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October 20, 2020

VIA ELECTRONIC FILING

Ms. Kimberley A. Campbell
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Duke Energy Carolinas, LLC, Duke Energy Progress, LLC's and Dominion Energy North Carolina's Notification of Intended Compliance, Request for Continuance of Compliance with Certain Requirements, and Request to Modify Timing of Biennial Proceedings
Docket No. E-100, Sub 167

Dear Ms. Campbell:

Enclosed please find Duke Energy Carolinas, LLC, Duke Energy Progress, LLC's and Dominion Energy North Carolina's Notification of Intended Compliance with N.C. Gen. Stat. 62-156(b), Request for Continuance of Compliance with Certain 2020 Filing Requirements, and Request to Prospectively Modify Timing of Biennial Proceedings, for filing in the above-referenced docket. Counsel for Dominion Energy North Carolina has authorized the undersigned to sign and file on its behalf.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Kendrick C. Fentress

Kendrick C. Fentress

Enclosure

cc: Parties of Record

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-100, SUB 167

In the Matter of: Biennial Determination of Avoided Cost Rates for Electric Utility Purchasers from Qualifying Facilities -- 2020	)))))))))	**NOTIFICATION OF INTENDED COMPLIANCE WITH N.C. GEN. STAT. § 62-156(b), REQUEST FOR CONTINUANCE OF COMPLIANCE WITH CERTAIN 2020 FILING REQUIREMENTS AND REQUEST TO PROSPECTIVELY MODIFY TIMING OF BIENNIAL PROCEEDINGS**

NOW COME Duke Energy Carolinas, LLC ("DEC"), Duke Energy Progress, LLC ("DEP" and together with DEC, "Duke" or the "Duke Companies") and Dominion Energy North Carolina ("Dominion", and together with Duke, the "Utilities" or "Joint Movants"), by and through counsel, and pursuant to North Carolina Utilities Commission ("NCUC" or "Commission") Rule R1-7, and hereby respectfully:

(i) Notify the Commission of their intended compliance with the provisions of N.C. Gen. Stat. § 62-156(b) on November 2, 2020, as directed in the Commission's *Order Establishing Biennial Proceeding, Requiring Data, and Scheduling Public Hearings*, issued on August 13, 2020, in the above-captioned docket ("Scheduling Order");

(ii) Request that the Commission continue until November 2021 certain of the collaborative discussions with the Public Staff and filing requirements primarily applicable to the Duke Companies, as directed by the Commission's *Order Establishing Standard Rates and Contract Terms For Qualifying Facilities*, issued April 15, 2020 in Docket No. E-100, Sub 158

("Sub 158 Order") and the *Scheduling Order* to be met in their standard offer contract and avoided cost rates filing on November 2, 2020; and

(iii) Request that starting November 1, 2021, comprehensive biennial avoided cost proceedings be scheduled to commence in odd-numbered years after biennial integrated resource plan ("IRP") proceedings are held in even-numbered years.

For purposes of the Utilities' respective standard offer avoided cost filings due November 2, 2020 in compliance with the *Scheduling Order* and N.C. Gen. Stat. § 62-156(b), the Duke Companies propose to update their avoided energy rates and avoided capacity rates to be offered in the standard offer contracts required to be biennially reviewed and approved by the Commission under North Carolina's implementation of Section 210 of the Public Utility Regulatory Policies Act of 1978 ("PURPA") pursuant to N.C. Gen. Stat. § 62-156(b). Specifically, the Duke Companies plan to update their avoided costs rates applying the methodologies approved in the *Sub 158 Order*, but do not contemplate making updates to the currently-approved solar integration services charges ("SISC") and the provisions in the standard power purchase agreement or the standard terms and conditions, other than those required by the passage of time, such as effective dates.

Dominion similarly plans to update its standard offer avoided cost rates and charges based upon the methodology approved in the *Sub 158 Order*; however, Dominion also plans to present a protocol for avoidance of the re-dispatch charge that was approved in the *Sub 158 Order* and make certain updates to its standard offer tariff and supporting schedules, similar to changes to the Duke Companies' rate schedules and PPAs approved in the *Sub 158 Order*, to contemplate battery storage as a component of a new qualifying facility.

