

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1170
DOCKET NO. E-7, SUB 1169

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| In the Matter of | |
| Petition of Duke Energy Progress, LLC, |) |
| and Duke Energy Carolinas, LLC, |) |
| Requesting Approval of Green Source |) |
| Advantage Program and Rider GSA to |) |
| Implement N.C.G.S. § 62-159.2 |) |
| | ORDER ON CLARIFICATION |

BY THE COMMISSION: On September 10, 2019, the North Carolina Clean Energy Business Alliance (NCCEBA) and the North Carolina Sustainable Energy Association (NCSEA) filed a motion for clarification, requesting that the Commission issue an order clarifying that the fixed bill credit option available under the Commission-approved GSA Program does not include the solar integration services charge (SISC) proposed in the 2018 biennial avoided cost proceeding (Docket No. E-100, Sub 158) and that the fixed bill credit is based on the avoided cost methodology and rates approved in the 2016 biennial avoided cost proceeding (Docket No. E-100, Sub 148).¹

On September 20, 2019, Duke filed comments in response to NCCEBA and NCSEA's motion for clarification. In summary, Duke states that it has agreed with the Public Staff and with NCCEBA and NCSEA to apply the Sub 148 avoided cost methodology to the GSA Program until such time as the Commission issues its decision in Docket No. E-100 Sub 158. Further, Duke states that it intends to utilize as a cutoff point in determination of the applicable avoided cost bill credit the date of submission of a GSA Application, such that if the GSA Application is submitted prior to the date of the Commission's decision in Docket No. E-100 Sub 158 and selects the avoided cost bill credit, it will receive a bill credit based on the Sub 148 avoided cost methodology.

On October 1, 2019, the Commission issued an Order Partially Suspending Program Opening suspending the availability of the fixed bill credit option under the GSA Program to facilitate the issuance of a notice of decision or final order in Docket No. E-100, Sub 158. Thereafter, on October 2, 2019, Duke filed a joint motion for clarification. In summary, Duke proposed an alternative to the suspension of the program, whereby the initial enrollment results would be honored and the enrollment window would remain open indefinitely for additional enrollments. Further, once the Commission provides a response to NCCEBA's and NCSEA's motion for clarification, any GSA customer that has submitted an application and has selected the administratively

¹ At that time, the proposed SISC and Duke's proposed avoided cost rates were pending before the Commission in the 2018 biennial avoided cost proceeding (Docket No. E-100, Sub 158).

established avoided cost bill credit would be given the opportunity to continue with the application, to switch to the hourly marginal avoided cost bill credit and continue with the application, or to withdraw from the program.

On October 10, 2019, the Commission issued an order approving Duke's proposed approach as appropriate for the purpose of interim implementation of the GSA Program.

DISCUSSION AND CONCLUSIONS

After careful consideration of the foregoing and the entire record herein, the Commission accepts the agreement reached among the parties to utilize the methodology approved in Docket No. E-100, Sub 148 to determine the bill credit amounts for GSA Program customers selecting the avoided cost bill credit (utilizing "up-to-date data in determining the inputs for negotiated avoided cost rates, updated at the time of the submission of the GSA Service Agreement," GSA Program Order, at 46). As to the one customer that submitted an application for a total capacity amount in excess of the capacity available in DEC, the Commission determines that this customer should be offered the following options: (1) to continue with its application partially, subscribing to the amount of remaining capacity currently available; (2) to suspend proceeding with its application and retain its queued position and the availability of the bill credit based upon the Sub 148 avoided cost methodology, subject to future developments that make available capacity allocated to DEC (for example, if a higher-queued application is withdrawn); or (3) withdraw its application. The Commission further determines, in its discretion, that eligible customers that submit a GSA Program Application after the issuance of the Commission's Notice of Decision in Docket No. E-100, Sub 158, shall be eligible to receive a bill credit that is based upon the avoided cost methodology approved in that docket. As of the date of Duke's initial filing in the 2020 biennial avoided cost proceeding, the methodology approved in the Sub 158 proceeding shall no longer be utilized to establish the bill credit; rather, as of that date, the methodology proposed in the 2020 biennial proceeding shall be the basis for the bill credit, subject to true up upon a final order in the proceeding. Because of the unique situation and the equities involved, this decision should not be cited for precedential value in this or any other proceeding before the Commission.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of December, 2019.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Kimberley A. Campbell". The signature is written in a cursive, flowing style.

Kimberley A. Campbell, Chief Clerk

Commissioner Jeffrey A. Hughes did not participate in this decision.

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Commissioner Daniel G. Clodfelter, concurring:

I join in the substance of the clarification set out in the Commission's order and in the directives given in that order with respect to administration of the GSA Program, but I do so on a somewhat different basis than is stated in the order. The order recites that the Commission is accepting an agreement among the parties with respect to the determination of the amount of the bill credit under the "fixed bill credit" option available under the GSA Program. The motion before us is one seeking clarification of the Commission's order in this docket issued on February 1, 2019 (the "Order"), in which the Commission directed that the amount of the bill credit under the "fixed bill credit" program option be " ... consistent with the most recent Commission-approved avoided cost methodology" and that it use "up-to-date data in determining the inputs for negotiated avoided cost rates, updated at the time of the submission of the GSA Service Agreement." Order p. 47. In my view it is for the Commission to determine the meaning of its own orders. The question thus presented is not one that can be settled by agreement among the litigants themselves.

That said, it is further my view that the language used on page forty-seven of the Order was unfortunately imprecise in spelling out the point in time to which it intended to refer. Was the phrase "most recent Commission-approved avoided methodology" to be understood as speaking to the date the Order was issued -- February 1, 2019 -- or instead as speaking to some other date? And if the latter is the case, the optional interpretations are multiple. The reference could be to the date the utilities made their compliance filings pursuant to the Order, the date the GSA program was formally opened to participation, the date participants actually executed GSA program agreements, or, as contended by some, the date of the most recent biennial filing by the utilities of new proposed avoided cost methodologies? Different parties have advocated for different understandings of what should be considered "most recent." In light of this imprecision in expression of the Commission's intent and considering all the equities articulated in the parties' filings, I reach the same result as does the Commission in its order.

/s/ Daniel G. Clodfelter

Commissioner Daniel G. Clodfelter