

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-2, SUB 1089

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	
Application of Duke Energy Progress, LLC for a	)	MOTION TO INTERVENE
Certificate of Public Convenience and Necessity	)	BY NCWARN AND
to Construct a 752 Megawatt Natural Gas-Fueled	)	THE CLIMATE TIMES
Electric Generation Facility in Buncombe County	)	AND MOTION FOR
Near the City of Asheville	)	EVIDENTIARY HEARING

PURSUANT TO NCUC Rule R1-19, and the Order Scheduling Public Hearing and Requesting Investigation and Report by the Public Staff, December 18, 2015, now comes the North Carolina Waste Awareness and Reduction Network, Inc. ("NC WARN") and The Climate Times, by and through the undersigned attorney, with a motion to allow them to intervene in this docket.

Accompanying the motion to intervene is a motion for an evidentiary hearing OR IN THE ALTERNATIVE the denial of the application because the Commission, and parties, will be unable to investigate the costs and impacts of the proposed project if the Commission holds itself to a 45-day timeline.

In support of the motions is the following:

1. NC WARN is a not-for-profit corporation under North Carolina law, with more than one thousand individual members and families across the state, including Asheville, North Carolina. Its primary purpose is to work for climate protection through the advocacy of clean, efficient, and affordable energy. Its address is Post Office Box 61051, Durham, North Carolina 27715-1051.

2. The Climate Times is a recently formed not-for-profit corporation under North Carolina law, dedicated to the use of science and policy to minimize the impacts of climate change. As part of its public education, The Climate Times will publish feature-length pieces based on extended interviews of experienced scientists working on issues related to climate change concerns in our state. Its address is 346 Fieldstream Drive, Boone, North Carolina 28607.

3. The attorney for NC WARN to whom all correspondence and filings should be addressed is John Runkle, Attorney at Law, 2121 Damascus Church Road, Chapel Hill, North Carolina 27516. Rule 1-39 service by email is acceptable and may be sent to [jrunkle@pricecreek.com](mailto:jrunkle@pricecreek.com).

4. Many of NC WARN's members are customers of Duke Energy Progress, and several reside in the Asheville area, and use electric power supplied by those utilities in their homes and businesses. NC WARN's members are concerned about the economic and environmental cost of energy and the impacts of those costs on themselves, their families and their livelihood. Of primary concern is the contribution to the climate crisis from Duke Energy Progress's reliance on fossil fuel for generation. NC WARN has intervened in several dockets before the Commission, including the issuance of certificates for public convenience and necessity ("CPCN") for generating facilities.

5. The Climate Times brings with it expertise on the costs and environmental impacts of natural gas generation, primarily from the release of methane.

6. If allowed to intervene in this docket, NC WARN and The Climate Times will advocate that the Commission fully investigate the costs and impacts of the proposed natural gas-fueled generating units prior to the issuance of a CPCN.

### MOTION FOR EVIDENTIARY HEARING

7. NC WARN and The Climate Times further move that the Commission establish a considered process for an evidentiary hearing to gather testimony and evidence on the proposed project OR IN THE ALTERNATIVE deny the application because the Commission, and parties, will be unable to investigate the costs and impacts of the proposed project if the Commission holds itself to a 45-day timeline. This motion is included in the present motion to intervene because of the potentially abbreviated timeframe for this project in the Mountain Energy Act of 2015, Session Law 2015-110.

8. On December 16, 2015, Duke Energy Progress (“DEP”), gave its notification that it would file its application for the CPCN on the Western Carolinas Modernization Project on or after January 15, 2015. The project is the proposed closure of the 379 MW Asheville 1 and 2 coal units and construction of approximately 752 MW of natural gas-fueled generation (two 280 MW combined cycle units and a 192 MW combustion turbine unit). It should also be noted the present coal units have an average capacity factor of 46% (in 2014) so operate closer to 174 MW. The combined cycle units are proposed for baseload, with the combustion turbine contingent on future peak needs. At some undesignated point in the future, DEP may install a solar system at the site.

