

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1167
DOCKET NO. E-7, SUB 1166

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Duke Energy Progress, LLC,)	
and Duke Energy Carolinas, LLC,)	ORDER MODIFYING
Requesting Approval of Solar Rebate)	FIRST YEAR OF
Program Pursuant to G.S. 62-155(f))	SOLAR REBATE PROGRAM

BY THE COMMISSION: On April 3, 2018, in the above-captioned proceedings, the Commission issued an Order that, among other things, approved the Solar Rebate Program jointly proposed by Duke Energy Progress, LLC (DEP), and Duke Energy Carolinas, LLC (DEC) (together, Duke or the Companies), subject to certain modifications it directed Duke to make through a compliance filing. As proposed and approved, Duke's Solar Rebate Program is made available through DEC's Solar Rebate Rider SRR and DEP's Solar Rebate Rider SRR-1 (together, Solar Rebate Riders¹).

On April 13, 2018, Duke submitted its first compliance filing.

On May 8, 2018, the Commission issued an Order Addressing Compliance Filing, directing Duke to make a second compliance filing.

On May 18, 2018, Duke made its second compliance filing, which was accepted by the Commission by Order dated May 30, 2018.

Duke's Motion to Amend the Solar Rebate Riders

On July 26, 2018, Duke filed a notice that the 2018 annual participation limits for residential and non-residential customers under the Solar Rebate Program, exclusive of the non-profit participation set-aside, had been reached. The notice stated that due to heightened customer interest, the participation limits were reached quickly following the program's launch on July 9, 2018. In addition, Duke also moved to amend the Solar Rebate Riders to allow applicants who installed solar facilities between January 1, 2018, and July 9, 2018, but were excluded from participation due to the annual limits already having been reached, to reapply for a rebate when the 2019 solar rebates become available for application and reservation on January 1, 2019.

¹ There are no material, substantive differences between DEC's Solar Rebate Rider SRR and DEP's Solar Rebate Rider SRR-1. Therefore, the Commission refers collectively throughout this Order to Duke's Solar Rebate Riders.

Pursuant to the current Solar Rebate Riders as approved by the Commission, eligible customers must apply for a solar rebate within 90 days following the effective installation date of a solar facility (90-Day Rule).² Additionally, the Solar Rebate Riders provide that applications for rebates not accepted in a given calendar year will be cancelled at year's end, although customers may reapply in a subsequent calendar year. However, such applications still are subject to the 90-Day Rule, which effectively means that only those facilities installed on or after October 3 of the preceding calendar year are eligible to reapply for the Solar Rebate Program in a subsequent year. Duke states that the 90-Day Rule, therefore, would exclude from 2019 rebate eligibility those applicants who installed a solar facility before July 9, 2018, but applied for a rebate after the participation limits had been reached for 2018. As a result, Duke requests a waiver of the 90-Day Rule in order for these applicants to be eligible to reapply for a rebate in 2019, in part because many such applicants installed solar facilities with the expectation that they would receive a rebate.

If allowed to waive the 90-Day Rule as requested, Duke states that the affected 2018 applicants, in order to be eligible to reapply for a rebate in 2019, would be required to 1) submit an application in 2018; 2) submit a new application when the application window opens in 2019; and 3) remain otherwise eligible for participation in the Solar Rebate Program. Duke would process applications on a first-come, first-served basis, as provided in the Solar Rebate Riders. Duke is not proposing any other changes to the Solar Rebate Riders.

Recommendations of the Public Staff

The Public Staff presented this matter at the Commission's Regular Staff Conference on August 27, 2018. There, the Public Staff provided the Commission with information obtained through data requests to Duke, and stated that it has reviewed Duke's motion and the requirements of N.C.G.S. § 62-155(f), which require that the incentives offered through the Solar Rebate Program comport, in relevant part, with the following requirements:

- (1) Shall be limited to 10,000 kilowatts (kW) of installed capacity annually starting in January 1, 2018, and continuing until December 31, 2022, and shall provide incentives to participating customers based upon the installed alternating current nameplate capacity of the generators.
- (2) Nonresidential installations will also be limited to 5,000 kilowatts (kW) in aggregate for each of the years of the program.

...

² For those systems installed between January 1, 2018, and July 9, 2018, the date on which the Solar Rebate Program launched, the Commission ordered the effective installation date to be July 9, 2018, for purposes of determining compliance with the 90-Day Rule.

