

R8-62 CERTIFICATES OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC CONVENIENCE AND NECESSITY FOR THE CONSTRUCTION OF ELECTRIC TRANSMISSION LINES IN NORTH CAROLINA.

(a) Each public utility or person, prior to commencing construction of a new transmission line for which a certificate is required pursuant to G.S. 62-101, shall first obtain a certificate of environmental compatibility and public convenience and necessity from the Commission. The requirement for such certificate may be satisfied by an applicable certificate granted by the Commission under G.S. 62-110 and Commission Rule R8-61.

(b) The procedures for the filing of an application for a certificate shall be as specified in Commission Rule R1-5.

(c) The filing of an application for a certificate shall include the following:

- (1) The reasons the transmission line is needed including when it is needed for the purpose described;
- (2) A description of the proposed location of the transmission line including a U.S. Geological Survey map showing the proposed route and alternative routes evaluated in relation to appropriate geographic reference points;
- (3) A description of the proposed transmission line including:
 - a. The facilities including structure type and their average height range (as determined by preliminary engineering), the right of way corridor including its width, the capacity and voltage level of the lines; and operation and maintenance considerations.
 - b. A showing of the projected cost of the line.
- (4) An environmental report setting forth:
 - a. The environmental impact of the proposed action including, as appropriate, its effect on natural resources, cultural resources, land use, and aesthetics;
 - b. Any proposed mitigating measures that may minimize the environmental impact; and
 - c. Alternative routes for the proposed lines;
- (5) A listing of residential, commercial, industrial and institutional development; other man-made features; natural features which influenced route selection and how they were considered in the selection process; and
- (6) A complete list of all federal and state licenses, permits and exemptions required for construction and operation of the transmission line and a statement of whether each has been obtained or applied for. A copy of those that have been obtained should be filed with the application; a copy of those that have not been obtained at the time of the application should be filed with the Commission as soon as they are obtained.
- (7) The application shall be accompanied by prefiled direct testimony incorporating and supporting the application. Provided, however, an applicant requesting a waiver of the notice and hearing requirements pursuant to Rule R8-62(k) and G.S. 62-101(d)(1) shall not be required to prefile direct testimony supporting the application unless the waiver request is subsequently denied by the Commission.

(d) The applicant shall file a written summary with the Commission explaining any proposed deviation from the approved certificate, unless the deviation is insignificant. The Commission will, within thirty (30) days, determine and notify the applicant if the deviation(s) will require the Company to file an application for an amended certificate. If the Commission determines that an amended certificate is necessary, the applicant shall, giving consideration to the circumstances that created the deviation, file the following:

- (1) The reasons the amendment is needed;
- (2) A brief description of the proposed amendment;
- (3) An amended environmental report, or addendum to the report filed with the initial application, containing the following information:
 - a. A U.S. Geological Survey Map showing the amended route in relation to all routes reviewed by the Commission in the initial application proceeding;
 - b. The right of way width and structures (structure type, approximate average height range and approximate locations as determined by preliminary engineering) along the amended route;
 - c. Revised project cost based on the proposed amended route;
 - d. A description of any changes in environmental impacts (either additional or reduced) of the proposed amended route, including, as appropriate, its effect on natural and cultural resources, land use and aesthetics; and
 - e. Any proposed mitigation measures specifically proposed to reduce environmental impacts of the amended segment of the line.

(4) Notice for amending a certificate must be given as provided in Rule R8-62(e).

(e) Within 10 days after the filing of the application or application for amendment, the applicant shall serve a copy of the application on the parties listed in G.S. 62-102(b) in the manner provided in G.S. 1A-1, Rule 4. The copy of the application served on each party shall be accompanied by a notice specifying the date on which the application was filed and giving information on procedural steps to take and time deadlines to follow for intervention.

(f) At the time of filing, the applicant shall file a summary of the application to be used to fulfill the notice requirements of this certificate. The summary shall contain, at a minimum the following:

- (1) A summary of the proposed action;
- (2) A description of the location of the proposed transmission line written in readable style and the location of the nearest business office to the proposed line where detailed maps (U.S. Geological Survey Map, or equal) may be examined. Said maps to also be available for review in the Commission's Office of the Chief Clerk;
- (3) The date on which the application was filed; and
- (4) The date by which persons with substantial interest in the certification proceeding must intervene.

The Commission shall, within 3 business days after the date of the filing, notify the applicant of its approval or of any required changes or additions to the summary.

(g) Within 10 days after the filing of the application, the applicant shall give public notice to persons residing in each county and municipality in which the proposed transmission line is to be located by publishing the approved summary of the application in newspapers of general circulation in the affected cities and counties so as to substantially inform those persons of the filing of the application. This notice shall thereafter be published in those newspapers a minimum of three additional times before the time for parties to intervene has expired. The summary shall also be sent to the North Carolina State Clearinghouse.

If the Commission orders public hearings on the application, the applicant shall send a revised summary to the North Carolina State Clearinghouse that states when and where the hearing will be held. In addition, the applicant shall similarly revise the newspaper notice so that all published notices following the first shall describe the schedule of public hearings.

(h) After the initial public notice and for the duration of the proceeding, the applicant shall make a copy of the application available for public review at its office(s) in proximity to the proposed transmission line.

(i) Persons desiring to intervene and having a substantial interest in this proceeding in accordance with G.S. 62-103(b) shall file a petition with the Commission to intervene setting forth interest and basis for intervention no later than 100 days after the date of the filing of the application. A county or municipality shall comply with the requirements of G.S. 62-106 with respect to filing with the Commission and serving on the applicant the provisions of an ordinance that may affect the construction, operation or maintenance of the proposed transmission line. Local ordinances brought forward by municipalities or counties shall be presumed to be in the public interest; however, the Commission may find that the greater public interest requires preemption of the local ordinance.

