

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 101

In the Matter of)	GREENGO ENERGY’S
Petition for Approval of Revisions)	COMMENTS ON QUEUE
to Generator Interconnection)	REFORM PROPOSAL
Standards)	

GreenGo Energy US, Inc. (“GreenGo”),¹ by and through counsel, hereby submits these Comments on the Queue Reform Proposal (“Proposal”) filed by Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (collectively, “Duke”) on May 15, 2020.

INTRODUCTION AND SUMMARY

Duke’s Proposal would fundamentally transform the interconnection processes and requirements for both distribution and transmission-connected projects. For transmission projects, the reforms may have merit—and as to these projects, GreenGo takes no position, instead deferring to other industry commenters. For distribution projects, however, the Proposal should be rejected as in derogation of the rights of specific subset of projects party to a private settlement agreement with Duke and, more generally, as not adequately supported.

There are two basic, critical problems with Duke’s Proposal as it relates to distribution projects.

¹ GreenGo was allowed to intervene in this proceeding by Order of the Commission dated September 18, 2019.

First, as to a subset of legacy distribution projects (the “Covered Projects”),² Duke’s Proposal (1) contravenes its private contractual commitment that it would not change the interconnection “rules of the game” for these projects and (2) is an attempt to circumvent pending litigation over Duke’s breach of its contractual obligation by its unilateral implementation of cluster studies for the Covered Projects. Duke’s private contractual commitment was the product of a Settlement Agreement resolving other contested issues between the parties. Duke benefitted from that settlement, as the settling parties did not pursue litigation against Duke resulting from Duke’s prior conduct—conduct which is detailed and documented in the Settlement Agreement itself. Having accepted the benefits of the agreement, Duke now seeks to effectively negate its obligations by proposing something it promised these projects it would not do—but which it did anyway: change the rules of the game. This is improper and unfair. This Commission should not participate in Duke’s effort to circumvent the pending litigation by altering the Interconnection Procedures in a manner that could affect the promises made by Duke in the Settlement Agreement.

Second, Duke’s Proposal to treat distribution and transmission projects as if they are similarly situated is flawed. Distribution and transmission projects are, by definition, vastly different projects, as they seek to interconnect with different functional components of Duke’s network; they are smaller in size and scale and, therefore, have drastically different economics; and they do not impact the grid in nearly the same manner and extent

² On information and belief, this subset of projects includes some 32 projects in DEP’s territory in North Carolina, representing approximately 160 MWs. These projects have been held up in the queue for several years due to alleged “transmission constraints”.

as transmission connected projects. Despite these differences, Duke presents no evidence that there is any actual need for a cluster study process for distribution projects or that its proposed cluster approach would reasonably and fairly allocate costs to these projects. While Duke's Proposal hints that distribution projects can, theoretically, negatively impact the transmission grid, it does not allege any actual documented negative impacts nor any basis for concluding that distribution projects could negatively impact the grid. Compounding this defect, Duke's filing assiduously avoids disclosing the reality that there are virtually no new distribution connected projects being proposed today. Given this fact, the Proposal can be seen as a vehicle to "kill off" legacy projects that have languished in the queue for years—the precise reason the Commission previously rejected cluster studies—rather than an essential component of a plan to address real issues with the queue caused by distribution projects going forward.

The application of cluster studies to distribution projects is novel, the need for which is not substantiated in Duke's filing. If implemented, the end result will be to eviscerate distribution interconnection as a feasible option, which will undermine clean energy objectives set by the Executive Branch in its Clean Energy Plan.³

GREENGO'S INTEREST IN THIS PROCEEDING

GreenGo is a management company that, among other things, oversees development of the solar photovoltaic generation projects of its affiliated special purpose entities. In connection with these business operations, GreenGo, through its affiliates,

³ See Department of Environment Quality, North Carolina Clean Energy Plan - Transitioning to a 21st Century Electricity System, Policy & Action Recommendations (October 2019).

submits and manages requests to interconnect to the electric grid within the service territories of Duke in North Carolina.

GreenGo, to date, has focused its development activity in North Carolina on 5 MWac distribution-connected projects. Of its approximately 34 total projects in Duke's territory, 10 have been located in DEC territory and 24 in DEP territory—all have proposed interconnection via Duke's distribution system. Of these projects, 20 have progressed to the interconnection agreement stage and 9 are either in-service or have received in-service date commitments from the serving utility.