The Public Staff opined that Duke's proposed amendment complies with the statutory requirements in that it effectively limits the incentives offered through the Solar Rebate Program to 10,000 kW for each utility annually, while still providing some flexibility by allowing a limited number of otherwise-eligible solar facilities installed in 2018 to apply for rebate incentives in 2019. Additionally, the Public Staff agreed with Duke that due to the rapid rate at which rebate applications were submitted following the program's launch on July 9, 2018, it is reasonable and appropriate to allow the affected 2018 applicants to reapply for a rebate in 2019, particularly since many such applicants acted in reliance upon the expectation that they would receive a rebate when they installed otherwise-eligible solar facilities, and because these applicants were not aware that the 2018 residential and non-residential participation limits already had been reached until Duke filed its notice on July 26, 2018.

The Public Staff stated that it submitted data requests to Duke to evaluate the reasons why the Solar Rebate Program reached this year's participation limits so rapidly, and it appears this was the result of a combination of factors, rather than a sole cause, including (1) pent-up demand for rooftop solar incentives following the passage of House Bill 589 (S.L. 2017-192) in July 2017; (2) the financial incentives made available through the rebates; and (3) the likelihood of future changes to net metering rates called for in House Bill 589 that may limit the continued availability of the current net metering rates offered by Duke.³ Given the multitude of factors that resulted in the heightened demand for program participation this year, the Public Staff recommended that the Commission require Duke to include in its April 1, 2019 annual report, and in each subsequent annual report thereafter, Duke's recommendations regarding the potential need for additional revisions to the Solar Rebate Program, including whether adjustments to the financial incentives provided by the rebates may be appropriate under the circumstances then existing.

The Public Staff further stated that it requested information from Duke regarding the steps Duke plans to take to ensure that the processing of rebate applications beginning on January 1, 2019, and during each subsequent program year thereafter, is transparent and, to the extent possible, avoids excess demand in future years. Based on Duke's response to the Public Staff's data requests, the Public Staff indicated that Duke intends to use strategies similar to those employed in 2018 to communicate program details to prospective rebate applicants and solar installers, including installer webinars, email notifications, and regular updates published to Duke's website. Duke also intends to engage with installers to ensure better coordination of marketing efforts regarding available rebate capacity remaining for rebate applications, and to consider any appropriate strategy adjustments based on circumstances then existing. In addition to these commitments, the Public Staff also recommended that the Commission require Duke to publish to its website weekly, instead of monthly, updates regarding the total amounts of rebate capacity already applied for or reserved, and the available capacity remaining on a weekly, rather than monthly, basis. In support of this recommendation, the Public Staff noted that the 2018 participation limits already were reached well in advance of the deadline for Duke to file its first monthly status report following the

³ Codified in pertinent part as N.C.G.S. § 62-126.4.

program's launch on July 9, 2018. Consequently, the Public Staff argued that monthly status reports are insufficient to provide timely information to consumers and other market participants regarding the amounts of rebates claimed and still available.

Based on Duke's response to the Public Staff's data requests,⁴ one megawatt (MW) of residential projects each for DEC and DEP would carry forward to the 2019 rebate cycle; for non-residential projects, approximately 400 kW of capacity for DEC, and 100 kW for DEP, would carry forward to the 2019 rebate cycle. The Public Staff argued that, due to the delayed implementation of the Solar Rebate Program and the expectation among both solar installers and the affected 2018 applicants that rebates would be available, it would be both equitable and reasonable to allow these applicants to reapply when the rebate application window opens for the capacity allocated for 2019 installations. Therefore, the Public Staff recommended that Duke's motion to amend its Solar Rebate Riders by waiving the 90-Day Rule for the affected 2018 applicants be granted, subject to the following conditions: 1) Duke shall communicate program details and changes to solar installers and customers through various communication channels; 2) Duke shall provide weekly, instead of monthly, updates regarding the quantity of rebates claimed following the opening of the 2019 application window, and shall file with the Commission and publish on its website a notice within three business days following the annual participation limit being reached for any participant class; and 3) Duke shall include in its April 1, 2019 annual report on the Solar Rebate Program whether any further potential program revisions are needed. The Public Staff further recommended that the Commission require Duke to make a compliance filing, revising the language of the Solar Rebate Riders to reflect that the affected 2018 applicants are eligible to reapply if they are otherwise eligible and installed a solar facility between January 1, 2018, and July 26, 2018, the date on which Duke notified the Commission that the residential and non-residential participation caps for 2018 were reached, rather than July 9, 2018, the date on which the Solar Rebate Program launched, as is requested by Duke. The Public Staff indicated that Duke does not object to the conditions and modifications requested by the Public Staff.

