

Request for Quotations

*Consultant to the Public Staff on Electric Utility Storm
Cost Securitization*

November 2024

Introduction

The Public Staff – N.C. Utilities Commission (the Public Staff) is a state agency that represents customer interests in proceedings before the North Carolina Utilities Commission (the Commission). The Public Staff is independent of the Commission.

The Public Staff may, with approval, hire independent contractors to provide subject matter expertise, pursuant to N.C. General Statute 62-15(h):

The executive director is authorized to employ, subject to approval by the State Budget Director, expert witnesses and such other professional expertise as the executive director may deem necessary from time to time to assist the public staff in its participation in Commission proceedings, and the compensation and expenses therefor shall be paid by the utility or utilities participating in said proceedings. Such compensation and expenses shall be treated by the Commission, for rate-making purposes, in a manner generally consistent with its treatment of similar expenditures incurred by utilities in the presentation of their cases before the Commission. An accounting of such compensation and expenses shall be reported annually to the Joint Legislative Commission on Governmental Operations and to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

The Public Staff seeks a consultant to assist the Public Staff with separate petitions by Duke Energy Carolinas, LLC (DEC), and Duke Energy Progress, LLC (DEP), for storm cost securitization (Securitization Consultant).

Background

In 2019, the North Carolina General Assembly enacted N.C. Gen. Stat. § 62-172 (the Storm Securitization Statute), which provides that a public utility may petition the Commission for a financing order to issue bonds for storm recovery activities.¹

This RFQ is issued in anticipation of DEC and DEP filing of petitions in the near future to securitize storm costs arising from Winter Storm Izzy and Hurricanes Zeta, Ian, Debby, and Helene. Please note that the decision to file a petition is solely within the discretion of the utility, thus it is possible DEC or DEP may not file a petition. The extent of the work will be dependent upon the filing of a securitization petition.

Scope of Work

The Securitization Consultant will review and analyze the storm cost securitization petitions of both DEC and DEP, pursuant to N.C.G.S. § 62-172, and present testimony on the Public Staff's position. The Securitization Consultant also will support the Public Staff's oversight of the negotiation and issuance of any storm recovery bonds.

The securitization petitions will require more resources than the Public Staff has available in-house, considering current workload. Further, utility securitization bond issuance is a specialized field, and the Public Staff seeks to hire a Securitization Consultant with the appropriate expertise and resources to conduct such analysis and provide advice. Ideally, the Public Staff would like to have a contract in place with the Securitization Consultant ready to perform by January 15, 2025.

The scope of work will include:

1. Review the respective DEC or DEP storm cost securitization petition and all testimony, exhibits, responses to data requests, deposition transcripts, hearing transcripts, and other pertinent documents.
2. Assist the Public Staff in the preparation of discovery on the DEC and DEP petitions for a securitization financing order.
3. Review proposed financing costs, structuring of bond issuance, expected pricing of the bonds, and terms and conditions of the storm recovery bonds and make recommendations for any suggested modifications to the proposed offerings.

¹ Of note, North Carolina law also provides for securitization of certain coal plant retirement activities. On October 13, 2021, the Governor signed into law House Bill 951, S.L. 2021-165 (HB 951). Section 5 of HB 951 required the Commission to establish rules for securitization of costs associated with the early retirement of subcritical coal-fired generating facilities as a result of the Carbon Plan required to be developed by Section 1 of HB 951. On April 5, 2022, the Commission adopted Commission Rule R8-74 (Financing for Costs Associated with the Early Retirement of Subcritical Coal-Fired Generating Facilities). On Aug. 29, 2024, the Commission adopted Commission Rule R8-75 (Financing for storm recovery costs).

4. Analyze whether the financing proposed in the petitions would be reasonably expected to result in lower overall costs or would avoid or significantly mitigate rate impacts to customers compared to alternative methods of financing, and make recommendations for suggested modifications.

