

North Carolina Utilities Commission's Implementation of H.B. 589

Presentation to the Joint Legislative
Commission on Energy Policy
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Edward S. Finley, Jr., Chairman

Who We Are



NORTH CAROLINA UTILITIES COMMISSION

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Organization of the Commission



- Administrative agency of General Assembly (G.S. 62-23)
- Legislative oversight (Section 14.1 of 2017 Appropriations Act):
 - House Committee on Energy and Public Utilities,
 - Senate Committee on Commerce and Insurance,
 - Appropriations Sub-Committees on Agriculture, Natural, and Economic Resources,
 - Joint Legislative Commission on Energy Policy, and
 - Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources.
- Seven members: appointed by Governor, subject to confirmation by General Assembly, serving staggered six-year terms. (G.S. 62-10)
- Chairman: appointed by Governor, four-year term, organizes Commission's work. *Ex officio* member of Geographic Information Coordinating Council. Membership responsibilities currently shared among Commissioners. (G.S. 62-10(e), 12, 13)



The Commission's Role in Energy Policy

- The Commission is a creature of statute, and exercises only that authority delegated to it by the General Assembly.
- The Commission is a quasi-judicial, quasi-legislative agency. It functions like a court, but also exercises delegated legislative authority.
- The Commission's orders reflect the Commission's efforts to implement the law consistent with the intent of the General Assembly.

The Commission's Approach to Implementation of H.B. 589



- The Commission prioritized implementation of H.B. 589 based on the deadlines included in the legislation.
- The Commission initiated rulemaking proceedings on an expedited basis to meet these deadlines, and received numerous comments from interested parties.
- The Commission has received and is awaiting other filings required by H.B. 589. The Commission anticipates undertaking additional proceedings for sections that did not have specific deadlines included in the legislation.



H.B. 589, Part I: PURPA Reform

- The Public Utility Regulatory Policies Act of 1978 (PURPA) is a federal law that, among other things, requires electric public utilities to interconnect with “qualifying facilities” (QFs) and to purchase, at the utility’s “avoided cost,” the power produced by QFs.
- PURPA delegates to the Commission implementation of these requirements, including establishing standard avoided cost rates and terms and conditions for standard contracts.
- H.B. 589, Part I, amended G.S. 62-3(27a) and 62-156, related to implementation of PURPA in North Carolina
- On October 11, 2017, the Commission issued an Order in its 2016 biennial avoided cost proceeding, including the determination of contested issues consistent with the amendments enacted in H.B. 589.

H.B. 589, Part I: PURPA Reforms (*con't.*)



- The Commission's October 11, 2017 Avoided Cost Order implemented the following changes, as required by amended G.S. 62-3(27a) and 62-156:
 - Standard Contract is available to QFs up to 1 MW (previously 5 MW);
 - Standard Contract length of term is up to 10 years (previously 5, 10, and 15 year terms); and
 - Standard Contract does not require payment for capacity in years when the utility's integrated resource plan does not show a need; however, the Commission requires a reduced, levelized payment over the entire term of the contract.

H.B. 589, Part II: Competitive Procurement of Renewable Energy (CPRE)



- On July 28, 2017, the day after H.B. 589 became law, the Commission issued an order establishing a rulemaking proceeding to implement the competitive procurement of renewable energy (CPRE) program. (Docket No. E-100, Sub 150).
- On November 6, 2017, the Commission issued an Order Adopting and Amending Rules, in which the Commission adopted Commission Rule R8-71, as required by G.S. 62-110.8(h).
- Commission Rule R8-71 addresses the following issues in implementing the CPRE Program:
 - CPRE program filings and guidelines
 - Selection and role of the Independent Administrator
 - Communications between market participants
 - CPRE RFP Solicitation structure and process
 - CPRE Program Plan and Compliance Report (required to be filed annually)
 - CPRE Program Compliance and Cost Recovery
 - Expedited CPCN process for utility-owned generation facilities under CPRE Program
 - Power Purchase Agreements.

H.B. 589, Part II: CPRE (*con't.*)

- On November 27, 2017, as required by H.B. 589, Section 2(c), Duke filed its proposed CPRE Program and Program Guidelines. (Docket Nos. E-2, Sub 1159, and E-7, Sub 1156).
- On December 1, 2017, the Commission issued an Order requiring the Public Staff to report to the Commission on whether Duke's proposed Program and Program Guidelines are reasonably designed to meet the requirements of G.S. 62-110.8 and whether the filing meets the requirements of Commission Rule R8-71. The Public Staff also is required to include a recommendation on whether the Commission should approve the program.
- In addition, that Order allowed for interested persons to petition to intervene and to file comments in response to Duke's proposed CPRE Program.
- Comments were due January 5, 2018, and reply comments may be filed on or before January 16, 2018.

H.B. 589, Part II: CPRE (*con't.*)

- Separate from the Commission's consideration of Duke's proposed program, the Commission has established a proceeding to select the Independent Administrator of the CPRE Program, as required by G.S. 62-110.8(d). (Docket No. E-100, Sub 151).
- On December 8, 2017, Duke filed its initial comments and recommendation that the Commission select Accion Group, LLC, as the Independent Administrator of the CPRE Program. In its comments, Duke reported its due diligence and reasoning for selecting Accion, including that Accion has been administering the RFP process for Georgia Power Company.
- Comments were due on December 22, 2017, and the Commission is currently deliberating on the matter.
- Duke has requested that the Commission select the Independent Administrator by mid-February to allow sufficient time to open the first RFP Solicitation in May 2018.