Aside from a brief appearance on behalf of Duke in response to Commission questions, no other parties appeared during the Public Staff's presentation of this matter at Regular Staff Conference on August 27, 2018. No other responses to Duke's motion were received by the Commission.

Discussion and Conclusions

The Commission has carefully reviewed Duke's motion to amend the Solar Rebate Riders and the Public Staff's response and recommendations. Based upon the foregoing and the entire record in this proceeding, the Commission generally agrees with Duke and the Public Staff that the proposed amendments to the Solar Rebate Riders are reasonable

⁴ Assuming both that Duke's request to amend the Solar Rebate Program is allowed and that all projects approved to receive a rebate for 2018 installations, including both approved applications and rebate reservation guarantees, remain eligible throughout the process through the point at which a rebate payment is issued.

and appropriate in light of the unique circumstances of the first year of the Solar Rebate Program. For several reasons, the Commission concludes that it is reasonable, appropriate, and in the public interest to accommodate the participation of as many affected customers, as defined below, as possible. The Commission, therefore, finds good cause to amend the Solar Rebate Riders, subject to the conditions requested by the Public Staff. However, for reasons discussed hereafter, the Commission concludes that there exists a different, more preferable method of implementing Duke's request to amend the Solar Rebate Riders to accommodate, to the extent made possible by this Order, the participation of the affected 2018 applicants. The Commission, therefore, directs Duke to amend the Solar Rebate Riders and applications in a manner consistent with this Order, and to make a compliance filing containing such amendments within 10 days following the date of this Order.

As an initial matter, the Commission emphasizes that the amendments to the Solar Rebate Riders allowed by this Order apply only to those customers (Affected Customers) that:

- (1) are customers who are otherwise eligible for participation in the Solar Rebate Program, pursuant to the Solar Rebate Riders;
- (2) are customers who installed a solar facility between January 1, 2018, and July 26, 2018; and
- (3) are customers who submitted a rebate application on or before October 24, 2018,⁵ and otherwise have complied with the 90-Day Rule.

Based on the representations made in Duke's motion and in the Public Staff's representations to the Commission during Staff Conference, the Commission determines that the following circumstances of this first year of the Solar Rebate Program justify altering the general parameters of the Program for 2018: 1) 2018 is the first year of the Solar Rebate Program, meaning that the Affected Customers did not have the benefit that applicants in future years will have of knowing the results of the first year's application process in advance of the application window; 2) the structure of the Solar Rebate Program was not approved until April 3, 2018, and the language of the Solar Rebate Riders was not finalized until the Commission approved Duke's second compliance filing on May 30, 2018, almost halfway through this calendar year; and 3) unlike in future years when the application window will open on January 1 of each year, the application window did not open this year until July 9, 2018.

Rather than adopting Duke's proposed amendments to the Solar Rebate Riders and applications, the Commission, in its discretion, instead concludes that the amendments required by this Order would be simpler, more efficient, and more consistent with the statutory requirements contained in N.C.G.S. § 62-155(f). These amendments

⁵ If a customer installed a solar facility on the last possible day to qualify as an Affected Customer (July 26, 2018), then the latest he or she could submit a rebate application in compliance with the 90-Day Rule is October 24, 2018.

clarify that systems installed on or before December 31, 2018, count against the 2018 rebate participation limit, while those rebate guarantees reserved against the 2018 participation limit, but installed on or after January 1, 2019, count against the 2019 participation limit. The Commission concludes that these clarifications will provide appropriate relief to the Affected Customers; in so concluding, the Commission notes the high percentage of 2018 rebate capacity secured as reservation guarantees, meaning rebates reserved for systems not yet installed. Given that the residential customers who obtained such reservation guarantees have one year from the date of the reservation, and non-residential customers have one year from the date on which an interconnection agreement is executed, to install a system, the likely result will be a significant portion of rebates reserved in 2018 are for systems that will not be installed until 2019. It follows then that some portion of this year's rebate capacity reserved, but not yet installed at year's end, will be freed up for reallocation to the Affected Customers, who will actually have installed such capacity in 2018, consistent with N.C.G.S. § 62-155(f)(1). The applicants who reserved a rebate in 2018, but do not install a system before year's end, then automatically will be considered by Duke to have secured a rebate reservation guarantee from the capacity allocated for 2019, instead of 2018. In administering this change to the Solar Rebate Program for the Affected Customers, the Commission directs Duke to maintain a waiting list of applications received by the Affected Customers, and to approve their applications on a first-come, first-served basis as soon as practicable after December 31, 2018, at which time reserved capacity not yet installed in 2018 will become available for reallocation to the Affected Customers. It is the Commission's intent that these administrative changes will be simpler for both the Companies and the Affected Customers, in that the Companies will not have to process applications received in duplicate and the Affected Customers will not be required to submit a new application during the 2019 rebate cycle.

