

**ENVIRONMENTAL MANAGEMENT COMMISSION  
GROUNDWATER AND WASTE MANAGEMENT COMMITTEE  
MEETING SUMMARY**

**January 12, 2022**

**10:15 – 11:15 a.m.**

Chair Yvonne Bailey, presiding

The Groundwater and Waste Management Committee (GWWMC) of the North Carolina Environmental Management Commission (EMC) addressed the following at its January 12, 2022 meeting:

**GWWMC Members in Attendance:**

Ms. Yvonne Bailey, Chair

Mr. David Anderson

Ms. Jennifer (Jenny) Kelvington

Mr. Steve Keen, Vice-Chair

Ms. Shannon M. Arata

Dr. Suzanne Lazorick

**Other Commissioners in Attendance:**

Ms. Robin W. Smith, EMC Chair

Ms. Marion Deerhake

Ms. Patricia (Pat) Harris

Ms. Donna Davis

Mr. Christopher (Chris) Duggan

Mr. John McAdams

**EMC Counsel:**

Mr. Phillip T. Reynolds

**I. Preliminary Matters:**

In accordance with North Carolina General Statute § 138A-15, Chair Bailey asked if any GWWMC member knew of any known conflict of interest or appearance of conflict with respect to any item on the January 12, 2022, GWWMC agenda. None of the members stated there was a conflict.

**Commissioner Arata** made a motion to approve the November 17, 2021 GWWMC meeting minutes. **Commissioner Anderson** seconded the motion. The vote taken was unanimous and the minutes from the November meeting were approved.

**II. Action Items**

**1. Request Approval to Proceed to the EMC for Public Notice and Hearing on Amendments to 15A NCAC 13B Rules for C&D and MSW Landfill Facilities and the Regulatory Impact Analysis (DWM) Sherri Stanley**

Sherri Stanley, of the Division of Waste Management, presented the request to proceed to the EMC for public notice and hearing for proposed amendments to 15A NCAC 13B Rules for Construction and Demolition (C&D) and Municipal Solid Waste (MSW) Landfill Facilities and the Regulatory Impact Analysis. The amendments are required in accordance with S.L. 2021-153.

An overview was given of the amendments proposed as well as a summary of impacts with it being noted that no fiscal note was necessary because the proposed amendments will have little to no impact on the regulated community, state government or local government. A proposed rulemaking schedule was presented with a proposed effective date pending legislative review.

Following the presentation there were no additional questions. **Commissioner Keen** gave a motion to approve the request and **Commissioner Anderson** seconded the motion. The Committee voted unanimously to approve the motion.

## **2. Request Approval to Proceed to the EMC for Public Notice and Hearing on Amendments to 15A NCAC 02P “Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund” and the Regulatory Impact Analysis**

(DWM) Wayne Randolph

Wayne Randolph, of the Division of Waste Management, presented the request to proceed to the EMC for public notice and hearing for proposed amendments to 15A NCAC 02P “Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund” and the Regulatory Impact Analysis. The rules were proposed for readoption in accordance with G.S. 150B-21.3A.

Mr. Randolph gave an overview of the proposed changes and noted that the changes had been forwarded the North Carolina Petroleum and Convenience Marketers for distribution for comment to their members. A proposed rulemaking schedule was presented with a proposed effective date of September 1, 2022.

Following the presentation there were some additional questions, for the purpose of clarification. **Commissioner Anderson** then made a motion to approve the request and **Commissioner Kelvington** seconded the motion. The Committee voted unanimously to approve the motion.

### **III. Information Items**

#### **1. NC Utilities Commission Oversight of Solar Panel Projects**

(NCUC Public Staff) Robert Josey and Evan Lawrence

Public Staff for the NC Utilities Commission gave an overview of the requirements and existing regulations applicable to solar panel projects and oversight by the NC Utilities Commission.

### **Summary of the Presentation:**

Robert Josey and Evan Lawrence are with the Public Staff of the NC Utilities Commission, which are the consumer advocates that make recommendations for the Commission's consideration. Mr. Josey presented an overview of the general statutes and the rules adopted by the NC Utilities Commission pertaining to solar panel projects, including a recent history of session law changes and applicability of the regulations. Mr. Lawrence summarized the existing solar panel projects in NC, including megawatt size, acreage, location, and distribution across the state. The presentation can be viewed at this link: [NCUC Public Staff Presentation](#).

### **Summary of Discussion:**

**Commissioner Kelvington** inquired what occurs with the CPCN review when it goes through the state clearinghouse; and asked if any projects had been denied based on environmental comments or concerns.

**NCUC Public Staff Response:** Stated that the CPCN is distributed to various agencies for review, including those for environmental review such as DNCR and DEQ. The clearinghouse consolidates the comments submitted and provides the comments and a confirmation that the environmental review is completed to the Public Staff. The Public Staff provide the comments to the Commission and recommend that the Commission address the comments, but the Public Staff generally do not analyze or respond to comments or make changes based on comments themselves.

To their knowledge, the Commission has not ultimately denied any projects based on environmental review, but they have recommended denial until community concerns were addressed on at least one occasion. In that case, the concerns were addressed, and the project was then approved. Where other projects had been denied it was due to financial issues or because they were not necessary. Also, the NCUC statutes and rules do not require the NCUC to consider environmental concerns in the decision to approve or deny the CPCN.

