

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
DOCKET NO. E-2, SUB 1167
DOCKET NO. E-7, SUB 1166**

In the Matter of:)	
Application of Duke Energy Progress, LLC)	NCSEA’S INITIAL
and Duke Energy Carolinas, LLC)	COMMENTS AND
Requesting Approval of Solar Rebate)	REQUEST FOR LIMITED
Program Pursuant to N.C. Gen. Stat. § 62-)	EXPEDITED REVIEW
155(f))	

**NCSEA’S INITIAL COMMENTS AND REQUEST FOR LIMITED EXPEDITED
REVIEW**

Pursuant to the North Carolina Utilities Commission’s (“Commission”) *Order Allowing Comments on 2019 Annual Report* issued on April 7, 2020 in the above-captioned docket, the North Carolina Sustainable Energy Association (“NCSEA”) offers the following comments on the changes proposed by Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (collectively, “Duke” or the “Companies”) in their April 1, 2020 *Duke Energy Progress, LLC’s and Duke Energy Carolinas, LLC’s Joint Annual Solar Rebate Program Report and Request to Amend Program Application Periods* (“Annual Report”). Specifically, NCSEA proposes changes to the solar rebate program that it and its members believe the Commission should adopt to improve the solar rebate program for 2021 and after.

I. INCREASING REBATE AVAILABILITY

Based on the history of the solar rebate program since 2018, it is clear that demand for rebates greatly exceeds supply for both the residential and the non-residential sectors,

and that demand is only increasing.¹ In 2018, the supply of rebates for these sectors was exhausted within two weeks of the opening of the application period;² in 2019, the supply of rebates for these sectors was exhausted within 1 hour and 28 minutes;³ in 2020, the supply was exhausted within 21 minutes.⁴

The Commission is faced with a choice on how to address the issue: to endeavor to increase supply or to attempt to reduce demand. NCSEA firmly believes that the Commission should attempt to increase the supply, or availability, of solar rebates. Attempting to reduce demand would be counter to the intent of House Bill 589, which adopted N.C. Gen. Stat. § 62-155(f) and made numerous changes throughout Chapter 62 of the General Statutes designed to increase the availability and affordability of clean energy in North Carolina. As discussed in detail below, in these comments, NCSEA proposes two ways to increase the supply of rebates for the residential sector and the for-profit nonresidential sectors that are both allowed under N.C. Gen. Stat. § 62-155(f) and are cost neutral.

A. INTERPRETING DUKE'S ANNUAL REPORT

In its Annual Report, Duke states that:

The Companies have also observed an increase in the percentage of residential and nonresidential customers installing their projects prior to receiving a rebate application from 2019 (39%) to 2020 (50%). This indicates to the Companies that customers are signing contracts with the

¹ NCSEA does not propose for the changes discussed in Section I of these comments to apply to the nonprofit set-aside established by N.C. Gen. Stat. § 62-155(f)(3). Demand for the nonprofit set-aside has consistently been less than the supply, and as such, NCSEA does not believe that the availability of nonprofit rebates needs to be increased.

² Duke Response to Public Staff Data Request No. 2-10.

³ Duke Response to Public Staff Informal Data Request No. 2-1.

⁴ *Duke Energy Progress, LLC's and Duke Energy Carolinas, LLC's Joint Update on the Solar Rebate Program and Joint Response Opposing NCSEA's Request for Hearing*, p. 2 (February 14, 2020).

expectation that the current rebate value will be in place when they receive their rebate.⁵

While NCSEA does not disagree with the evidence presented by Duke, NCSEA does draw a different conclusion: customers are signing contracts and installing rooftop solar without any expectation that they will receive a rebate. Given the fact that rebate allocations for the residential and nonresidential sectors have been exhausted in less than 90 minutes for the past two years, customers can no longer expect to receive a rebate. NCSEA's conclusion has been reinforced in conversations with its members, which has revealed that fewer installer companies are including the value of the rebate in the financial calculations that they provide to their customers.

Duke goes on to state that, based on their conclusion that NCSEA believes is erroneous, it “believe[s] many customers could be harmed, based on their expectations, by changing the rebate for the 2021 program opening. Rather than potentially disrupt expectations in marketplace in 2021, the Company is open to changing the rebate amounts in 2022.” Inasmuch as NCSEA disagrees with Duke's initial conclusion about why customers are installing solar prior to applying for a rebate, NCSEA also believes that the Commission should make changes to the solar rebate program for 2021, rather than waiting for 2022, which will be the final year of the program, with the exception of a potential roll-over of unused nonprofit allocations. If customers cannot depend on receiving a rebate, and are not factoring it into their financial decisions, then there is no harm in making changes now for the 2021 rebate allocation that will benefit more rooftop solar adopters.