The Utilities further request the Commission to grant a continuance of the additional technical assessments and collaborative requirements directed in the *Sub 158 Order* to analyze numerous inputs to the Utilities' avoided cost rates for a period of 12 months through and including November 1, 2021. The requested continuance would allow additional time for the Utilities to fully update their standard offer avoided cost methodologies, rates, and contracts in new biennial standard offer avoided cost rate filings to be made on November 1, 2021. By granting this request, the Commission will allow the Utilities, the Public Staff, and other stakeholders additional time to meet the numerous technical evaluation and collaborative requirements of the *Sub 158 Order*, as well as to consider whether and how North Carolina's implementation of PURPA should evolve in response to the Federal Energy Regulatory Commission's ("FERC") Order No. 872, issued on July 16, 2020, which prospectively modifies FERC's regulations implementing PURPA effective December 31, 2020.

Finally, the Utilities propose moving future biennial avoided cost proceedings to an "odd year" filing schedule to commence November 2021. Adjusting the biennial filing schedule for the Utilities' standard offer avoided cost rates and methodologies as proposed will avoid potentially litigating related issues in the avoided cost filings at the same time in the same years that the "full" biennial IRP proceedings are held.

For reasons further discussed in this Motion, the Joint Movants respectfully request that the Commission authorize the Utilities to meet the statutory requirements of N.C. Gen. Stat. § 62-156(b) by biennially filing updated standard offer avoided cost rates and standard offer contracts in compliance with the State's statutory implementation of the PURPA and to then grant a continuance of certain of the Commission's directives in the *Sub 158 Order* to November of 2021 and to consider modifying the procedural schedule for administering comprehensive biennial avoided cost proceedings in North Carolina to occur in "odd years" after the Companies file their biennial IRPs.

BACKGROUND

Section 210 of PURPA and the FERC's regulations implementing those provisions delegate to the Commission certain responsibilities for determining each utility's avoided costs with respect to rates for purchases from QFs. *See* 16 U.S.C. 824a-3(f);18 C.F.R. § 292.304. In addition, the Utilities are required to file certain avoided cost projections and information with the Commission on a biennial basis. *See* 18 C.F.R. § 292.302(b)(1)-(3) (describing forecasted avoided energy and avoided capacity informational requirements to be publicized and provided to Commission every two years).

In North Carolina, the Commission reviews the Utilities' avoided cost filings, which include proposed standard offer avoided cost rates, methodologies for calculating those avoided cost rates, and the policies justifying those methodologies every two years under the State's statutory scheme implementing PURPA. Biennial avoided cost proceedings at the Commission are held pursuant to N.C. Gen. Stat. § 62-156(b), which requires this Commission to determine the standard offer avoided cost rates to be paid by electric utilities for power purchased from small power producer QFs up to 1,000 kW. In addition, the Commission oversees the methodology used by the Utilities to calculate avoided cost rates for larger small power producer QFs not eligible for the standard offer. *See* N.C. Gen. Stat. § 62-156(c).

N.C. Gen. Stat. § 62-156(b) specifically directs that, "[a]t least every two years, the Commission shall determine the standard contract avoided cost rates to be included within the tariffs of each electric public utility and paid by electric public utilities for power purchased from small power producers. . . " N.C. Gen. Stat. § 62-156 also prescriptively requires that the avoided energy rates shall include a consideration of certain factors over the term of the power contracts, including the expected costs of additional or existing generating capacity which would be displaced, the expected costs of fuel and other operating expenses of electric energy production which the utility would otherwise incur in generating or purchasing power from another source, and the expected security of the supply of fuel for the utilities' alternative power sources. Additionally, the rates to be paid by the electric public utilities for capacity purchased from a QF shall account for each of the Utilities' future capacity needs. A future capacity need shall only be avoided in any year where the utility's most recent biennial IRP filed with the Commission has identified a projected capacity need to serve system load, unless otherwise directed for certain QFs to meet State policy objectives. *See* N.C. Gen. Stat. § 62-156(b)(3).

JOINT REQUEST

I. Proposal for Streamlined 2020 Avoided Cost Filings and Proceedings

The Utilities' proposal to file more streamlined November 2020 avoided cost filings will allow the Utilities and the Commission to continue to meet the requirements of N.C. Gen. Stat. § 62-156, while allowing the Utilities and other interested stakeholders additional time to comply with the numerous additional requirements established in the

Sub 158 Order and to review the Utilities' recently-filed 2020 IRPs, as addressed below.[1] The Utilities' respective November 2, 2020 filing will update the inputs in their avoided energy rates and avoided capacity rates, consistently with the requirements of N.C. Gen. Stat. § 62-156, and based upon the methodological guidelines and requirements approved in the *Sub 158 Order*.