**Commissioner Keen** inquired on the weight of the total waste at the end of use and what information the NCUC receives about the panels. He indicated it would be helpful to have the disposal of the solar panels to be pre-determined so the requirements for those solar panels are known 20-30 years down the road when they are a waste.

**NCUC Public Staff Response:** The weight of solar panels is changing. The newer solar panels are getting lighter. The weight per MW output will change over time. Although there are contract terms on the land, that does not mean that the solar panels will be decommissioned at the end of the term, since there is no requirement that decommissioning terms be included in the contract, and the Public Staff do not collect data on the terms of the contracts (but do require submittal of the contract/lease documents). The contract could be renewed which means the panels could continue to be used, or refurbished or replaced, or the panels could be removed from the land and used elsewhere.

NCUC reviews the capacity of the facility and might collect information on the number of panels used; but does not initially collect information on the type of panel used or the tonnage. The information that is required to be submitted to NCUC would not provide useful information to answer the question on total amount of waste at the site since so many scenarios could happen at the end of the contract to use the land.

CPCNs are applied for early in the process of the possible installation of a solar facility. If after 5 years the panels are not installed, a renewal must be submitted (if they don't start construction in 5 years). So CPCNs are not an accurate reflection of what is constructed.

**Commissioner Bailey** noted that some panels may also be reused or recycled, but agreed it was important to quantify the issue.

**Commissioner Arata** inquired about the mention of Duke and coordination with South Carolina and asked what is being contemplated.

**NCUC Public Staff Response:** Duke is required to provide an Integrated Resource Plan giving a 30-year outlook for both SC and NC. They are trying to combine SC's IRP Process with our Carbon Plan Process, but the Commission may not allow this and require them to be separate plans with separate proceedings.

**Commissioner Kelvington:** What percentage of the land is owned vs. leased? What is the largest acreage for a facility?

**NCUC Public Staff Response:** Lease agreements are provided with applications. Possibly over 90% of the land is leased. With CPCN Application there is no requirement for the Commission to consider the environmental review or decommissioning requirements in their approval decision. The requirements for NCUC are to show site control of the land for sites that are trying to interconnect to the grid. Some counties do have decommissioning requirements locally.

The largest facility is 325 MW. If 6 acres equals 1 MW, then it could be about 1,950 acres.

**Commissioner Lazorick** inquired on the pattern of the applications. What percentage do not get built, or are built but do not go on to be active? Do you track which facilities are completed? Who are the major players?

**NCUC Public Staff Response:** CPCN requires to build in 5 years of application submittal. If not built in 5 years, a renewal can be submitted for another 5 years. CPCNs are typically withdrawn if a developer does not build.

They believe there are about 7,000 to 8,000 MW of solar projects in NC. They estimate about half of previous applications went on to be built, but don't have specific data to support this estimate.

Active applications can be tracked, however, there is no requirement to let NCUC know that the facility is built. The Energy Information Administration (EIA) does some tracking of active/operating projects, but they aren't sure how they do the tracking. Additional tracking is also done by PJM Interconnection. Around 2014-2016 the number of applications jumped significantly because the rates were expected to change and prospective projects wanted to lock in the existing rates at the time, but many of those projects ultimately did not end up being constructed.

One issue that has happened is that a project applies for CPCN, and receives a CPCN, but had not gone through the process to obtain their interconnection to the power grid. It is sometimes then that they realize it costs too much money and they won't complete the process. So, tracking number of CPCNs in the past was not an accurate accounting of facilities, especially during the rate changes. Duke has since provided more information on interconnections so the projects that have a CPCN now are more likely to also have an interconnection. Also, there should be less applicants since they are not attempting to lock in a rate.

Duke and Dominion own the transmission network on the grid. PJM also studies Dominion's territories. Utilities themselves don't generally own these projects, and they are typically owned/operated by third parties.

**Commissioner Bailey** stated that there is definitely a need to quantify the issue. Do you see any information that is gathered by the NCUC changing? Like requiring information on who actually constructs the facilities?

**NCUC Public Staff Response:** The mission of the NCUC is to ensure the grid is safe/reliable, that the project is necessary for the power grid, and that interconnection costs don't trickle down to rate payers.

The Public Staff don't know if the NCUC would be open to changing the information that is required to be submitted, but they are currently in the process of revising the application process for other reasons.

The rules referenced in the presentation and implemented by NCUC apply to energy-generating facilities; and are not specific to solar facilities (R08-62 through R08-64). They were originally promulgated for gas facilities. Note some of these rules are in the process of being amended.

**Director Scott, DWM,** stated that this information is appreciated because it is relevant to HB 329 and the report submitted by the EMC and DEQ to the General Assembly, in January 2021, pertaining to end-of-life decommissioning for renewable energy, and to recent HB 951 requiring DEQ to submit a plan ensuring financial resources for decommissioning of end-of-life utility-scale solar projects.

It is also relevant to the proposed rule amendments to hazardous waste rules to make solar panels a universal waste, which is expected to be before the GWWMC for consideration at an upcoming meeting.

**Commissioner Smith** noted that there was a surge in applications for utility-scale solar projects starting in 2014. She stated that we still have time to work through questions about these facilities since they are still fairly new in their lifespan, and it is beneficial that the issues are already being discussed by the Commission.

#### **IV. Closing Remarks**

Following the Information Item and a few additional remarks, **Chair Bailey** adjourned the meeting.