

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: 26CV022857-910

The SOUTHERN ALLIANCE FOR CLEAN)
ENERGY, the SIERRA CLUB, VOTE)
SOLAR, and ENVIRONMENTAL JUSTICE)
COMMUNITY ACTION NETWORK,)

Plaintiffs,)

v.)

The NORTH CAROLINA UTILITIES)
COMMISSION,)

Defendant.)
_____)

**PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

N.C. Civ. Pro. R. 65

Plaintiffs the Southern Alliance for Clean Energy (“SACE”), the Sierra Club, Vote Solar, and Environmental Justice Community Action Network (“EJCAN”) (collectively, “Plaintiffs”) respectfully move the Court for a preliminary injunction (“PI”) against Defendant, North Carolina Utilities Commission (“Commission”) pursuant to Rule 65 of the North Carolina Rules of Civil Procedure.

Plaintiffs seek immediate injunctive relief prohibiting Defendant from enforcing the April 23, 2026 Order Deferring 2026 Resource Procurement (“Deferral Order”) issued under signature of Commission Chair William M. Brawley, or any subsequent orders that rely on it; and directing the Commission to abide by the statutes and rules governing its actions, including by maintaining the solar and storage resource targets set in the 2024 Carbon Plan Order for the 2026 solar and storage procurement conducted by Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (collectively, “Duke Energy”). Plaintiffs assert that they are likely to be

successful on the merits of the underlying case and that they will sustain irreparable harm unless the PI is issued. Plaintiffs request an expedited hearing on the matter pursuant to Local Rule 14.4.

In support of this Motion, Plaintiffs show the Court the following, as further explained in a supporting memorandum of law filed under separate cover:

1. On June 17, 2026, Plaintiffs filed a Complaint for Declaratory and Injunctive Relief pursuant to N.C. Gen. Stat. §§ 1-253, et seq., and 1-485, et seq., and Rules 57 and 65 of the North Carolina Rule of Civil Procedure in the above-captioned action. Plaintiffs seek the following relief:

- a. A declaration that Defendant violated Plaintiffs' right to due process by issuing, adopting, and maintaining the Deferral Order;
- b. A declaration that Defendant violated Plaintiffs' right to access the courts by issuing, adopting, and maintaining the Deferral Order;
- c. A declaration that the Deferral Order is unlawful for the reasons set forth in this Complaint and therefore was void *ab initio*;
- d. Preliminary and permanent injunctive relief prohibiting the Commission from enforcing the Deferral Order or any subsequent orders that rely on it;
- e. Preliminary and permanent injunctive relief directing the Commission to abide by the statutes and rules governing its actions, including by maintaining the solar and storage resource targets set in the 2024 Carbon Plan Order for the 2026 solar procurement.
- f. Preliminary and permanent injunctive relief directing the Commission to take all necessary steps to allow the 2026 solar and storage procurement to proceed as soon as possible, including but not limited to, as necessary, giving Duke Energy guidance for the revision of its pre-issuance proposal for the 2026 solar

and storage procurement, and expediting the Commission's review and approval of the same.

2. On April 23, 2026, the Commission issued the Deferral Order under signature of Defendant Brawley without evidence, notice, or hearing and effectively canceled the 2026 solar and storage procurement. The Commission has maintained the unlawful order, presupposing its legitimacy, and explicitly adopted it in a subsequent order.

3. In the present action, Plaintiffs challenge these as unconstitutional acts of the Commission because they violated Plaintiffs' constitutional rights to due process under Art. I., Sec 19 of the North Carolina Constitution and to access the courts under Art. I., Sec 18 of the North Carolina Constitution.

4. Plaintiffs seek a PI to protect their rights during the course of litigation and because Plaintiffs will be irreparably harmed by the Deferral Order if the Deferral Order stays in place and, as a result, Duke Energy cannot move forward with the 2026 solar and storage procurement proposal until after the Commission issues its final order in the ongoing Caron Plan proceeding, which is not due until December 31, 2026.

5. Unless the court grants preliminary injunctive relief, Plaintiffs will continue to be harmed by the Deferral Order, which exposes Duke Energy's customers, including EJCAN and members of all Plaintiffs, to higher energy bills, among other harms.

6. This court has inherent authority to issue a PI to preserve the status quo of parties during litigation "(1) if a plaintiff is able to show likelihood of success on the merits of his case and (2) if a plaintiff is likely to sustain irreparable loss unless the injunction is issued, or if, in the opinion of the Court, issuance is necessary for the protection of a plaintiff's rights during the course

of litigation.” *A.E.P. Indus., Inc. v. McClure*, 308 N.C. 393, 402, 302 S.E.2d754, 759 (1983) (internal citations omitted).