⁵ Annual Report, p. 6.

Incentives are, by definition, designed to incent a behavior. In the case of N.C. Gen. Stat. § 62-155(f) and the above-captioned dockets, the solar rebate incentives are intended to drive increased adoption of rooftop solar, and the Commission’s design of the solar rebate program should reflect that. If the solar rebate program is no longer incenting customers to adopt rooftop solar because not enough customers are able to participate, then the Commission should take action to expand the number of customers who can participate in the program. The overall size of the solar rebate program is set by statute,⁶ and thus the Commission is bound by the determination of the General Assembly in this regard. However, there are other actions that the Commission can, and should, take to expand the number of customers who can participate in the rooftop solar rebate program. NCSEA presents two options below that would allow the Commission to increase the number of customers who can participate in the rooftop solar rebate program without increasing the overall costs of the program.

B. OPTION 1: LOWERING THE SYSTEM SIZE LIMITS

N.C. Gen. Stat. § 62-155(f) states that the solar rebate “incentive *shall be limited to* 10 kilowatts alternating current (kW AC) for residential solar installations and 100 kilowatts alternating current (kW AC) for nonresidential solar installations.” (emphasis added). Notably, the statute does not say that the incentive *shall be* 10 kW and 100 kW. The General Assembly could have provided this direction to the Commission but chose not to do so. Instead, the General Assembly has afforded the Commission the discretion to change the maximum system size for rebate availability, so long as the maximum size does

⁶ N.C. Gen. Stat. § 62-155(f) (“The program incentive established by each public utility subject to this section shall meet all of the following requirements: (1) Shall be limited to 10,000 kilowatts (kW) of installed capacity annually[.]”).

not exceed 10 kW AC for residential solar installations and 100 kW AC for non-residential solar installations.

Given this flexibility, NCSEA requests that the Commission amend the solar rebate program requirements to have a maximum rebate of 5 kW for residential installations and a maximum rebate of 50 kW for nonresidential installations that are not non-profit installations.⁷ NCSEA does not propose to change the \$0.60/kW and \$0.50/kW rebate amounts for these respective categories, nor does NCSEA propose that the 50 kW system size would apply to nonprofit installations.

Changing the limits for these systems to 5 kW and 50 kW would not double the supply of rebates, but would significantly increase the supply. The change would also be revenue neutral, since the cumulative capacity of these rebate allocations would be unchanged.

C. OPTION 2: ALLOWING REBATES ON ONLY HALF OF THE SYSTEM SIZE

N.C. Gen. Stat. § 62-155(f) is silent on rules and requirements for the solar rebate program. However, N.C. Gen. Stat. § 62-31 affords the Commission the “full power and authority to administer and enforce the provisions of this Chapter, and to make and enforce reasonable and necessary rules and regulations to that end.” To this end, the Commission has approved several rules, regulations, or requirements regarding the solar rebate program that are not required by N.C. Gen. Stat. § 62-155(f), including: requiring an applicant to

⁷ The solar rebate program currently allows systems that are larger than the maximum system size to apply for a rebate, but they will only receive a rebate amount on the maximum allowed size (e.g., a 12 kW residential system receives a 10 kW rebate). NCSEA does not propose changing this policy (a 12 kW residential system would now receive a 5 kW rebate).

apply no more than 90 days following the installation of a qualifying system;⁸ requiring a 10-year contract term;⁹ and requiring early termination fees.¹⁰ NCSEA proposes that the Commission adopt a new requirement: that every kW of installed solar capacity that is eligible for the rebate also be paired with a kW of installed solar capacity that is not eligible for the rebate, up to a 10 kW rebate for residential installations and a 100 kW rebate for nonresidential installations that are not nonprofit installations. Utilizing a 1:1 ratio for rebate-eligible and rebate ineligible solar serves two important policy purposes: first, it substantially increases the number of ratepayers in these segments who would be able to participate in the solar rebate program; since rebates would be based on smaller eligible system sizes, more systems could be installed under the statutory limit contained in N.C. Gen. Stat. § 62-155(f)(1). Second, by reducing the dollar amount of the rebates that ratepayers would receive, it also reduces the negative financial impact for customers who are waitlisted and ultimately do not receive a rebate. **Table 1**, below, shows examples of how such an allocation would work for various installation sizes. NCSEA does not propose to change the \$0.60/W and \$0.50/W rebate amounts for these respective categories, nor does NCSEA propose that the 1:1 ratio would apply to nonprofit installations.