These comments are exclusively directed at the impact of the Proposal on distribution-connected projects—particularly those legacy projects, many of which have been languishing in the interconnection queue for years. In this regard, GreenGo offers these Comments from the increasingly unique perspective of a solar developer that is wishes to develop its pending distribution-connected projects and, potentially, pursue other similar projects. Many of the solar developers in this state that have traditionally pursued distribution-connected projects have now chosen to focus on transmission-connected projects, as witnessed by the drastic decline of applications for smaller-sized projects. *See infra* Section II.A and Exhibit 1.

Relatedly, as discussed in more detail in the “Background” section below, GreenGo has sought to protect its interests in its pending projects by initiating litigation against DEP alleging that DEP's refusal to study certain “Covered Projects” is a breach of its obligations under the Settlement Agreement.⁴ In this regard, Duke's request here to subject these

⁴ *See Elk Solar, LLC, et al., v. Duke Energy Progress, LLC*, Case No. 19 CVS 0012012 (filed Aug. 30, 2019).

projects to new interconnection rules and processes is an independent violation of its obligations under the Settlement Agreement.

BACKGROUND

Duke's Proposal would fundamentally transform the process by which parties interconnect with Duke's network. These changes flow from the basic proposition that, going forward, projects would be evaluated using a "cluster" or "grouping" approach rather than the existing "serial" approach. In other words, Duke would be permitted to consider the combined and interrelated impacts created by a group of projects and allocated the costs of upgrades necessary to mitigate those impacts across the entire group—in contrast to the serial approach, which requires consideration of each application on its own terms and allocation of all upgrade costs necessitated by the project to that project.

This Proposal must be understood in full context, including consideration of the following.

The Commission's 2015 and 2019 Interconnection Procedures Orders

The Commission has previously considered, and rejected, use of a cluster or grouping study approach as ill-suited to addressing queue congestion issues.

In its *2015 Interconnection Procedures Order*, the Commission expressly rejected use of cluster studies until problems with congestion in the queue were resolved. The Commission concluded:

The Commission agrees with IREC and the Public Staff that with the current clogged queue, the cluster studies option is not an efficient way to manage the queue. However, the Commission further agrees with Ecoplexus that there could be benefits for ICs for the interconnection process to allow for the option of cluster studies ***once the queue issues are resolved and the queue has a manageable number of projects.*** The Commission strongly encourages the parties to continue to work through the issues surrounding cluster studies and resolve such issues when the

parties begin meeting to further enhance the NC Interconnection Standard in two years. For the current NC Interconnection Standard, the Commission approves the A/B process as set forth in the RNCIPP to handle the interdependency issues.

Order Approving Revised Interconnection Standard, Docket No. E-100, Sub 101 (May 15, 2015), at 20 (“*2015 Interconnection Procedures Order*”) (emphasis supplied). The Commission’s concerns about the negative impact of a move to cluster studies on the “clogged queue” is equally relevant today—especially as regards certain Covered Projects which have been languishing in the queue for several years due to Duke’s refusal to study them.

Similarly, in its most recent order making comprehensive changes to the Interconnection Procedures, the Commission again addressed the potential for moving to a grouping study process:

The Commission has reviewed the evidence submitted by the parties concerning implementation of a grouping study process in North Carolina. The Commission notes that no party disputed that the current serial study process is unsustainable for the Duke Utilities based upon the current and growing volumes of utility scale Interconnection Requests. The Commission, therefore, agrees with the Duke Utilities, the Public Staff, and IREC that it is necessary to evaluate whether the Duke Utilities’ transition to a grouping study process in North Carolina should be pursued.

Order Approving Revised Interconnection Standard and Requiring Reports and Testimony, Docket No. E-100, Sub 101 (June 14, 2019), at 60 (“*2019 Interconnection Procedures Order*”). While the Commission noted that no party was disputing the need for reform of the serial study process, the Commission stopped short of endorsing any particular approach to addressing the issue and did not authorize Duke to go ahead and implement a grouping study process in lieu of the existing serial queue process.

Nameplate Dispute and Settlement Agreement

In 2016, Duke unilaterally announced its intention to apply a new test, the so-called “circuit stiffness” screen, in studying solar interconnections. Many solar developers submitted Notice of Disputes (“NODs”) to challenge this new test, resulting in a settlement agreement between Duke and the developers. This settlement led to further discussions regarding larger reforms concerning Duke’s obligations to interconnection with QFs under PURPA and applicable state law. These discussions ultimately culminated in the enactment of House Bill 589, N.C. Session Law 2017-193, enacted by the North Carolina General Assembly in July 2017.