5. Assist in the preparation and review of any North Carolina Utilities Commission Financing Orders.

6. Assist the Public Staff in evaluating all testimony, exhibits, filings, and reports in connection with a bond issuance, including but not limited to: Issuance Advice Letter, proposed servicing reports, and proposed true-up calculation procedures.

7. To the extent allowed by the Commission, review information and participate in Bond Advisory Team meetings, discussions, and decisions concerning the structuring, pricing, and marketing of any storm recovery bonds proposed to be issued by DEC and DEP.

8. Review documents associated with any final bond issuance, monitor the actual solicitation of bonds, and ensure that all reasonable and customary due diligence has been performed on the part of DEC and DEP, their bond underwriters, and their financial advisors.

9. Prepare a letter for filing with the Commission opining on whether the structuring, marketing, and pricing of the storm recovery bonds and any associated securities in fact resulted in the lowest storm recovery charges consistent with market conditions at the time the storm recovery bonds were priced and the terms set forth in the financing order.

10. Provide updates on the status of any bond issuances and information on prevailing market conditions.

11. Assist the Public Staff in its review of information submitted by DEC and DEP on the actual costs of a storm recovery bond issuance.

12. Produce fully supported and documented statements concerning the fairness or reasonableness of the timing of a sale, gross underwriting spread, and pricing of any DEC and DEP storm recovery bonds and other reports and documents as needed to effectuate the purposes of this RFQ.

13. Attend and if necessary, testify at evidentiary hearings before the Commission.

14. Prepare and submit periodic reports on the progress of the investigation or to-date results of the investigation as agreed by the Public Staff and the Securitization Consultant.

15. Be available for weekly conference calls with the Public Staff.
16. Participate with Public Staff personnel in interviews and conference calls with the utilities.
17. Communicate regularly with Public Staff personnel regarding project status and planning.
18. Submit a final report to the Public Staff with detailed analysis and recommendations.

Issues related to storm cost securitization debt structure will be governed by statutory and Commission procedural deadlines, so the Securitization Consultant must complete its duties within the time frames specified by the Public Staff. Thus, the Securitization Consultant must have available sufficient staff resources to review and provide analysis of voluminous information within the available time frame. Time is of the essence in completing reviews for the Public Staff.

The Securitization Consultant may be called upon to provide written and oral testimony in a proceeding before the Utilities Commission.

The Public Staff cannot easily predict the Securitization Consultant's time commitment for this project, so in addition to a not-to-exceed total contract dollar value based on an estimated one-year timeframe for the work, the Public Staff requests quotes including personnel hourly rates plus a schedule of any incidental charges (e.g., photocopying costs).

The Securitization Consultant must bill at least monthly. Invoices must include a list of each Securitization Consultant employee (or contractor if approved in advance by the Public Staff) who worked on the billed items, his/her hourly rates, the number of hours worked, the nature of the work, and the North Carolina Utilities Commission docket number of the case to which the time should be billed.

The Securitization Consultant may be required to execute confidentiality agreements with the utilities or other parties whose documents are being reviewed by the Public Staff and the Securitization consultant.

The Securitization Consultant shall be an independent contractor. The Public Staff shall have the right to unlimited use of all work product prepared by the Securitization Consultant pursuant to the contract executed under this RFQ.

Required Information in Quotation

All responses to this RFQ must be sent in written form, either electronically or hard copy. Responses should include:

