



Jack E. Jirak  
Deputy General Counsel

Mailing Address:  
NCRH 20 / P.O. Box 1551  
Raleigh, NC 27602

o: 919.546.3257  
f: 919.546.2694

jack.jirak@duke-energy.com

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July 30, 2021

**VIA ELECTRONIC FILING**

Ms. A. Shonta Dunston  
Interim Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, NC 27699-4300

**RE: Duke Energy Carolinas, LLC's Supplemental Post-Hearing Brief  
Docket No. SP-13695, Sub 1**

Dear Ms. Dunston:

Enclosed for filing in the above-referenced docket, please find Duke Energy Carolinas, LLC's Supplemental Post-Hearing Brief.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,

Jack E. Jirak

Enclosure

cc: Parties of Record

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. SP-13695, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	
	)	
Petition for Relief of Orion Renewable Resources LLC	)	<b>SUPPLEMENTAL POST-HEARING BRIEF OF DUKE ENERGY CAROLINAS, LLC</b>
	)	
	)	

NOW COMES Duke Energy Carolinas, LLC (“Duke” or the “Company”), by and through counsel, and submits this Supplemental Post-Hearing Brief (“Brief”) to the North Carolina Utilities Commission (“Commission”) in the above-captioned docket.

**1. Introduction**

The primary issue in this proceeding centers around the interpretation and application of G.S. § 62-110.8(b)(2) and Commission Rule R8-71. The Company’s position with respect to that issue is set forth in its January 4, 2021 Post-Hearing Brief, and, as directed by the Commission, the Company will not reiterate that position herein.

There is much that is not in dispute in this proceeding. There is no dispute that Orion Renewable Resources LLC’s (“Orion”) has been awarded and has executed a CPRE Tranche 2 power purchase agreement (“PPA”) at a lower PPA price (*i.e.*, a lower cost to customers) and is now seeking to be awarded a Tranche 1 PPA at a higher PPA price (*i.e.*, a higher cost to customers).<sup>1</sup> There is also no dispute that Orion’s Tranche 1 proposal was determined by the Independent Administrator (“IA”) to be detrimental to customers (*i.e.*,

<sup>1</sup> November 2, 2020 Hearing Transcript, Tr. 32-33.

is projected to impose higher costs on customers relative to not selecting the Orion Tranche 1 proposal).<sup>2</sup>

In response to a request from the Commission during the November 2, 2020 hearing in this matter, Duke collaborated with the IA in developing the Late-Filed Exhibit (“LFE”). As addressed in the Company’s February 15, 2021 Response in Opposition to Motion to Strike, the LFE was “responsive to the Commission’s request for information and squarely within the latitude expressly authorized by the Commission in order to provide additional information to better inform the Commission’s understanding of the complex issues raised by the Commission during the hearing.” The LFE appropriately identified complex issues to be considered by the Commission, if necessary, including issues that impact Orion’s Tranche 1 proposal and potential follow-on implications for a range of similarly situated Tranche 1 proposals.

In its April 14, 2021 *Order Denying Motion to Strike and Reopening Record, Allowing Testimony or Comments on Late-Filed Exhibit, and Scheduling Further Hearing*, the Commission rejected Orion’s Motion to Strike and initiated a supplemental proceeding in order to “accept into evidence the Late-Filed Exhibit and to receive supporting and rebuttal testimony related to the facts and circumstances underlying the Late-Filed Exhibit and the information contained therein.”<sup>3</sup>

## **2. Argument**

- a. The Company’s Testimony Affirmed the Accuracy of the LFE, and the Commission Should, If Necessary, Consider the LFE in Reaching its Conclusion in this Matter.**

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<sup>2</sup> See Attachment to Late-Filed Exhibit.

<sup>3</sup> Order at 1.

In the supplemental hearing held June 30, 2021, the Company’s witnesses affirmed the accuracy of the LFE.<sup>4</sup> Therefore, it is appropriate that the LFE was accepted into evidence, and the Commission should consider the LFE in rendering a decision in this proceeding, if necessary.

The Company notes that Item 6 in the LFE addressed a certain class of projects—namely, projects that were eliminated in Tranche 1 based on a determination of negative Net Benefits after the application of transmission and distribution (“T&D”) costs determined in Step 2. As explained in the LFE, extensive further analysis was needed to “determine whether the applicable T&D costs, in addition to causing the Proposals to have a negative Net Benefit, also would have exceeded the Maximum Allowable T&D Upgrade Cost.”

Through the discovery process in this proceeding and as specified in the June 4, 2021 *Order Postponing Hearing, Granting Orion’s Motion to Compel, and Permitting Orion to File Limited Supplemental Testimony*, the Commission, in part, directed the IA to perform the analysis and gather the information required to address the considerations raised in connection with Item 6 in the LFE. As a result of such analysis, the IA confirmed that the 15 proposals identified in Item 6 would not have been eligible for a Tranche 1 PPA after taking into account the identified T&D costs and related interconnection considerations.

While the further analysis performed by the IA resolves the issues identified in Item 6, the issues identified in the remainder of the LFE should be considered by the Commission, if necessary, in rendering a decision in this proceeding.

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<sup>4</sup> June 30, 2021 Hearing Transcript, Tr. 117-188.

**b. The IA's Determination that Orion's Tranche 1 Proposal Will be Detrimental to Customers Has Not Been Rebutted.**

As identified in the LFE, the IA determined that Orion's Tranche 1 Proposal is projected to be detrimental to customers from an overall cost perspective, and Orion has not challenged or offered any evidence to counter the IA's analysis in this respect. While Orion witness Lasocki asserted that "[t]he claim that the Proposal is "detrimental to customers' makes very little sense,"<sup>5</sup> he was unable to identify any flaw or error in the IA's calculations that concluded the Orion Tranche 1 bid would result in more than \$3 million in additional costs to customers.<sup>6</sup>

**3. Conclusion**

Wherefore, the Company respectfully requests that the Commission take this Supplemental Post-Hearing Brief into account in its consideration in this proceeding.

Respectfully submitted, this the 30<sup>th</sup> day of July, 2021.



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Deputy General Counsel  
Duke Energy Corporation  
P.O. Box 1551/NCRH 20  
Raleigh, North Carolina 27602  
(919) 546-3257  
[jack.jirak@duke-energy.com](mailto:jack.jirak@duke-energy.com)

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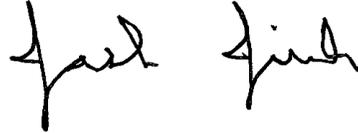
<sup>5</sup> Prefiled Supplemental Rebuttal Testimony of Timothy Lasocki, at 8.

<sup>6</sup> June 30, 2021 Hearing Transcript, Tr. 39, Lines 8-11.

**CERTIFICATE OF SERVICE**

I certify that a copy of Duke Energy Carolinas, LLC's Supplemental Post-Hearing Brief, in Docket No. SP-13695, Sub 1, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to parties of record.

This the 30<sup>th</sup> day of July, 2021.



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