9. NC WARN and The Climate Times firmly believe the 45-day time period in S.L. 2015-110, the time the application is filed to when the Commission in its scheduling order expects to render a decision, is both abbreviated and arbitrary.<sup>1</sup> The Commission, the Public Staff, and any intervening parties will not have the opportunity to review the application in any meaningful way, nor will the Commission be able to come to any reasonable decision of whether the project is in the public convenience and is necessary. However, until an evidentiary hearing is held, the Commission can deem the application to be incomplete, clearly within its authority. Further, a statutory provision allows the Commission to require the application to contain “such detail as the Commission may require.” S.L. 215-110, Section 1. The Commission will not be able determine the details it requires without a full evidentiary hearing.

10. Without a full evidentiary hearing, the only action available to the Commission is to deny the application because the Commission will not have enough quality information to make its decision. The single public hearing required in S.L. 2015-110 will not provide the Commission with adequate technical testimony from expert witnesses, and the ability to cross-examine DEP witnesses will be eliminated or extremely limited. In recent hearings on CPCN applications, the utility presents its evidence, and allows the Commission and the parties to examine them. In controversial projects, the evidentiary hearings take days or even weeks, and the resulting orders can run hundreds of pages, as the

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<sup>1</sup> Duke Energy Progress can of course waive the 45-day period in S.L. 2015-110 in order to provide the Commission the opportunity to hold an evidentiary hearing, just as it can come in pursuant to G.S. 62-110.1 to show the project meets long-standing standards for a CPCN.

Commission examines the various issues relating to the project. As evidenced by the public concern over the proposed transmission line to the new project, the controversies over the air pollution and coal ash at the present facility, and the need to take real actions on the climate crisis, NC WARN and The Climate Times believe this is one of the more controversial projects before the Commission.

11. The investigation of whether the proposed project meets the requirements for a CPCN should look at the full costs of construction. This includes not just the construction of the new natural gas units on the site, but the cost of decommissioning the coal plants, and the cost of coal ash clean up. The costs can be minimized if alternatives to the project are fully utilized, such as a much larger solar energy project and the availability of at least 378 MW of dispatchable hydropower operating at a capacity factor of 42% presently available in western North Carolina. Similar to the application for the Cliffside coal plant, after evidentiary hearings, the Commission may determine only one plant, or a much smaller one, is needed, or again that alternatives exist and should be utilized.

12. The need for the 752-MW natural gas-fueled plants in the Asheville area, much of it baseload generation, is questionable, and especially if limited to the DEP's Western balancing authority area. News reports have based the need for the plants on an astounding projected 15% annual growth rate. An evidentiary hearing on DEP's claims appears crucial before making a multi-billion dollar investment with ratepayer money.

13. Dependence on natural gas is an extremely risky future, both financially and environmentally. The cost of fuel should be an important consideration in the total cost of the project; natural gas prices are considered to be extremely volatile over the next decade and DEP cannot depend on the present low price of natural gas to continue. All ratepayers will be ill-treated from escalating natural gas prices. And of special concern by NC WARN and The Climate Times, the contribution to the climate crisis from the use of natural gas from both conventional wells and fracking is recently coming into focus. The discharge and leakage of methane from the wellhead to the burn point means natural gas may be an even worse choice than coal.

THEREFORE, NC WARN and The Climate Times pray that they are allowed to intervene in this matter and fully participate in the Commission's deliberations. NC WARN and The Climate Times further pray that the Commission hold an evidentiary hearing on the application OR IN THE ALTERNATIVE deny the application as incomplete and insufficient.

Respectfully submitted, this the 21<sup>st</sup> day of December 2015.

*/s/ John D. Runkle*

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing MOTION TO INTERVENE BY NC WARN AND THE CLIMATE TIMES AND MOTION FOR EVIDENTIARY HEARING (E-2, Sub 1089) upon each of the parties of record in this proceeding or their attorneys of record by deposit in the U.S. Mail, postage prepaid, or by email transmission.

This is the 21<sup>st</sup> day of December 2015.

*/s/ John D. Runkle*

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