- A statement of the Securitization Consultant's qualifications to perform the requested work, with a focus on experience in electric utility storm cost securitization investigations.
- A list of personnel, to the extent known, who will provide the consulting and other utility securitization investigation services to the Public Staff, their hourly rates, and their credentials including academic background and work experience.
- A list of possible non-personnel costs and the associated rates where applicable (e.g., any separate charges for communications, copying, or travel time.)
- At least two references who can speak to previous work done by the Securitization Consultant, with a focus on electric utility expense securitization investigations or other utility securitization investigations to the extent possible.
- A description of similar prior projects performed by the Securitization Consultant, including names of clients (if not confidential), the nature of the analysis performed, and the timeframe of that performance. If applicable, please provide weblinks to or copies of any testimony as a storm cost securitization expert or other type of expert testimony before a regulatory body, as well as weblinks to cases filed since 2016.
- A statement affirming that the Securitization Consultant has not performed work for Duke Energy Corporation, Duke Energy Progress, LLC, Duke Energy Carolinas, LLC, or any of their affiliates. If the Securitization Consultant has performed any work under contract for Duke Energy Corporation, Duke Energy Progress, LLC, Duke Energy Carolinas, LLC, or their affiliates in the past, or expects to perform work in the future, it must identify all such work, indicate whether any such work is ongoing, and explain why such work would not create a conflict of interest if the Securitization Consultant is retained to work on behalf of the Public Staff.
- A statement of any past or present civil or criminal charges (state or federal), and any government debarments from contracts, made against the consulting business or its current personnel.
- The Securitization Consultant's federal employer identification number.

- The name, job title, mailing address, physical address, telephone number, and email address of the person who has the legal authority to issue the quotation on behalf of the Securitization Consultant and to legally bind the Securitization Consultant in a contract for consulting services pursuant to this RFQ.
- A statement that the Securitization Consultant accepts all the provisions, terms, and conditions of this RFQ.
- A statement of the not-to-exceed dollar amount for providing consulting services for the DEC and DEP storm securitization petitions pursuant to this RFQ for a one-year period beginning with commencement of the contract (anticipated to be January 15, 2025), and a statement of additional costs if completion of the investigation and presentation of testimony on the results of the investigation should take longer than one year.

Procedure

All inquiries about procedures and responses to this RFQ should be directed in writing to the Business Officer of the Public Staff, Joyce Gwyn, by email at joyce.gwyn@psncuc.gov or U.S. Mail to Joyce Gwyn, Public Staff – NC Utilities Commission, 4326 Mail Service Center, Raleigh, NC 27699-4300.

Any questions about the RFQ scope of work may be sent to the Public Staff by email to William Creech at zeke.creech@psncuc.gov until 5:00 p.m. (Eastern) on December 13, 2024. Responses will be in writing via email, and will be made available upon request.

Quotations in response to this RFQ must be received by the Public Staff no later than 5:00 p.m. (Eastern) on Wednesday, December 18, 2024.

All quotations will be kept confidential by the Public Staff until a contract for consulting services has been executed or should the Public Staff determine it will not enter into a contract for such services.

The Public Staff hopes to select a Securitization Consultant from the quotation submissions by January 15, 2025; however, the process may take longer if we have follow-up questions on the quotation, and we must also obtain approval thereafter from the State Budget Director. Acceptance of a contract for consulting services pursuant to this RFQ is subject to both the Public Staff's discretionary judgment, and approval by the State Budget Director.

The contract for consulting services pursuant to this RFQ shall consist of this RFQ, the written quotation in response to the RFQ, and a signed acceptance letter from an authorized employee of the Public Staff to the Securitization Consultant.

GENERAL CONTRACT TERMS AND CONDITIONS

1. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, the State will maintain confidential trade secrets that the Securitization Consultant does not wish disclosed. As a condition to confidential treatment, each page containing trade secret information shall be identified in boldface at the top and bottom as “CONFIDENTIAL” by the Consultant, with specific trade secret information enclosed in boxes or similar indication. Cost information shall not be deemed confidential under any circumstances. Regardless of what may be labeled as a trade secret, the determination whether it is entitled to protection will be determined in accordance with N.C.G.S. §132-1.2. Any material labeled as confidential constitutes a representation by the Securitization Consultant that it has made a reasonable effort in good faith to determine that such material is, in fact, a trade secret under N.C.G.S. §132-1.2. Consultants are urged and cautioned to limit the marking of information as a trade secret or as confidential so far as is possible.
2. **INFORMAL COMMENTS:** The Public Staff shall not be bound by informal explanations, instructions or information given at any time by anyone on behalf of the State during the competitive process or after award. The Public Staff is bound only by information provided in this RFQ and in any formal Addenda issued.
3. **COST FOR QUOTE PREPARATION:** Any costs incurred by Securitization Consultant in preparing or submitting quotes are the Securitization Consultant’s sole responsibility; the Public Staff will not reimburse any Securitization Consultant for any costs incurred prior to award.
4. **DEFAULT:** If, through any cause, the Securitization Consultant shall fail to fulfill in timely and proper manner the obligations under this agreement, the Public Staff shall have the right to terminate this Contract by giving written notice to the Securitization Consultant and specifying the effective date thereof.

