



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

June 30, 2021

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

Re: Docket No. E-7, Sub 1247 – Application Pursuant to G.S. 62-110.8
and Commission Rule R8-71 for Approval of CPRE Compliance
Report and CPRE Cost Recovery Rider

Dear Ms. Dunston:

Attached for filing is the Public Staff's Additional Finding of Fact for the Proposed Order in the above-referenced docket, to be considered in conjunction with the Partial Joint Proposed Order of Duke Energy Carolinas, LLC and the Public Staff that was filed separately in this docket. The numbering used in the Additional Finding, Evidence, and Conclusion is intended to provide guidance to the Commission in its review, but does not reflect the placement of the provisions in the Partial Joint Proposed Order.

By copy of this letter, I am forwarding a copy of the redacted version to all parties of record by electronic delivery. The confidential version will be provided to those parties that have entered into a confidentiality agreement.

Sincerely,

Electronically submitted
s/ Layla Cummings
Staff Attorney
layla.cummings@psncuc.nc.gov

Attachment

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**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-7, SUB 1247

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Duke Energy Carolinas, LLC,) PROPOSED ADDITIONAL
for Approval of CPRE Cost Recovery Rider) FINDING, EVIDENCE, AND
Pursuant to N.C.G.S. § 62-110.8 and) CONCLUSION OF THE
Commission Rule R8-71) PUBLIC STAFF

Below is the additional finding of fact of the Public Staff.

PUBLIC STAFF'S ADDITIONAL FINDING OF FACT

1. It is appropriate at this time to require Duke Energy Carolinas, LLC (DEC or the Company) to continue to seek market-based recovery in lieu of cost-of-service (COS)-based recovery in any future proceeding for cost recovery of utility owned projects selected in the Competitive Procurement of Renewable Energy (CPRE) Program established pursuant to N.C. Gen. Stat. § 62-110.8, after the initial contract term of 20 years, and onward for the life of the facility.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

The evidence for this finding of fact is found in the testimony of Public Staff witness Thomas and the rebuttal testimony of DEC witness Jones.

Public Staff witness Thomas testified that the Public Staff believes that market-based recovery is in the public interest both in the initial term and in the post-term for utility owned facilities procured pursuant to N.C.G.S. § 62-110.8(a). DEC witness Jones agreed that market-based recovery is in the public interest for

the 20-year initial term being considered in this proceeding, but DEC takes the position that it is unnecessary to address post-term cost recovery for self-build facilities at this time.

Commission Rule R8-71(l)(4) states that:

If market-based authorized revenue for a generating facility owned by the electric public utility and procured pursuant to this Rule was initially determined by the Commission to be in the public interest, then the electric public utility shall similarly be permitted to continue to receive authorized revenue based on an updated market based mechanism, as determined by the Commission pursuant to G.S. 62-110.8(a). Any market based rate for either utility owned or non-utility owned facilities shall not exceed the electric public utility's avoided cost rate established pursuant to G.S. 62-156. If the electric public utility's initial proposal includes assumptions about pricing after the initial term, such information shall be made available to the Independent Administrator and all participants.

Public Staff witness Thomas noted that the "as bid" price for the twenty year term is less than the estimated levelized COS-based revenue requirement per megawatt-hour (MWh) for both of the utility owned facilities being considered in this proceeding, Gaston and Maiden Creek. [BEGIN CONFIDENTIAL] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. [END CONFIDENTIAL]

Furthermore, the Tranche 1 and Tranche 2 Request for Proposals (RFP) specifically stated the following regarding post-term assumptions for utility owned projects bid into the competitive procurement:

Utility Self-Developed Proposals and conversions of Asset Acquisition Proposals will be priced based on the assumption that these facilities will continue to receive market-based revenues based on a pricing mechanism to be established by the Commission at the conclusion of the initial 20-year term of the PPA.

DEC witness Jones confirmed in her rebuttal testimony that DEC assumed market-based recovery in the post-term when DEC developed its bids consistent with the requirements of the RFP.

Public Staff witness Thomas testified that requiring DEC to seek market-based recovery in lieu of COS-based recovery for DEC assets selected in the CPRE in the initial term and in the post-term is vital to maintain the integrity of the CPRE Program, which is in the public interest. If DEC is permitted to recover any costs associated with its CPRE projects on a COS basis through rate base in excess of the market bid price, now or in the post-term, that would result in DEC having an advantage over other market participants (MP) who do not have that option. All other MPs selected in the CPRE must recover their costs through their as-bid price and assume the risk of receiving market-based rates or seek to sell their output as a qualified facility after the initial term, and the revenues received for those post-term sales may be insufficient to fully recover project capital costs and expenses plus an acceptable rate of return.

Witness Thomas noted that this issue received attention in the CPRE Rulemaking proceeding, Docket No. E-100, Sub 150. In that proceeding, intervenors raised concerns that utility cost recovery of utility owned assets could

create an unlevel playing field.¹ In response, Duke proposed the language that was eventually adopted in Commission Rule R8-71(l)(4), stating “that this provision will allow both third-party developed proposals and utility owned project development proposals to more effectively compete within the CPRE RFP solicitation process.”²

The Commission agrees with the Public Staff that the issue of post-term cost recovery must be addressed now to ensure a level playing field for utility and third party-owned facilities bidding into the CPRE and to maintain the integrity of the program in future tranches. The success of future tranches of the CPRE Program depends on the fairness of the bidding process. Consistent with Duke’s assumptions as stated in the RFP, the Commission concludes that is appropriate and in the public interest to require DEC to continue to seek cost recovery on a market basis for its utility owned facilities selected in the CPRE Program beyond the initial 20-year term for the remaining life of the facilities.

IT IS, THEREFORE, ORDERED as follows:

1. DEC shall continue to seek market-based recovery for the life of the facility for any utility owned facilities that receive market-based recovery in the initial term procured in the CPRE Program established pursuant to N.C.G.S. § 62-110.8.

¹ Docket E-100, Sub 150, Amended Initial Comments of North Carolina Clean Energy Business Alliance (Aug. 17, 2017), at 18-19, and Initial Comments of North Carolina Sustainable Energy Association (Aug. 17, 2017), at 18-20.

² Docket E-100, Sub 150, Duke’s Reply Comments and Amended Proposed Rule to Implement N.C. Gen. Stat. § 62-110.8 (Sep. 8, 2017), at 15.

ISSUED BY ORDER OF THE COMMISSION.

This the ___ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Interim Chief Clerk