For example, the Utilities intend to update their avoided energy rates to reflect their most current energy and commodity price forecasts and will update their respective first year of capacity need calculations based upon their 2020 IRPs, as required by N.C. Gen. Stat. § 62-156(b)(2)-(3). For purposes of this streamlined proceeding, however, the Utilities plan to adopt, without recommending any modifications, the Commission's determinations in the *Sub 158 Order* on the inputs to their avoided cost rates, including, for example, the methodology for transitioning to fundamental forecasts in calculating avoided energy rates[2]; addressing line losses for distribution-connected QFs[3]; including an avoided hedging value in the rate calculation[4]; and will include the same performance adjustment factor ("PAF") in the avoided capacity calculation, as found to be reasonable in the *Sub 158 Order*.[5] The Utilities also do not intend to file any alteration to the current rate design, including their respective seasonal allocations of capacity value. The Duke

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[1] The Utilities also intend to file in November 2020 the required information pursuant to 18 C.F.R. § 292.302(b)(1)-(3), as they did separately from their initial statements on November 1, 2018, for example, in the previous avoided cost proceeding, Docket No. E-100, Sub 158.

[2] This issue was only controverted for the Duke Utilities, and the Commission determined that the Duke Utilities should calculate their avoided energy costs using forward natural gas prices for no more than eight years before using the fundamental forecast data for the remainder of the planning period. *See Sub 158 Order*, at 136.

[3] *See Sub 158 Order*, at 135 (directing Dominion to continue to eliminate 3% line loss adder from its standard offer avoided cost calculations for distribution-connected QFs, while directing Duke to continue to offer the line loss adder).

[4] *See Sub 158 Order*, at 62, 101.

[5] The PAF approved in the *Sub 158 Order* for the Duke Utilities is 1.05, while the PAF for Dominion is 1.07. *See Sub 158 Order*, at 135.

Utilities also plan to continue the same system-average SISC rate decrements approved in the *Sub 158 Order*,[6] and Dominion plans to continue to use the re-dispatch charge approved in the *Sub 158 Order.*

Through these streamlined 2020 avoided cost filings, the Public Staff, other intervenors and the Commission may focus on the Companies' compliance with the most recently-authorized avoided cost rate methodologies approved by the Commission and allow the Utilities more time to address the additional issues raised in the *Sub 158 Order*, as further addressed below, and to also engage with the Public Staff and stakeholders on modifications to the State's implementation of PURPA as provided for in FERC Order No. 872.

II. Request for Continuance of Additional Sub 158 Evaluation and Methodological Requirements to November 1, 2021

The Utilities' proposed November 2, 2020 update to their avoided cost rates for standard offer-eligible QFs is consistent with the Commission's direction in the *Scheduling Order* to include in their initial filings "a set of proposed rates for purchases from QFs, showing all calculations for deriving said proposed rates, including inflation rates and discount rates used . . . ." However, the *Scheduling Order* also noted that the *Sub 158 Order* had "set forth a number of *additional* issues to be addressed by the utilities in their initial filings" on November 2, 2020, in Docket No. E-100, Sub 167.[7] (emphasis added.)

[6] Should the future technical review committee report ordered in the *Sub 158 Order* recommend, and the Commission determine, that a different SISC charge should be used for QFs establishing a new legally enforceable obligation after November 2, 2020, the Companies are not opposed to truing up any difference between the adjusted SISC approved by the Commission in a future proceeding and the current rates proposed in this proceeding that incorporate the system-average SISC values approved for DEC and DEP in the *Sub 158 Order*.

[7] *Scheduling Order* at 1.

These additional issues include directing the Duke Companies, and, in certain cases, the Utilities, to:

- Evaluate the potential for implementing additional cost-effective demand side management ("DSM") programs that will be available to respond to winter demands and to address this issue in their initial statement (Duke);[8]
- Evaluate the use of more granular rate structures and, if found to be appropriate, to propose an optional alternative real-time pricing avoided cost rate tariff (Duke);[9]
- Evaluate cost increments and decrements to the publicly available CT cost estimates for purposes of calculating avoided capacity rates (Utilities);[10]
- Evaluate, with input from Public Staff, the use of other reliability indices, specifically the Equivalent Unplanned Outage Rate metric, to support development of the PAF (Utilities);[11]
- Evaluate the extent of backflow at substations to determine whether a line loss adder continues to be appropriate for distribution-connected QFs (Duke);[12]

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[8] *Sub 158 Order*, at 29; 134 (Ordering Paragraph 6). On July 21, 2020, the Commission issued its *Order Denying Motion for Reconsideration* in Sub Docket No. E-100, Sub 158 where it clarified that the Companies should file their resource adequacy studies, with additional detail and support for the study inputs and outputs, as well as the Nexant DSM market potential studies in this upcoming avoided cost proceeding.

