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December 11, 2017

**VIA ELECTRONIC FILING**

M. Lynn Jarvis  
Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4300

**Re: Joint Response in Opposition to Joint Motion by the Southern Alliance for Clean Energy and North Carolina Sustainable Energy Association for Clarification and Modification  
Docket No. E-100, Sub 148**

Dear Ms. Jarvis:

On behalf of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, please find enclosed for filing a Joint Response in Opposition to the Joint Motion by Southern Alliance for Clean Energy and North Carolina Sustainable Energy Association for Clarification and Modification in the above-referenced docket.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Kendrick C. Fentress  
Associate General Counsel

Enclosure

cc: Parties of Record

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-100, SUB 148

In the Matter of	)	
Biennial Determination of Avoided Cost	)	<b>DUKE ENERGY CAROLINAS, LLC’S</b>
Rates for Electric Utility Purchases from	)	<b>AND DUKE ENERGY PROGRESS, LLC’S</b>
Qualifying Facilities – 2016	)	<b>JOINT RESPONSE IN OPPOSITION TO</b>
	)	<b>JOINT MOTION BY SOUTHERN</b>
	)	<b>ALLIANCE FOR CLEAN ENERGY AND</b>
	)	<b>NORTH CAROLINA SUSTAINABLE</b>
	)	<b>ENERGY ASSOCIATION FOR</b>
	)	<b>CLARIFICATION AND MODIFICATION</b>
	)	

NOW COME Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”), (collectively, the “Companies”), and hereby jointly respond in opposition to the Motion for Clarification and Modification (“Motion”), jointly filed by the Southern Alliance for Clean Energy (“SACE”) and North Carolina Sustainable Energy Association (“NCSEA”) in the above-captioned docket on November 13, 2017. In their Motion, SACE and NCSEA do not oppose the utilities’ recalculation of avoided cost rates for the current biennial proceeding, as directed in the Commission’s October 11, 2017, *Order Establishing Standard Rates and Contract Terms for Qualifying Facilities* (“Avoided Cost Order”) in the above-captioned docket. Instead they request the Commission to modify and clarify Finding of Fact No. 9 and Ordering Paragraph No. 7 of the Avoided Cost Order, both of which direct the Companies to use their proposed seasonal allocation weightings of 80% for winter and 20% for summer for calculating avoided capacity rates, for purposes of guiding future avoided cost filings by the Companies. Additionally, although the Commission’s conclusions from its June 27, 2017 *Order Accepting*

*Integrated Resource Plans and Accepting REPS Compliance Plans*, issued in Docket No. E-100, Sub 147 (“2016 IRP Order”), are not before the Commission in this proceeding, SACE and NCSEA request that the Commission modify its previous conclusions in the 2016 IRP Order with respect to the scope of the joint report (“IRP Joint Report”) that the Commission directed the Companies and the Public Staff of the North Carolina Utilities Commission (“Public Staff”) to prepare and file in that docket. (Motion at 5). Specifically, SACE and NCSEA request the Commission to: (i) clarify that there is a link between the integrated resource plan (“IRP”) determinations and avoided cost seasonal allocation weighting as they relate to seasonal planning, seasonal peaking, solar power’s contribution to peak, and reserve margin planning; (ii) direct the Companies and the Public Staff, with assistance and input from other parties as appropriate, to consider the following avoided cost issues and related intervenor concerns in the IRP Joint Report to help inform future biennial avoided cost proceedings: seasonal weighting and solar power’s contribution to peak; (iii) direct that the IRP Joint Report, with additional avoided cost considerations, shall be filed within 150 days of the filing of the Companies’ 2017 IRP updates, unless the Commission deems it appropriate to grant additional time to address the IRP and avoided cost “overlap”; (iv) direct the Companies to revise and update their resource adequacy studies to incorporate changes from the IRP Joint Report, its updated load forecast, and any other improvements that the Companies may identify based on comments and testimony raised in this avoided cost proceeding and related to the IRP; and (v) direct the Companies to use the results of the updated resource adequacy studies to revise its recommendations regarding seasonal allocation weightings in its

next biennial avoided cost filing, and to apply changes to its valuation of aggregate solar generation coincidence peak in its IRP forecast and use those results for purposes of identifying capacity need and other related applications of its IRP in its next avoided cost filing.