To ensure that all eligible customers are similarly situated to apply for a rebate in 2019, the Commission further directs Duke to file with the Commission, and to publish on the Companies' website, status reports on October 1, November 1, and December 1, 2018, containing up-to-date information regarding the amount of capacity for each participant class that has been installed in 2018, followed by a final report on January 8, 2019, containing the following information: 1) total amount of capacity actually installed in 2018 for purposes of 2018 rebate participation; 2) the amount of capacity reserved in 2018, but which is being carried forward to 2019 for purposes of rebate participation; 3) the amount of non-residential capacity reserved in 2018 for which interconnection agreements have been executed; and 4) the remaining total capacity eligible for new applicants to claim or reserve in 2019. The Commission concludes that these amendments comply with the requirements of G.S. 62-155(f), are in the public interest, and strike an appropriate balance between both the Affected Customers and prospective applicants seeking to participate in future years of the Solar Rebate Program. This conclusion is further supported by the fact that Duke has requested a similar equitable solution which was not opposed by any party to this proceeding.

In an effort to help assist the Companies, the Public Staff, the Affected Customers, and other market participants in understanding the practical application of this Order, the Commission now provides the following hypothetical examples:

- Scenario # 1: An otherwise-eligible residential customer installs an otherwise-eligible solar facility on July 15, 2018, and applies for a rebate on or before October 13, 2018. After December 31, 2018, Duke determines that 3 MW of residential rebate capacity reserved in 2018 has not yet been installed. After accommodating all Affected Applicants on the waiting list, Duke determines that there still exists 1 MW of uninstalled capacity for 2018.
 - Before processing any applications received on or after January 1, 2019, Duke will deduct 3 MW of residential capacity from the rebates allocated for 2019 installations.
 - Duke will reallocate, on a first-come, first-served basis, 3 MW of capacity to the waiting list for 2018 rebates.
 - A portion of the 3 MW of reallocated capacity for 2018 rebates will be used to approve the Scenario #1 customer's application.
 - The 1 MW of capacity remaining after Duke accommodates all Affected Customers on the waiting list will be carried forward and added to the total rebate capacity available for 2019 installations, pursuant to N.C.G.S. § 62-155(f)(4).
- Scenario # 2: An otherwise-eligible residential customer installs an otherwise-eligible solar facility on January 2, 2018, and applies for a rebate on October 24, 2018. After December 31, 2018, Duke determines that 3 MW of residential rebate capacity reserved in 2018 has not yet been installed.
 - The Scenario # 2 customer does not qualify as an Affected Customer because he/she did not comply with the 90-Day Rule, which expired for this customer on October 7, 2018, 90 days after the Solar Rebate Program launched on July 9, 2018. Therefore, the Scenario # 2 customer is not eligible for accommodation under the amendments provided for in this Order.
- Scenario # 3: An otherwise-eligible residential customer installs an otherwise-eligible solar facility on January 2, 2018, and applies for a rebate on or before October 7, 2018. After December 31, 2018, Duke determines that 1 MW of residential rebate capacity reserved in 2018 has not yet been installed. Duke reallocates all reserved, but not yet installed, capacity to the Affected Customers on the waiting list on a first-come, first-served basis.

However, no reallocated capacity remains by the time Duke reaches the position on the waiting list occupied by the customer in Scenario # 3.

- Although the Scenario # 3 customer qualifies as an Affected Customer, Duke cannot accommodate this customer, or any other customer left on the waiting list after Duke reallocates, on a first-come, first-served basis, all reserved, but not installed, capacity remaining for 2018. Furthermore, this customer also is not eligible to reapply in any future year for a rebate for the system installed on January 2, 2018.
- Scenario # 4: An otherwise-eligible non-residential customer installs an otherwise-eligible solar facility on January 2, 2018, and applies for a rebate on or before October 7, 2018. After December 31, 2018, Duke determines that 1 MW of residential rebate capacity and 1 MW of nonresidential rebate capacity reserved in 2018 has not yet been installed. In the process of accommodating all Affected Customers on the waiting list on a first-come, first-served basis, Duke reaches the position on the waiting list occupied by the customer in Scenario # 4. However, if Duke were to accommodate this customer, the non-residential installations for 2018 would exceed 5 MW.
 - Although the Scenario # 4 customer qualifies as an Affected Customer, Duke cannot accommodate this customer pursuant to N.C.G.S. § 62-155(f)(2). Therefore, Duke should reject this and all other non-residential applications received after the date-stamp of this application, and should reallocate the remaining capacity to residential applications on the waiting list only.
- Scenario # 5: After determining the amount of 2018 capacity eligible for reallocation, and awarding it to all otherwise-eligible Affected Customers on the waiting list on a first-come, first-served basis, Duke determines that 500 kW of 2018 rebate capacity remains.
 - Pursuant to N.C.G.S. § 62-155(f)(4), Duke shall roll over the remaining 500 kW of excess rebate incentives into 2019, meaning that next year's Solar Rebate Program would have 10,500 kW total capacity available for rebate applications and reservations.