⁸ *Order Modifying and Approving Riders Implementing Solar Rebate Program*, pp. 9-10 (April 3, 2018).

⁹ *Id.* at 14.

¹⁰ *Id.* at 12.

Table 1

Customer Type	Installed Size	Rebate Eligible kW (1:1 Ratio Up to 10 kW/100 kW)	Rebate Ineligible kW (1:1 Ratio Up to 10 kW/100 kW)	Rebate Ineligible kW (Larger Than the 10 kW/100 kW Limit)
Residential	6 kW	3 kW	3 kW	N/A
Residential	12 kW	6 kW	6 kW	N/A
Nonresidential	30 kW	15 kW	15 kW	N/A
Nonresidential	250 kW	100 kW	100 kW	50 kW

D. IMPACT OF NCSEA’S PROPOSED CHANGES ON REBATE APPLICATIONS

According to NCSEA’s analysis of the 2020 rebate applications, Duke received applications for 25,639 kW of rebate-eligible solar capacity under the current requirements. Duke was able to award rebates to 19,640 kW of those installations, leaving 5,999 kW of otherwise eligible capacity waitlisted.

As shown in **Table 2** below, Under NCSEA’s proposed 5 kW and 50 kW system size limits, there would have been 16,851 kW of rebate-eligible solar capacity in 2020.¹¹ Under NCSEA’s proposed 1:1 ratio, there would have been 13,620 kW of rebate-eligible solar capacity in 2020. Under either option, many more customers would be able to receive rebates.

¹¹ The data provided by Duke to NCSEA in discovery from January 2020 included only “approved” system sizes for rebate applications that were accepted. Therefore, for a residential system that was approved at 10 kW, NCSEA does not know whether it was truly 10 kW or if it was a 14 kW system that was only eligible for a 10 kW rebate under the current requirements. For purposes of this analysis, NCSEA assumed that the project was actually 10 kW. Therefore, NCSEA recognizes that the actual kW of rebates that would have been awarded in 2020 under the two options that we propose may actually be greater than our calculations.

Table 2

	Current Requirements	5 kW / 50 kW Limit	1:1 Ratio
Residential	20,732.3 kW	13,046.2 kW	10,601.0 kW
Commercial	4,103.5 kW	3,001.1 kW	2,215.7 kW
Nonprofit	803.5 kW	803.5 kW	803.5 kW
Total Eligible	25,639.3 kW	16,850.8 kW	13,620.2 kW

II. BIENNIAL RELEASE AND OPEN APPLICATIONS FOR 2021 IN OCTOBER 2020

In its Annual Report, Duke proposes:

To assist with selling systems throughout the year, the Companies propose releasing half of the capacity on the fifth business day of January and the other half of the annual capacity on the fifth business day of July. The waiting list from January would cancel on June 30, and the waiting list from July would cancel on December 31. Splitting the capacity would allow customers two opportunities per year to receive a rebate reservation, installers would be able to sell systems to customers year-round and this should decrease the volume of applications received on the day of the launch.¹²

NCSEA has conferred with its members, and supports biennial releases of capacity.¹³

However, given the ongoing uncertainty of stay-at-home orders due to COVID-19, the economic impacts of the pandemic, and the potential for a second wave of the pandemic in the fall or winter,¹⁴ NCSEA believes that the first such biennial application period should

¹² Annual Report, p. 7.

¹³ While these comments focus on biennial application periods, NCSEA does not oppose Duke's request to move the opening of the application period from the first business day to the fifth business day.

¹⁴ Len Strazewski, *Harvard epidemiologist: Beware COVID-19's second wave this fall*, American Medical Association News (May 8, 2020), <https://www.ama-assn.org/delivering-care/public-health/harvard-epidemiologist-beware-covid-19-s-second-wave-fall>.

open in October 2020.¹⁵ Advancing the opening of the 2021 application period would provide certainty to customers applying for the rebate, and potentially address Duke’s concern regarding customers applying for rebates after installing rooftop solar; advancing the opening would also provide business certainty for rooftop solar installers.