North Carolina General Statute (“G.S.”) § 62-80 provides that the Commission may at any time and upon notice to the public utility and to other parties of record affected, rescind, alter or amend any order or decision made by it. The Commission's decision to rescind, alter or amend an order upon reconsideration under [G.S. § 62-80](#) is within the Commission's discretion. *Order Denying NC Warn’s Motions for Reconsideration and to Compel Discovery*, Docket Nos. E-2, Sub 998 and E-7, Sub 986, at 8-9, Dec. 10, 2012 (“Reconsideration Order”) citing [State ex rel. Utilities Comm’n v. MCI Telecommunications Corp., 132 N.C. App. 625, 630, 514 S.E.2d 276, 280 \(1999\)](#). The Commission cannot arbitrarily or capriciously rescind, alter or amend a prior order, however. Rather, there must be some change in circumstances or a misapprehension or disregard of a fact that provides a basis for the Commission to rescind, alter or amend a prior order. Reconsideration Order at 9, citing [State ex rel. Utilities Comm’n v. North Carolina Gas Service, 128 N.C. App. 288, 293-294, 494 S.E.2d 621, 626, rev. denied, 348 N.C. 78, 505 S.E.2d 886 \(1998\)](#). NCSEA’s and SACE’s Motion has provided no new or changed circumstances or any other justification to compel the Commission to revisit its decisions in either the 2016 IRP Order or the Avoided Cost Order that direct the matters to be included and considered by the Companies in subsequent filings in IRP or avoided cost proceedings. Accordingly, their Motion should be denied.

A. Background

A review of the Avoided Cost Order shows that the Commission carefully and thoroughly considered the evidence and testimony from all parties, including NCSEA's witness Ben Johnson and SACE's witness Thomas Vitolo, Ph.D., on the issue of seasonal allocation weighting for purposes of calculating the Companies' avoided cost rates in this proceeding. (Avoided Cost Order at 59, 61). The Commission's evidence and conclusions on this issue refer to DEC/DEP witness Glen A. Snider's testimony that "the shift to winter planning is not due to the load forecast, but due to the penetration of solar resources and winter load variability" and that the impact of the Companies' proposed change in seasonal allocation of capacity payments to QFs would be "approximately one percent[.]" (Id. at 58-59). After its review of all the evidence, the Commission concluded that the Companies' proposed seasonal allocation:

demonstrates that a shift toward winter peak demands and winter seasonal loss of load risk is appropriate for purposes of seasonal allocation of capacity payments in this case. These changes, which have been influenced by the increased amount of solar-powered QFs interconnected to Duke's electric systems, justify an adjustment to the seasonal capacity allocation input to calculating avoided cost rates.

(Id. at 60). The Commission agreed with the evidence set forth in DEC/DEP witness Snider's testimony and further confirmed that it agreed that "winter capacity planning is distinct from winter peaking." (Avoided Cost Order at 60). Furthermore, the Commission concluded that "for purposes of this case it is appropriate to rely upon the resource adequacy studies for purposes of seasonal allocation of capacity payments." (Id.). The Commission reserved judgment, however, on the parties'

arguments regarding winter peaking versus winter planning and whether the reserve margins referenced in the Avoided Cost Order were appropriate for the Companies' integrated resource planning, citing certain sections of its 2016 IRP Order.

In the 2016 IRP Order, after review of the comments of the parties and entire record in the IRP proceeding, the Commission found that the Companies' peak load and energy forecasts were reasonable for planning purposes, but the Commission directed DEC to address any refinements to its forecasting methodology to better address load response in its 2017 IRP Update. (2016 IRP Order at 14-15). With respect to reserve margins, the Commission concluded that the Companies' reserve margins were reasonable for planning purposes. The Commission directed the Companies to work with the Public Staff to address concerns about the Companies' reserve margins raised by the Public Staff and SACE witness Wilson, however, and "to implement changes as necessary to ensure that the reserve margin target(s) are fully supported in future IRPs." (2016 IRP Order at 21-22). The Commission further directed that the Companies and the Public Staff file the IRP Joint Report, summarizing their review and conclusions within 150 days of filing the Companies' 2017 IRP updates. In addition to addressing the reserve margin concerns identified by the Public Staff and SACE, the IRP Joint Report is also intended to define the support and basis for the targeted reserve margins incorporated into their IRPs. (2016 IRP Order at 23). The Commission explained that if the parties could not reach consensus, the report should outline their differences and recommend a procedure for the Commission to pursue in reaching a conclusion about the reserve margins recommended by the Companies in their IRPs. (Id.). Accordingly, in the 2016 IRP

Order, the Commission has already outlined and defined the issues that the Joint Report should address, and the Commission has already directed that the Companies address issues raised by SACE and the Public Staff in the 2016 IRP proceeding in future IRP filings.