[9] *Sub 158 Order*, at 134 (Ordering Paragraph 7).

[10] *Id.* (Ordering Paragraph 9).

[11] *Sub 158 Order*, at 135 (Ordering Paragraph 13).

[12] *Id.*, at 135 (Ordering Paragraph 15).

- Evaluate the potential for QFs to provide ancillary services benefits at lower costs than the utility's own conventional resources and, if so, propose appropriate compensation for those benefits (Duke);[13] and
- Submit the Astrape Integration Study methodology to an independent technical review committee that includes representatives employed by the National Laboratories for an in-depth review of the study methodology and modeling (Duke).[14]

In addition to the foregoing requirements, the *Sub 158 Order* also directed the Duke Companies to organize and conduct a virtual stakeholder process to address issues related to the addition of energy storage at existing QFs and to file a report on the results of the stakeholder process in September 2020, which Duke and Dominion (with robust participation and significant input from other stakeholders) have accomplished. Duke personnel have also spent significant time since April engaging with stakeholders on integrated resource planning initiatives in support of the Duke Companies' development of their recent September 1, 2020 IRP filings.

The Commission's additional requirements for inclusion in the 2020 avoided cost proceedings raise significant and complex issues that demand thoughtful, and thorough, responses and, often, collaboration with the Public Staff or other technical third-party consultants. After the Commission issued its April *Sub 158 Order* and throughout the summer of 2020, the Duke Utilities business personnel and counsel responsible for calculating and preparing the avoided cost filings in both North Carolina and South Carolina were focused on the energy storage retrofit stakeholder process directed by the

[13] *Sub 158 Order*, at 136 (Ordering Paragraph 24).
[14] *Id.*, at 95, 136 (Ordering Paragraph 25),

Sub 158 Order and developing the extensive IRP filings that were required to be filed by September 1, 2020. The Duke Utilities have also commenced discussions with personnel at multiple National Laboratories regarding the scope and objectives of the Commission's Astrape Integration Study methodology technical review committee directive after that requirement was clarified by the Commission's April 25, 2020 *Sub 158 Order*. To date, the Duke Utilities have not been able to engage personnel from a National Laboratory to undertake the requested technical review but are continuing these efforts.[15] Therefore, despite working diligently to do so, the Duke Utilities have been unable to complete the requested evaluations and to prepare responses to the Commission's request for information on the additional issues in time to include in their 2020 avoided cost initial statements to be filed November 2, 2020.

Additionally, as highlighted in the *Scheduling Order*, the FERC's issuance of Order No. 872 on July 16, 2020 identifies new avoided cost rate-setting methodologies and addresses a number of issues that have the potential to significantly impact the Utilities' and the Commission's implementation of PURPA in North Carolina, once FERC's amended regulations become effective December 31, 2020; thus a critical and comprehensive analysis of the new PURPA regulations issued in this order is also necessary before the Utilities can comment on the applicability of the FERC's revised PURPA regulations to their PURPA implementation.[16]

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[15] Duke began to pursue compliance with the Commission's technical review committee directive after the Supplemental Notice of Decision on the SISC charge was issued in 2019. The *Sub 158 Order*, however, added detail regarding the required make-up of that technical review committee that impacted the assembling of the technical review committee for compliance purposes. Duke will file a motion with the Commission should modifications or additional guidance be needed to accomplish the objectives of the technical review committee process prescribed in the *Sub 158 Order*.

[16] FERC Order No. 872's revisions to FERC's regulations implementing PURPA become effective December 31, 2020, which is 120 days after publication of the final rules in the Federal Register (85 FR 54638, published Sept. 2, 2020). *See* Order No. 872, at ¶ 753; PURPA then provides state regulatory authorities with one year

Based upon the foregoing, the Companies respectfully request to continue the directives and requirements identified in the *Sub 158 Order* until November 2021, so that they may prepare thoughtful, justified, and robust responses to the Commission's additional issues, engage with Public Staff and other interested stakeholders, as well as analyze the potential changes to avoided cost rate setting methodologies and PURPA implementation recently approved by the FERC in Order No. 872.