In its Annual Report, Duke also states that it “intend[s] to continue to keep the 90-day window for both launch dates. The projects completed within 90 days of the launch date would be eligible to apply.”¹⁶ NCSEA supports retaining the 90-day rule. For the purposes of NCSEA’s proposed October 2020 opening, NCSEA believes that the 90-day rule should be applied from the October opening date, and as such, projects installed beginning in early July should be eligible for the 2021 rebate. NCSEA recognizes that this creates a short timeframe to implement the modifications, and is prepared to work with the Commission, Duke, and any other intervenor to effectuate these changes in a timely manner. To that end, NCSEA requests the Commission make an expedited decision on this discrete issue. NCSEA’s member-installers are motivated and are willing to be a resource to Duke to assist in educating customers about an October opening and its associated impact on the 90-day rule, even without expedited clarity on the other requests at issue. As noted above, NCSEA’s member-installers do not guarantee that their customers will receive a rebate, so NCSEA believes that, if the recommendations contained in Section I are adopted, the prospect of customers receiving a lowered rebate amount will not affect an expedited 90-day window.

¹⁵ Pursuant to the requirements of N.C. Gen. Stat. § 62-155(f)(1), NCSEA proposes that, while the application window would open in October, rebates would not actually be provided to customers until 2021.

¹⁶ Annual Report, p. 7.

III. SOFTWARE ISSUES

On January 2, 2020, when the application period for the 2020 rebate allocation opened, Duke's website experienced a software malfunction.¹⁷ In response, Duke voluntarily "committed to 'stress-testing' the application process in advance of the application window opening in January 2021."¹⁸ While NCSEA recognizes that technical mishaps occur, and praises Duke for proactively committing to stress-test their software, we also recognize that technical mishaps can have a negative impact on consumer confidence. As such, NCSEA requests that Duke file the results of the stress-test with the Commission after it is completed. In addition, in these comments, NCSEA has requested that the rebate application window open in October 2020, instead of January 2021. As such, NCSEA requests that Duke ensure that the stress-test of the software be completed prior to the October 2020 rollout.

IV. CONCLUSION

The solar rebate program is now at its midway point, having completed three years and with two years plus a roll-over year remaining. The first three years of the solar rebate program have demonstrated that demand for the program greatly exceeds the supply of rebates. In these comments, NCSEA has proposed two possible ways to increase the supply of rebates for residential customers and nonresidential customers that are not nonprofits. These changes do not increase the overall cost of the rebate program, but could potentially increase administrative costs, which are recoverable from ratepayers pursuant to the rider

¹⁷ *Duke Energy Progress, LLC's and Duke Energy Carolinas, LLC's Joint Update on the Solar Rebate Program and Joint Response Opposing NCSEA's Request for Hearing*, p. 1 (February 14, 2020).

¹⁸ *Id.* at 6.

established in N.C. Gen. Stat. § 62-133.8(h). While any increase in administrative costs should be minimized, NCSEA notes that the overall costs of DEC and DEP’s compliance with N.C. Gen. Stat. § 62-133.8 have consistently been below the cost caps established in N.C. Gen. Stat. § 62-133.8(h)(4). Accordingly, NCSEA believes that increases in administrative costs associated with greatly expanding the availability of solar rebates, which should be minor, are reasonable and warranted.

The next solar rebate program application opening will be for the second-to-last full year of the program. In order for changes to the solar rebate program to be impactful, they should be implemented for the 2021 application period; the Commission should not delay implementing changes until 2022. In comments on Duke’s 2019 annual report on the rebate program, the Public Staff expressed their belief that any adjustments to the solar rebate program should be made “prior to the 2021 rebate window (for years four and five of the Solar Rebate Program)[.]”¹⁹

In these comments, NCSEA requests that the first bi-annual application period for the 2021 rebate allocation open in October 2020, and that the 90-day rule be based on this October opening date. This would mean that the 90-day rule would impact meter swaps occurring in July. Therefore, as noted above, NCSEA requests expedited consideration of this discrete request. NCSEA requests the remainder of these requests be decided by the Commission prior to the opening of the 2021 rebate application period.

¹⁹ *Comments of the Public Staff*, p. 2 (June 6, 2019).

Respectfully submitted, this the 5th day of June, 2020.

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CERTIFICATE OF SERVICE

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing Initial Comments and Request for Limited Expedited Review by hand delivery, first class mail deposited in the U.S. mail, postage pre-paid, or by email transmission with the party's consent.

This the 5th day of June, 2020.

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