Additionally in the 2016 Avoided Cost Order and relevant to the Companies' response herein, the Commission concluded that it was appropriate for the utilities, including the Companies, to propose avoided cost rates in the next biennial avoided cost proceeding that reflected consideration of factors such as the availability of capacity, the QF's dispatchability and reliability, and the value of QF's energy and capacity, without regard to the technology the QF uses to generate electricity. (Avoided Cost Order, Finding of Fact No. 20 at 8; Ordering ¶ No. 16 at 111). After considering the testimony of the parties to the avoided cost proceeding, the Commission found that there was merit in the concept underlying the recommendations of witnesses from the Public Staff, NCSEA and SACE that an evaluation of the Utilities' avoided costs should consider the characteristics of the power supplied by a QF. (Avoided Cost Order at 98). Accordingly, the Commission directed the utilities in their next avoided cost filings to propose schedules specific to QFs that provide intermittent, non-dispatchable power, if their cost data demonstrated marked differences in the value of energy and capacity provided by these QFs. (Avoided Cost Order at 98).

- B. SACE and NCSEA's Motion for Clarification and Modification Is Beyond the Scope of this Docket and Presents No Compelling Reason for the Commission to Modify its Prior Directions on Subsequent Avoided Cost or IRP Filings.

SACE's and NCSEA's Motion requests that the Commission direct the Companies and the Public Staff, with assistance or input from other parties, as appropriate, to consider certain "avoided cost issues and related intervenor concerns" namely, seasonal allocation weighting for the calculation of avoided cost rates and solar's contribution to peak, in the IRP Joint Report to help inform future avoided cost proceedings. As such, SACE's and NCSEA's Motion actually requires reconsideration and modification of the Commission's establishment of the IRP Joint Report requirements in the 2016 IRP Order. Therefore, the Motion is beyond the scope of this docket and should be denied.

To overcome this procedural hurdle, however, NCSEA and SACE have asked the Commission to "clarify that there is a link between IRP determinations and avoided cost seasonal allocation weighting as they relate to seasonal planning, seasonal peaking, solar power's contribution to peak, and reserve margin planning." (Motion at 6). SACE and NCSEA further assert that the overall load forecast, winter peak forecast, and solar generation coincidence at peak are all critical inputs to the Companies' resource adequacy studies, and that the Commission relied upon those studies in making "key findings" in its Avoided Cost Order, even though the additional analysis and any resulting changes by the Commission in the IRP order have not been completed. (Id.).

SACE and NCSEA have presented no compelling reason for the Commission to revisit its prior determinations in either the 2016 IRP Order or the 2016 Avoided Cost Order. The Commission carefully considered the extensive evidence, comments, testimony and pleadings of the parties, including NCSEA and SACE, in

both the 2016 IRP proceeding and the 2016 Avoided Cost proceeding. In so doing, the Commission reached conclusions for those proceedings and, in each respective docket, deliberately outlined the matters that it wanted the Companies to consider in subsequent IRP proceedings and in subsequent avoided cost filings. Specifically, in the 2016 IRP Order, the Commission outlined the issues that the Public Staff and the Companies should address in their IRP Joint Report. The Companies have already been meeting with the Public Staff to determine areas of agreement and, potentially, areas without agreement. Once the IRP Joint Report is complete, the Companies fully intend to incorporate the areas of agreement between it and the Public Staff in subsequent IRP proceedings, and, as appropriate, in future avoided cost filings. Where there are areas of disagreement with respect to the IRP Joint Report, they will be presented to the Commission, and the Companies will follow the Commission's direction on those issues with respect to future filings as well. NCSEA's and SACE's request to expand the scope of the IRP Joint Report in the context of this motion for clarification and modification of the Avoided Cost Order and at this late date after the Commission directed the IRP Joint Report in the 2016 IRP Order is unfounded, and they have presented no evidentiary basis for the Commission to retroactively expand the IRP Joint Report's scope to include seasonal allocation weighting and solar's contribution to peak at this time.

