

CHAPTER 25.
Hire North Carolina, Resident Contractor Utilization

- Rule R25-1. Purpose; applicability; definitions.
- Rule R25-2. Resident Contractor Outreach and Assistance.
- Rule R25-3. Hire North Carolina List.
- Rule R25-4. Publication of Competitive Bidding.
- Rule R25-5. Resident Contractor Bid Feedback.
- Rule R25-6. Annual Report.
- Rule R25-7. Cost Recovery.

CHAPTER 25

Hire North Carolina, Resident Contractor Utilization

Rule R25-1. Purpose; applicability; definitions.

(a) Purpose. — For the purpose of promoting economic development, creating jobs, and improving the communities served by the utilities, the Commission urges utilities to maximize, consistent with law, the use of resident contractors for utility projects undertaken in the State of North Carolina. This rule shall serve as a tool to encourage and measure utility utilization of North Carolina resident contractors, subcontractors, vendors and businesses, including women- and minority-owned businesses. This rule is created to foster utility engagement with potential North Carolina contractors, providing ways to inform North Carolina companies of business opportunities. However, this rule shall not be interpreted to supersede any state statute, and nothing in this rule shall be construed to prevent a utility from choosing the lowest or best bidder for any project, or interfere with the mandate to serve the ratepayers or adequately respond to emergencies or support outages.

(b) Applicability. — All contracts for construction, extension and/or repair of facilities or other utility projects located in North Carolina in excess of \$700,000.00 solicited by or on the behalf of any utility on or after July 1, 2020, shall be governed by this rule; provided, however, this rule shall not apply to planned or unplanned outage work, and nothing contained herein shall prohibit any utility from performing services covered by this rule with its own regularly-employed workforce.

(c) Definitions. — As used in this rule, the following definitions shall apply:

(1) Nonresident contractor — A prime contractor or subcontractor, be they corporate, individual or partnership, domiciled or having its principal place of business in a location other than the State of North Carolina that wishes to enter into any agreement with the utility or prime contractor for any purpose covered by this rule.

(2) Prime contractor — Any party or person (who is not an employee of the utility or its affiliated or associated companies) who directly enters into any agreement with a utility for the furnishing of services.

(3) Resident contractor — A prime contractor or subcontractor, be they corporate, individual, or partnership, domiciled or having its principal place of business in the State of North Carolina that wishes to enter into any agreement with the utility or prime contractor for any purpose covered by this rule.

(4) Subcontractor — Any party or person, who is not an employee of the prime contractor or the utility, who directly enters into any agreement with a prime contractor: (i) for the furnishing of services; or (ii) under which any portion of the prime contractor's obligation under any contracts with the utility is performed or undertaken.

(5) Utility —The following public utilities providing electric and natural gas service in North Carolina: Duke Energy Carolinas, LLC; Duke Energy Progress, LLC; Dominion Energy North Carolina; Public Service Company of North Carolina, Inc.; and Piedmont Natural Gas Company, Inc.

(NCUC Docket No. M-100, Sub 154, 6/18/19.)

Rule R25-2. Resident Contractor Outreach and Assistance.

Each utility shall actively seek out opportunities to identify and assist potential resident contractors, including women- and minority-owned businesses, in order to expand the utility's contracting source pool within the State of North Carolina. The utility shall help enable contracting relationships with resident contractors by exercising reasonable efforts to explain utility qualification requirements, bid and contracting procedures, materials requirements, invoicing and payment schedules, and other procurement practices and procedures. The utility shall make available on its website lists of contract categories to assist resident contractors in determining which contract categories best align with the resident contractor's stated qualifications. The utility shall develop marketing program literature to provide to resident contractors and the business community summarizing its efforts pursuant to this rule. Such summaries shall state that the resident contractor will be furnished a complete copy of this rule upon request. Such summaries shall encourage the participation of resident contractors as prime contractors and subcontractors. The utilities are encouraged to explore opportunities for outreach involving North Carolina's institutions of higher education, community colleges, and other trade and technical schools to raise awareness of career opportunities in fields utilized by the public utility sector, with special emphasis on explanation of the contract bidding process.

(NCUC Docket No. M-100, Sub 154, 6/18/2019.)

Rule R25-3. Hire North Carolina List.

Each utility shall maintain a Hire North Carolina list consisting of resident contractors, including women- and minority-owned businesses, determined by the utility to be qualified to perform contracts within the scope of proposed utility projects. The utility shall publish on its website a notice requesting names of qualified resident contractors. A contractor wishing to be included on the Hire North Carolina list may certify to the utility that the contractor is a resident contractor as defined in Rule R25-1 above by any means the utility deems reasonable. Upon such certification, the utility shall add said contractor to the Hire North Carolina list.

(NCUC Docket No. M-100, Sub 154, 06/18/2019.)

Rule R25-4. Publication of Competitive Bidding.

In addition to the publication requirements of Rule R25-3 above, each utility is encouraged to pursue any additional means of publication in trade journals, social media, or any other reasonable avenue available. No contract shall be awarded to any prime contractor without the utility first providing to the prime contractor the utility's Hire North Carolina list for consideration of awarding subcontracts arising out of the prime contract.

(NCUC Docket No. M-100, Sub 154, 06/18/2019.)

Rule R25-5. Resident Contractor Bid Feedback.

In any case in which a resident contractor is unsuccessful in a bid on a contract which is awarded to a nonresident contractor, the utility shall, at the request of any unsuccessful resident contractor bidder, and only after the contract has been executed, provide general, non-confidential information concerning the overall evaluation process between the resident contractor's bid as contrasted with the successful bid.

(NCUC Docket No. M-100, Sub 154, 06/18/2019.)

Rule R25-6. Annual Report.

On or before March 1 of each year, the utility shall file a report with the Commission addressing compliance with this rule during the preceding calendar year. The report shall include relevant and material information from the prior year, including a copy of the utility's most recent Hire North Carolina list, a listing of all student outreach event opportunities afforded by the utility, the total number of contracts subject to this rule awarded by the utility in the previous year, a breakdown of how many of those contracts were awarded to resident contractors, including women- and minority-owned businesses, and how many to nonresident contractors, and a brief description of the type of work performed.

The utilities shall also summarize any outreach efforts undertaken pursuant to Rule R25-2 above, including the response to and perceived impact of such efforts.

Upon request of the utility or by order of the Commission, a public hearing for discussion of the annual report may be held after it has been filed by the utility. The public hearing should protect confidential information including, but not limited to, the identity of the contractors and costs.

(NCUC Docket No. M-100, Sub 154, 06/18/2019.)

Rule R25-7. Cost Recovery.

The utilities shall be allowed to recover all prudently incurred incremental costs associated with compliance with this rule.

(NCUC Docket No. M-100, Sub 154, 06/18/2019.)