STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH
DOCKET NO. E-100, SUB 101

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition for Approval of Revisions to Generator Interconnection Standards

ORDER APPROVING REVISED INTERCONNECTION STANDARD

ISSUE 8 Payments for Interconnection Facilities, Distribution and Network Upgrades and Financial Security

Except for Ecoplexus, the parties involved in the stakeholder process agreed that the Utilities could require prepayment of Interconnection Upgrades, Distribution Upgrades and Network Upgrades. These are upgrades to the grid required to allow the IC to connect. Interconnection Facilities are infrastructure improvements built between the generating facility and the point of interconnection to the grid. Distribution Upgrades are upgrades made on the utility side of the point of interconnection to the utilities' distribution system. Network Upgrades are upgrades made to the transmission system. Distribution Upgrades and Network Upgrades will hereinafter be referred to as (Upgrades). Under the current NC Interconnection Standard, operation and maintenance (O&M) costs for Interconnection Facilities are paid by the IC because the facilities are not on the utility side of the interconnection. The Upgrades' ongoing O&M costs are paid by the Utilities. The NCSEA, the Public Staff, IREC and the Utilities agreed that the Utilities should be allowed to require financial assurances, such as prepayment, that system upgrade costs are paid by a QF developer who needs the upgrades prior to construction of the infrastructure. The parties disagree on what form the financial assurance should take when discussing prepayment of Upgrades.

The NCSEA recommended in its reply comments that a definition of financial security be inserted into section 5.2.4, and that definition should include a line of credit.

In its reply comments, the Public Staff agreed with the NCSEA that financial security should be allowed for both the interconnection facility charge and the upgrade charges. The Public Staff stated that the currently approved NC Interconnection Agreement provides for "the use of financial security in the form of a guarantee, a surety bond, letter of credit or other form of security that is reasonably acceptable to the Utility and is consistent with the Uniform Commercial Code of North Carolina." The Interconnection Agreement further provides that such security can be used for both the Interconnection Facilities and Upgrades.

In its reply comments, Ecoplexus stated that Section 6.3 of the Interconnection Agreement under the currently approved NC Standard allows the IC to provide the interconnecting utility a guarantee, a surety bond, letter of credit or other form of security prior to the commencement of the design, procurement, installation, or construction of the applicable portion of the Interconnection Facilities and Upgrades. Ecoplexus is concern that proposed Section 5.2.4 of the RNCIPP does not make clear that an IC may post security to cover the costs for constructing, designing, procuring, and installing the Interconnection Facilities and Upgrades. Ecoplexus further stated that the Utilities have proposed to strike the option of using a surety bond from the Interconnection Agreement.

Ecoplexus was the only party to question the prepayment for Interconnection Facilities and Upgrades. Specifically, in its reply comments, Ecoplexus stated that some confusion exists with respect to the current charges as written and that there seems to be the potential for double recovery by the Utilities. Further, Ecoplexus argued that the federal standard of “pay as you go” is a better way to handle the costs of both Interconnection Facilities and Upgrades.

In their reply comments, the Utilities outlined that the RNCIPP would establish that the IC must make payment and financial security within 60 days of being tendered the interconnection agreement by the utility. The Utilities indicated that financial security may be used to guarantee Interconnection Facilities, but that upfront payment must be made for Upgrades. The Utilities indicated that payment is required prior to construction of Upgrades for several reasons. First, upfront payment provides that the IC is committed. Second, upfront payment for Upgrades is necessary for the Utility to purchase expensive equipment with long lead times. Third, because the Utilities are deploying finite interconnection infrastructure construction crews at a time when many interconnection customers are waiting to interconnect, upfront payments assist the Utilities to prioritize the deployment of those crews. As for financial security, the Utilities stated that any financial security that is allowed for Interconnection Facilities must be reasonably acceptable to the interconnecting utility.

During the technical conference, the Public Staff indicated that it is supportive of prepayment of Interconnection Facilities and Upgrades as long as financial security can be used for both. The Utilities argued that they cannot commit to purchasing equipment with long lead items until the utility has been paid. The Utilities argued that surety bonds are merely insurance instruments and if the insured quits paying on the bond after the Utility has begun construction and the bond is cancelled, then the utility could be left with a stranded asset. The Utilities further stated that they should not be the bank for these developers with respect to Upgrade costs that could be as much as $1,000,000, when they are ordering equipment with long lead times. The Utilities further stated that based upon experience, some developers have not opted to use the surety bond in the past, but rather have paid the Upgrade costs upfront.

In response, the Public Staff indicated at the technical conference that it agrees that if the utility is using the money to pay for expensive equipment, that it is reasonable not to use a letter of credit. However, the Public Staff indicated that it did not think it would be fair for a utility to collect $1,000,000 when a utility only needed $100,000 immediately. Under those circumstances, a letter of credit seems more appropriate. NCSEA indicated that they support upfront payments and reiterated that a definition of financial security should be placed into the NC Interconnection Standard as opposed to only being in the interconnection agreement. The NCSEA argued that the definition within the current interconnection agreement should be used.

Lastly, Ecoplexus argued that the Utilities, by requiring prepayment, are treating ICs differently from large industrial and commercial customers, because when dealing with customers, the Utilities only require upfront payment when the upgrades are extraordinary. The Utilities responded by arguing that ICs are not similarly situated to a paying customer that will have a large load on the utility's system and will purchasing power from the utility.

The Commission agrees with the Public Staff, NCSEA, IREC and the Utilities that prepayment for Interconnection Facilities and Upgrades is reasonable under the present set of circumstances and that the practice of prepayment is nondiscriminatory. As for the issue of financial security, the Utilities and potentially ratepayers are responsible for abandoned assets if an IC walks away from a project after construction of the Upgrades occurs. To protect ratepayers, the Commission finds good cause to allow each utility to determine the amount of risk it will take with the acceptance of financial security in lieu of payment for Upgrades. The current Interconnection Agreement also allows the utility to waive the security requirements if its credit policies show that the financial risks involved are de minimus or if the utilities' policies allow the acceptance of an alternative showing of creditworthiness from the IC. This language should remain in the Interconnection Agreement giving this discretion to the Utilities.

At the technical conference, the Utilities indicated that, in the past, when a large outlay of funds is needed for a transmission upgrade, the utility has worked with the IC on a payment plan informally. The Commission finds that allowing for this flexibility between the Utilities and an IC can address the Public Staff's concern that an IC might pay too much on the front end too far in advance of a Utility's need for funds. However, the Commission shall not require the Utilities to accept any financial security in lieu of prepayment for Upgrades, but will leave such arrangements to the Utilities' discretion. Therefore, the Commission will not require the Utilities to accept financial security for the upfront payment of Upgrades. The Commission strongly urges that the Utilities accept financial security in a nondiscriminatory manner or work out payment plans through the flexibility that the Commission is allowing under appropriate circumstances as solely determined by the Utilities.

The Utilities should modify the documents to appropriately reflect the Commission's order of flexibility for the Utilities with respect to financial security and payment plans, if needed.

ATTACHMENT 1
NC Glossary of Terms

Financial Security – A letter of credit or other financial arrangement that is reasonably acceptable to the Utility and is consistent with the Uniform Commercial Code of North Carolina that is sufficient to cover the costs for constructing, designing, procuring, and installing the applicable portion of the Utility's Interconnection Facilities. Where appropriate, the Utility may deem Financial Security to exist where its credit policies show that the financial risks involved are de minimus, or where the Utility's policies allow the acceptance of an alternative showing of credit-worthiness from the Interconnection Customer