H.B. 589, Part II: Green Source Rider 2.0



- On December 19, 2013, the Commission issued an Order approving Duke Energy Carolina's proposed voluntary pilot program, commonly called the "Green Source Rider." (Docket No. E-7, Sub 1043).
 - Intended to enable non-residential customers to elect to displace all or a portion of the energy supplied for that customer's new load with procurement of power from renewable energy resources.
 - Customer will purchase new renewable energy from DEC and a portion or all of the customer's new energy purchases will be displaced by new renewable energy from specific resources.
- DEC filed a final report on the program on March 20, 2017.
- H.B. 589, Part III, enacted G.S. 62-159.2, which requires DEC and DEP to file an application requesting approval of a new program available to major military installations, UNC, and other new and existing nonresidential customers. This provision is commonly called "Green Source Rider 2.0"
 - Detailed limits and requirements provided in statute.
 - Deadline for filing application: January 23, 2018.



H.B. 589, Parts IV & V: Cost Recovery

- H.B. 589 Parts IV & V amended statutes related to cost recovery for the following cost recovery mechanisms (“annual riders”):
 - Fuel and fuel-related charge adjustments (G.S. 62-133.2) and
 - Renewable Energy and Energy Efficiency Portfolio Standard (REPS) (G.S. 62-133.8(l))
- The Commission will implement these changes in due course as the utilities make these required annual filings.

H.B. 589, Part VI: Community Solar Program



- H.B. 589, Part VI, enacted as G.S. 62-126.8, requires Duke Energy Progress and Duke Energy Carolinas (offering utilities) to offer a community solar program, through which customers can subscribe to a block of solar energy facility generation to offset his or her own energy usage.
- Section 6.(d) of H.B. 589 requires the offering utilities to file with the Commission, on or before January 23, 2018, proposed plans for implementing their own community solar program.
- The Commission initiated an expedited rulemaking proceeding to adopt rules to govern the community solar program, including program plan filing requirements, in advance of the offering utilities' January 23, 2018 deadline. (Docket No. E-100, Sub 155).
- On December 19, 2017, the Commission issued an order adopting a rule to implement the Community Solar Program.
- The Commission anticipates initiating separate proceedings to review the offering utilities' proposed Plans, receiving comments from interested persons, and based upon the same, deciding whether to approve the proposed community solar program plans.

H.B. 589, Part VI: Leasing of Solar Facilities



- H.B. 589, Part VI, enacted Article 6B, which, among other things, establishes a regulatory framework for leasing of solar energy facilities.
- Newly enacted G.S. 62-126.7 prohibits any person from engaging in the business of leasing solar energy facilities without first obtaining a certificate from the Commission.
 - To apply for a certificate, the applicant shall file a form and pay the \$250 filing fee.
 - The Commission shall issue the requested certificate if the Commission finds that the applicant is fit, willing, and able to conduct business in accordance with the provisions of Article 6B. The Commission is aware that a number of persons are expected to seek certificates.
- On October 17, 2017, the Commission issued an Order proposing rules to implement the certification requirement and proposing an application form.
 - The Commission received comments and reply comments from several parties.
 - The Commission anticipates issuing an order in this proceeding in the near future.

H.B. 589, Part VI & VIII: Net Metering and Solar Rebate Program



- H.B. 589, Part VI, enacted as G.S. 62-126.4, requires each electric public utility to file for Commission approval revised net metering rates. (No deadline set by legislation).
- H.B. 589, Part VIII, enacted as G.S. 62-155, requires Duke to seek approval of “reasonable incentives” for residential and nonresidential customers who install customer-owned or leased solar energy facilities and participate in the utility’s net metering tariff.
 - Deadline for filing is January 23, 2018.
 - Commission anticipates undertaking an investigation of the proposed incentives, receiving comments from interested persons, and based upon the same, deciding whether to approve the proposed incentives.



H.B. 589: Other Administrative Matters

- The Commission has undertaken to implement other administrative matters as required or authorized by H.B. 589, including:
 - Giving notice of new filing fees;
 - Establishing new filer types and proceeding types;
 - Proposing and requesting comments on administrative and technical amendments to the Commission's Rules; and
 - Adjusting staffing responsibilities.

Looking Ahead

- The Commission's rulemaking proceedings will continue, and the Commission will receive the filings required under H.B. 589.
- The Commission will hold proceedings to review the required filings and determine whether the proposals are consistent with the provisions of the Public Utilities Act, including those enacted in H.B. 589.
- The CPRE Program's first RFP Solicitation process is tentatively targeted to begin in Q2 of 2018. Consistent with the General Assembly's intent, Duke should be experiencing decreased costs for purchase of energy and capacity through the CPRE Program, as compared to past and current avoided cost rates.
- The Commission will continue to exercise ongoing oversight of the utilities as required and authorized by the Public Utilities Act, and will remain available to provide information to the General Assembly, its committees, and its individual members.

Questions, Comments, Contact Info



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