Based upon the foregoing and the entire record in this proceeding, the Commission finds good cause to amend the Solar Rebate Program consistent with this Order. The Commission, therefore, directs Duke to make a compliance filing, within ten days following the date of this Order, consisting of amended tariffs for DEC's Solar Rebate Rider SRR and DEP's Solar Rebate Rider SRR-1, and amended applications accordingly.

IT IS, THEREFORE, ORDERED as follows:

1. That Duke's motion to amend DEC's Solar Rebate Rider SRR and DEP's Solar Rebate Rider SRR-1, and each respective application, is granted, as modified by the requirements of this Order and subject to the conditions provided herein;

2. That Duke shall, within ten days following the issuance of this Order, file revised copies of DEC's Solar Rebate Rider SRR and Application, and DEP's Solar Rebate Rider SRR-1 and Application, reflecting the amendments required by this Order;

3. That Duke shall file with the Commission and publish to the Companies' website status updates on October 1, November 1, and December 1, 2018, containing up-to-date information regarding the amount of capacity for each participant class that has been installed in 2018, as further detailed in this Order;

4. That, not later than January 8, 2019, Duke shall file with the Commission and publish on its website a status update containing the following information: a) the total amount of capacity actually installed in 2018 for purposes of determining 2018 rebate participation limits; b) the amount of capacity reserved in 2018, but which is being carried forward to 2019 for purposes of determining 2019 rebate participation limits; c) the amount of non-residential capacity reserved in 2018 for which interconnection agreements have been executed; and d) the remaining total capacity eligible for new applicants to claim or reserve in 2019;

5. That Duke shall, not later than October 31, 2018, notify all applicants who qualify as Affected Customers of the process by which Duke will reallocate, in early 2019, any reserved, but not yet installed, capacity. This notification should include a proposed timeline outlining when the Affected Customers should expect to learn whether their rebate applications are approved once any unused 2018 capacity is reallocated;

6. That Duke shall continue to accept 2018 applications for the waiting list from those applicants who would qualify as Affected Customers;

7. That Duke shall not accept additional 2018 rebate guarantee reservations, and shall notify any individuals who attempted to reserve a rebate guarantee after the 2018 participation limits were reached that they will have to submit a new request for a rebate reservation when the 2019 application window opens on January 1, 2019;

8. That Duke shall undertake efforts to more effectively communicate Solar Rebate Program details to existing and future rebate applicants and solar installers, to include hosting installer webinars, sending email notifications, and continuing to regularly update Duke's website to ensure that participation eligibility requirements and details are transparent;

9. That, within one week following the opening of the application window for 2019 solar rebates on January 1, 2019, and weekly thereafter until such time as

residential and non-residential participation limits have been reached, Duke shall file with the Commission and post on its website a status update regarding the quantity of rebates for which applications have been approved or reservation guarantees have been issued, and the quantity of rebate capacity still available for prospective participants;

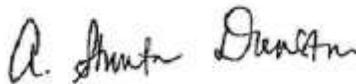
10. That, not later than three business days following the annual limit being reached for any participant class during the 2019 application window, Duke shall file with the Commission and post on its website a notice when the participation limit is reached for any participant class; and

11. That, following the application process for 2019 solar rebates, Duke shall evaluate whether further revisions to the Solar Rebate Program may be appropriate, including whether adjustments to solar rebate incentive amounts are needed for the three years of the Solar Rebate Program then remaining, and include these findings in its April 1, 2019 annual report. Duke should repeat this analysis annually, based on circumstances then existing, and include these findings in each subsequent annual report filed with the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of September, 2018.

NORTH CAROLINA UTILITIES COMMISSION



A. Shonta Dunston, Acting Deputy Clerk