7. As is detailed in Plaintiffs’ memorandum in support of this motion, Plaintiffs are likely to succeed on the merits of their claims. The Deferral Order violated Plaintiffs’ rights to due process and access to courts, N.C. Const. art. I, § 19, art. I, § 18, and Plaintiffs have a common-law right to sue because there is no other adequate remedy for these injuries, N. Carolina Bar & Tavern Ass'n v. Stein, 388 N.C. 149, 158, 919 S.E.2d 684, 692 (2025).

8. A preliminary injunction is necessary to protect Plaintiffs’ rights during the course of the litigation. A.E.P. Indus., Inc., 308 N.C. at 405, 302 S.E.2d at 762 (citation omitted, emphasis original).

9. Without a preliminary injunction, Plaintiffs will suffer irreparable harm that “they should not be required to submit or the other party permitted to inflict.” Wrightsville Winds Townhouses Homeowners’ Ass’n. v. Miller, 100 N.C. App. 531, 535, 397 S.E. 2d 345, 347 (1990) (cleaned up). Plaintiffs have members in North Carolina who must purchase power from Duke Energy. As Duke customers, these members are directly affected by the reliability of the electric grid and increases to their energy bills.

10. These harms outweigh any inconvenience to the Commission. See C.J. Chadwick & Assocs., LLC v. Chadwick, 292 N.C. App. 670, 897 S.E.2d 923 (2024). A preliminary injunction would require the Commission to continue a process already required by the 2024 Carbon Plan Order: namely, to review and approve Duke Energy’s 2026 solar and storage pre-solicitation proposal so that the bidding process may formally begin, an action the Deferral Order itself contemplates, albeit at a later date. A preliminary injunction would reestablish the 2026 solar and storage procurement process and fill the gap in resources in Duke’s proposed Carbon Plan

created by the Deferral Order. The continued procurement of solar and storage resources in 2026 would avoid the risk of further increases to members' energy bills.

11. Plaintiffs respectfully request that, in view of the circumstances of this case, the Court exercise its discretion to require no security or only a nominal security and set the matter for expedited hearing as permitted under Local Rule 14.4.

WHEREFORE, Plaintiffs respectfully request that:

1. The Court enter a PI enjoining Defendant from enforcing the Deferral Order, or any subsequent orders that rely on it; directing the Commission to abide by the statutes and rules governing its actions, including by maintaining the solar and storage resource targets set in the 2024 Carbon Plan Order for the 2026 solar procurement conducted by Duke Energy; and directing the Commission to take all necessary steps to allow the 2026 solar and storage procurement to proceed as soon as possible, including but not limited to, as necessary, giving Duke Energy guidance for the revision of its pre-issuance proposal for the 2026 solar and storage procurement, and expediting the Commission's review and approval of the same.

2. The Court order the injunction to remain in effect for the duration of this litigation;

3. The Court order that no security be required;

4. The Court set this matter for expedited hearing for June 25, 2026.

5. The Court grant such other and further relief as is just and proper;

Respectfully submitted this 17th day of June, 2026.

/s/ Nicholas Jimenez

Nick Jimenez

N.C. Bar No. 53708

Hannah Klaus

N.C. Bar No. 62485

Kimberley Hunter

N.C. Bar No. 41333
Southern Environmental Law Center
136 E. Rosemary Street, Suite 500
Chapel Hill, North Carolina 27514
Telephone: (919) 967-1450
njimenez@selc.org
hklaus@selc.org
khunter@selc.org

*Attorneys for Plaintiffs Southern Alliance
for Clean Energy, the Sierra Club, Vote
Solar, and Environmental Justice
Community Action Network*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiffs' Motion for Preliminary Injunction and Request for Expedited Hearing was served on all parties by depositing the same in an envelope via U.S. certified mail, return receipt, postage paid, and addressed as follows:

North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

North Carolina Utilities Commission
General Counsel
4325 Mail Service Center
Raleigh, NC 27699-4300

North Carolina Attorney General's Office
Attorney General Jeff Jackson
9001 Mail Service Center
Raleigh, NC 27699-9001

NC Department of Commerce
Mary Elizabeth Wilson, General Counsel
4301 Mail Service Center
Raleigh, NC 27699-4301

This the 17th day of June, 2026.

/s/ Nicholas Jimenez
Nicholas Jimenez