIES COMMISSION
By Its Attorney,

Kimberly W. Duffley
Staff Attorney
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325
(919) 733-3969

PUBLIC STAFF – NORTH CAROLINA
UTILITIES COMMISSION
By Its Attorney,

Gisele L. Rankin
Staff Attorney
Public Staff-North Carolina
Utilities Commission
4326 Mail Service Center
Raleigh, North Carolina 27699-4326
(919) 733-6110

By: /s/ Kimberly W. Duffley

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document is being served upon each person designated on the official service list compiled by the Secretary in this proceeding.

This 7th day of November, 2012.

/s/ Kimberly W. Duffley
Kimberly W. Duffley
Staff Attorney
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325
(919) 733-3969