In addition, contrary to SACE's and NCSEA's assertion that the Companies' resource adequacy studies required additional analysis, the Commission specifically determined that "high penetration of solar resources that have connected to the Companies' transmission and distribution systems in the past two to three years,

along with the high volume of solar resources currently in the interconnection queue have driven Duke’s resource adequacy studies.” (Avoided Cost Order at 60). The Commission also noted that the significant load response to the cold weather experience in the 2014-2015 winter periods had been other driver in the resource adequacy studies. (Id). Finally, the Commission concluded that “for purposes of this case it is appropriate to rely on the resource adequacy studies for purposes of seasonal allocation of capacity payments.” (Avoided Cost Order at 60). Therefore, there are no grounds upon which to disturb the Commission’s determinations and directives with respect to the Avoided Cost Order.

With respect to SACE’s and NCSEA’s specific request that the Companies revise and update their resource adequacy studies going forward to incorporate changes in the IRP Joint Report, updated load forecast and any other improvements that they may identify based on comments and testimony raised in this avoided cost proceeding, the Companies agree that they will incorporate changes resulting from the Joint Report and any other improvements as directed by the Commission or as necessary after Commission review of the Joint Report in future filings. The Companies note, however, that the Commission carefully considered the testimony and comments of the intervenors in both the Avoided Cost Order and the 2016 IRP Order. In the Avoided Cost Order, in particular, the Commission concluded that it was generally “unpersuaded” by the intervenors’ testimony and criticisms of the resource adequacy studies. (Avoided Cost Order at 61). Therefore, the Companies do not intend to update their resource adequacy studies with comments and testimony

raised by intervenors in the avoided cost proceeding that the Commission expressly did not find persuasive.

Additionally, with respect to SACE's and NCSEA's request that the Commission direct the Companies to use the results of updated resource adequacy studies to revise its recommendations regarding seasonal allocation weightings in the next avoided cost proceeding and apply changes to its valuation of aggregate solar generation coincidence at peak in its IRP forecast, the Companies note that they will revise their seasonal allocations as necessary after review and preparation of their next avoided cost filing. The Companies agree with the Commission that "the issue of system planning is dynamic, and conditions may change in the future." (Avoided Cost Order at 61). They further agree that the Companies will present their next IRP and avoided cost cases to the Commission likely within the next 12 months. At that time and in those proceedings, SACE and NCSEA will have the opportunity to intervene, request data, and respond to the Companies' proposals.

Finally, NCSEA and SACE indicate that "valuing solar capacity" is relevant to the determination of which years the IRP forecast demonstrates a capacity need and will be an essential input to the calculation of avoided capacity rates going forward. (Motion at 6). Consistent with the Commission's directive in Ordering ¶ 16 of the Avoided Cost Order, the Companies are working to develop a rate design that considers factors relevant to the characteristics of QF-supplied power that is intermittent and non-dispatchable. To develop this rate design will require significant additional studies and analysis. Certainly, within the context of this Motion for Clarification and Modification in this proceeding, it would be premature for the

Commission to mandate the specific studies and approaches at this time to be used for future IRP and Avoided Cost proceedings, to be filed nine to twelve months from now.

WHEREFORE, for the foregoing reasons, DEC and DEP respectfully request that the Commission deny SACE's and NCSEA's Motion for Clarification and Modification.

Respectfully submitted, this the 11<sup>th</sup> day of December, 2017.

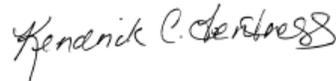


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## CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Joint Response in Opposition to the Joint Motion by Southern Alliance for Clean Energy and North Carolina Sustainable Energy Association for Clarification and Modification in No. E-100, Sub 148 has been served by electronic mail, hand delivery, or by depositing a copy in the United States Mail, 1<sup>st</sup> Class Postage Prepaid, properly addressed to parties of record.

This the 11<sup>th</sup> day of December, 2017.



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