Upon the Securitization Consultant filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Securitization Consultant, the Public Staff may immediately terminate, for cause, this Contract.

Upon termination by the State for Securitization Consultant’s inadequate performance or bankruptcy, the Public Staff may terminate all other existing Contracts the Securitization Consultant has with the State, and debar the Securitization Consultant from doing future business with the Public Staff.

5. **SOURCE AND AVAILABILITY OF FUNDS:** Securitization Consultant invoices for services under this Contract shall be sent to the Business Officer of the Public Staff. The Public Staff will forward the invoices to the utility responsible for payment, and payment will be made from the utility to the Securitization Consultant. Otherwise, any

and all payments to the Securitization Consultant are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this agreement.

6. **SITUS**: The place of this Contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in Contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
7. **GOVERNING LAWS**: This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules.
8. **EMPLOYMENT PRACTICES**: The Securitization Consultant will comply with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.
9. **INTELLECTUAL PROPERTY INDEMNITY**: The Securitization Consultant shall hold and save the Public Staff and the State, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or unpatented invention, articles, device or appliance delivered in connection with this Contract.
10. **ADVERTISING**: The Securitization Consultant agrees not to use the existence of this Contract or the name of the Public Staff or the State of North Carolina as part of any commercial advertising or marketing of products or services. The Securitization Consultant may inquire whether the Public Staff is willing to act as a reference by providing factual information directly to other prospective customers.
11. **ACCESS TO PERSONS AND RECORDS**: During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to this Contract to verify accounts and data affecting fees or performance under the Contract, as provided in N.C.G.S. §143-49(9).
12. **ASSIGNMENT**: No assignment of the Securitization Consultant's obligations or the Securitization Consultant's right to receive payment hereunder shall be permitted.

However, upon written request approved by the issuing purchasing authority and solely as a convenience to the Securitization Consultant, the Public Staff may:

- a. Forward the Securitization Consultant's payment check directly to any person or entity designated by the Securitization Consultant, and
- b. Include any person or entity designated by the Securitization Consultant as a joint payee on the Securitization Consultant's payment check.

In no event shall such approval and action obligate the Public Staff to anyone other than the Securitization Consultant and the Securitization Consultant shall remain responsible for fulfillment of all Contract obligations. Upon advance written request, the Public Staff may, in its unfettered discretion, approve an assignment to the surviving entity of a merger, acquisition or corporate reorganization, if made as part of the transfer of all or substantially all of the Securitization Consultant's assets. Any purported assignment made in violation of this provision shall be void and a material breach of this Contract.

13. GENERAL INDEMNITY: The Securitization Consultant shall hold and save the Public Staff, the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Securitization Consultant in the performance of this Contract and that are attributable to the negligence or intentionally tortious acts of the Securitization Consultant provided that the Securitization Consultant is notified in writing within 30 days that the Public Staff or the State has knowledge of such claims. The Securitization Consultant represents and warrants that it shall make no claim of any kind or nature against the Public Staff's or the State's agents who are involved in the delivery or processing of Securitization Consultant goods to the Public Staff or the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this Contract.

14. COMPLIANCE WITH LAWS: The Securitization Consultant shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and performance in accordance with this Contract, including those of federal, state, and local agencies having jurisdiction and/or authority.

15. ENTIRE AGREEMENT: This RFQ and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This RFQ, any Addenda hereto, and the Securitization Consultant's quotes are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the Contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.