(j) Testimony and exhibits by expert witnesses shall be filed pursuant to Commission Rule R1-24(g). Absent substantial cause, the Public Staff and other intervenors shall file direct testimony and exhibits of expert witnesses no later than the deadline established for filing petitions to intervene. Non-expert witness testimony is not required to be reduced to writing or filed prior to the hearing.

(k) The applicant may request in writing, as a part of the application, that the Commission waive the notice and hearing requirements. A completed application and the waiver request shall be prefiled with the Public Staff's Electric Division at least twenty (20) days before the application is filed to allow for investigation of the request. At the same time the applicant shall file a letter of intent to file for a waiver with the Commission. When the application is subsequently filed, it shall be accompanied by a written request for the waiver and a statement that the request has been prefiled as required by this Rule. The applicant shall identify and describe any conditions of the proposed transmission line which meets the waiver requirements set forth in G.S. 62-101(d)(1). The Commission shall rule on this waiver within 30 days after the date of the filing. A request to waive notice and hearing requirements will automatically waive the notice requirements of G.S. 62-102(b) and (c). If the Commission denies the request for a waiver, the applicant shall serve notice within 10 days, as prescribed in Rule R8-62(e), from the date the Commission serves notice of its decision.

(l) Pursuant to G.S. 62-101(d)(2), the applicant may request that the Commission waive the notice and hearing requirements because the urgency of providing electric service requires the immediate construction of the transmission line. In making this decision the Commission shall determine whether failure to build the line could result in unreliable or insufficient electrical supply to the public. The Commission shall rule on this request within 10 days of the application. If the Commission concurs, it shall waive the notice and hearing requirements but shall give notice to those parties listed in G.S. 62-102(b) and (c) before issuing a certificate or approving an amendment.

(m) The procedures for seeking exemption pursuant to G.S. 62-101(c)(3) or (5) from the requirement of obtaining a certificate shall be as follows:

- (1) A public utility or person is not required to obtain a certificate before beginning to construct a transmission line referred to in either G.S. 62-101(c)(3) or (5) if the Federal Energy Regulatory Commission (FERC) or the Rural Electrification Administration (REA), as appropriate, has conducted a proceeding on the line that is substantially equivalent to the proceeding required by Article 5A of G. S. Chapter 62.
- (2) A public utility or person shall be exempt from the requirement of a public hearing to obtain a certificate before beginning to construct a transmission line referred to in either G.S. 62-101(c)(3) or (5), if the FERC or the REA, as appropriate, has conducted a proceeding on the line that is substantially equivalent to the proceeding required by Article 5A of G. S. Chapter 62.
- (3) To apply for the exemption under section (1) above, the public utility or person shall file the following information with the Commission:
 - a. the location and transcript of each public hearing;
 - b. the notices of hearing and a description of how and to whom the notices were given;
 - c. a statement that the hearings were conducted in conformity with the FERC or REA laws, as appropriate, and a general description of what the applicable law requires; and
 - d. the final order of the FERC or the REA authorizing the construction of the line.
- (4) To apply for the exemption under section (2) above, the public utility or person shall file the information required by sections (3)a., b., and c. above.
- (5) The Commission shall within five (5) days of receipt of the application distribute copies of it to the Public Staff and any other party that has previously requested it. In addition the Commission shall promptly supply copies to any other parties who subsequently request them.
- (6) Within thirty (30) days from receipt of the application, the Commission shall enter an order granting the applicable exemption if it finds that the FERC or the REA has conducted a proceeding on the line that is substantially equivalent to the hearing required by the Commission's certification procedure under Article 5A of G. S. Chapter 62, and with respect to the exemption provided under section (1) above, that the FERC or the REA has issued a final order authorizing construction of the line.

(n) When justified by the public convenience and necessity and a showing that circumstances require immediate action, the Commission may permit an applicant for a certificate to proceed with initial clearing, excavation, and construction before receiving the certificate required by G.S. 62-101. In so proceeding, however, the applicant acts at its own risk, and by granting such permission, the Commission does not commit to ultimately grant a certificate for the transmission line.

(o) If, after proper notice of the application has been given, no significant protests are filed with the Commission the applicant may request the Commission in writing, or the Commission on its own motion, may cancel the hearing and decide the case on the filed record.

(p) Plans for the construction of transmission lines in North Carolina (161 kV and above) shall be incorporated in filings made pursuant to Commission Rule R8-60. In addition, each public utility or person covered by this rule shall provide the following information on an annual basis no later than September 1:

- (1) For existing lines, the information required on FERC Form 1, pages 422, 423, 424, and 425, except that the information reported on pages 422 and 423 may be reported every five years.
- (2) For lines under construction, the following:
 - a. Commission docket number;
 - b. location of end point(s);
 - c. length;
 - d. range of right-of-way width;
 - e. range of tower heights;
 - f. number of circuits;
 - g. operating voltage;
 - h. design capacity;
 - i. date construction started; and
 - j. projected in-service date (if more than 6 month delay from last report, explain).
- (3) For all other proposed lines, as the information becomes available, the following:
 - a. county location of end point(s);
 - b. approximate length;
 - c. typical right-of-way width for proposed type of line;

- d. typical tower height for proposed type of line;
- e. number of circuits;
- f. operating voltage;
- g. design capacity;
- h. estimated date for starting construction (if more than 6 month delay from last report, explain);
and
- i. estimated in-service date (if more than 6 month delay from last report, explain).

(NCUC Docket No. E-100, Sub 62, 12/4/92; NCUC Docket No. E-100, Sub 78A, 04/29/98; NCUC Docket No. E-100, Sub 105, 02/27/06.)