III. Request to Modify Timing of Biennial Standard Offer Proceedings

As discussed above, N.C. Gen. Stat. § 62-156(b) requires the Commission to review the Utilities' standard offer avoided cost rates and terms and conditions, "[a]t least every two years. . . "; however, the General Assembly has delegated to the Commission flexibility to establish the timing of this biennial review. The Utilities see significant benefits to "restarting" the biennial proceedings in November 2021, instead of simply delaying the 2020 avoided cost filing. Commission Rule R8-60(h)(1) currently requires the electric public utilities file their respective biennial IRPs on or before September 1st every two years, or every even-numbered year. This biennial report covers the next succeeding two-year period. On odd-numbered years, the Utilities file update reports with the Commission under Rule R8-60(h)(2). The Utilities' IRPs drive many of the inputs for the avoided cost filings, such as first year of capacity need, fuel forecasts, seasonal allocation of capacity value and other rate design issues. With the biennial IRP filings and the biennial avoided cost filings becoming increasingly complex, resources for the Utilities, Public Staff, intervenors, and the Commission can become strained, and scheduling can become difficult for all involved when the two cases significantly overlap. Scheduling the

to determine how to implement the new regulations for Utilities for which it has ratemaking authority. *See* 16 U.S.C. § 824a–3(f)(1).

biennial avoided cost proceeding in the odd-numbered years after the Commission has received and reviewed the Utilities' biennial IRPs would be beneficial to the Utilities and other stakeholders from an allocation of resources perspective and would also enable the Utilities to review and more effectively incorporate these common inputs from their IRPs into their next avoided cost filings.

IV. Intervenor/Stakeholder Feedback on Motion Prior to Filing

In an effort to facilitate more expeditious Commission consideration of the Motion, counsel for Duke shared the Joint Motion with counsel for the Public Staff, North Carolina Sustainable Energy Association ("NCSEA"); the North Carolina Clean Energy Business Alliance ("NCCEBA"), and the Southern Alliance for Clean Energy ("SACE"). None of these interested parties object to the Utilities proposal in Section I and the Public Staff supports the Utilities' requests for continuance of the additional *Sub 158 Order* requirements in Section II. NCSEA/NCCEBA and SACE conditionally support the requested continuance in Section II, if the Duke Utilities commit to further engagement with stakeholders on avoided cost issues, including Order No. 872 implementation, between now and November 2021, which the Duke Utilities agree to undertake. Duke also agrees to NCSEA/NCCEBA and SACE's request for transparency regarding the technical review committee's independent assessment of the Astrapé Integration Study methodology. Specifically, Duke commits to providing an update once the technical review committee is selected and scheduling a stakeholder meeting in Summer 2021 to discuss the results of the technical review committee's work. The Utilities and the Public Staff have also agreed that further discussion would be beneficial before biennial avoided cost filings are shifted for all future biennial proceedings to an odd year calendar;

however, the Utilities and the Public Staff agree that it is appropriate for updated avoided cost rates and the additional requirements of the *Sub 158 Order* to be comprehensively addressed in a new standard offer avoided cost filings in November of 2021.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Utilities request authorization to submit streamlined avoided cost filings on November 2, 2020 as outlined above and an extension of time to submit the additional information requested by the Commission in the *Sub 158 Order* and *Scheduling Order* until the Utilities' next biennial avoided cost filings which the Companies propose to file on November 1, 2021. The Utilities also request that hereafter the biennial avoided cost proceedings be conducted in odd numbered years to commence in 2021.

Respectfully submitted, this the 20th day of October, 2020.

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<u>CERTIFICATE OF SERVICE</u>

I certify that a copy of Duke Energy Carolinas, LLC, Duke Energy Progress, LLC and Dominion Energy North Carolina's Notification of Intended Compliance, Request for Continuance of Compliance with Certain Requirements, and Request to Modify Timing of Biennial Proceedings, in Docket No. E-100, Sub 167, has been served by electronic mail, hand delivery, or by depositing a copy in the United States Mail, 1st Class Postage Prepaid, properly addressed to parties of record.

This the 20th day of October, 2020.

Kendrick C. Fentress

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