House Bill 589 introduced a number of reforms to the interconnection processes, including several that made it more difficult to develop QFs. In exchange, however, the QF development community received “grandfathered” status for certain projects. Under this status, projects would remain eligible for rates established in the Commission’s “Sub 140” docket even if they were not operational by September 10, 2018,⁵ provided that their purchase agreement term would be deemed to commence on that date and would expire 15 years thereafter. *See* N.C. Sess. Law 2017-192, at Sec. 1.(c).

Immediately after the enactment of House Bill 589, Duke announced a new set of interconnection screens (its Method of Service Guidelines) and new interpretations regarding the calculation of the nameplate capacity of its substation transformers—a

⁵ This date was selected as the grandfather date by reference to a standard provision of the Duke’s Power Purchase Agreement to the effect that the PPA would automatically terminate if the facility was not operational within 30 months of the LEO date. For purposes of the statute, the LEO date was approximated by the date of issuance of the Commission’s order approving the 2014 avoided cost rate schedules and standard contracts. *See* Order Establishing Avoided Cost Rates for DEC and DEP, Docket No. E-100, Sub 140 (March 10, 2016).

critical provision under the House Bill 598 grandfather provision. After a number of solar developers issued NODs to challenge Duke’s new nameplate capacity policy and other changes proposed in the MOS Guidelines, Duke and certain developers entered into another round of negotiations to settle their disputes. On January 30, 2018, Duke, the North Carolina Clean Energy Business Alliance (“NCCEBA”), the Public Staff—North Carolina Utilities Commission, and various solar developers, including various projects under development by GreenGo, entered into a Settlement Agreement that significantly modified the way in which the MOS Guidelines would apply to projects eligible for grandfathering under House Bill 589 (“Covered Projects”). This Settlement Agreement was filed with the Commission as an informational item. *See* Letter from Lawrence B. Somers, Duke Energy, Docket No. E-100, Sub 101 (Feb. 2, 2018) (transmitting Settlement Agreement). On August 27, 2018, the Commission issued an order stating that it was “not inclined to disrupt” the Settlement Agreement but reminding Duke that it must “conform to or may request a waiver from provisions in the Commission-approved North Carolina Interconnection Procedures, Forms and Agreements . . . as revised and filed by the utilities on June 15, 2015 in this docket.” *See Order Regarding Duke Settlement Agreement and Requiring Testimony in Cost Recovery Proceedings*, Docket No. E-100, Sub 101 (Aug. 27, 2018). Further, the Commission—noting the tension between certain provisions of the agreement proposing to allocate portions of substation upgrade costs to retail customers and the terms of the Interconnection Procedures requiring interconnection customers to pay all upgrade costs—required the Public Staff and Duke to file explanatory testimony in future cost-recovery proceedings proposing to allocate upgrade costs to retail customers. *Id.*

The developers involved in reaching the Settlement Agreement sought to prevent Duke from further slowing or preventing the interconnection of the Covered Projects by the continued addition of new evaluation screens, studies, and practices. For any Covered Project Interconnection Request, Duke agreed in the Settlement Agreement that they would process applications and assign the cost of Interconnection Facilities and Upgrades based upon the current study criteria and methods as of January 30, 2018.

Duke further agreed:

(1) not to materially change the Method of Service Guidelines or any other currently effective interconnection policies and practices applied to studying the Covered Projects, including, but not limited to, the Duke Utilities' current practice of offering multiple mitigation options at various MWAC sizes and costs, and (2) not to introduce any new interconnection policies, screens, or practices applied to studying such Covered Projects, unless required by a change in applicable law or ordered by the Commission.

Settlement Agreement, § 2(b). The intent of this provision of the Settlement Agreement was to give QF developers certainty by preventing the Duke Utilities from continuing to add new criteria by which they would evaluate the Covered Projects. It was, further, an effort to avoid further controversy about new interconnection screens by including provisions prohibiting Duke from modifying their interconnection policies or practices with regard to the Covered Projects.

No sooner was the ink dry on this agreement, however, than Duke began to apply a new test to distribution applications. Specifically, in or about April 2018, began to unilaterally “freeze” groups of applications based on alleged “transmission impacts” of distribution interconnection. Duke conducted this analysis by aggregating the potential impacts of known and unknown generation sources on a system-wide basis—i.e., a “cluster” based approach. This new approach applied for the first time to distribution

projects after the January 2018 Settlement Agreement, has led to a freeze on numerous Covered Projects which have “clogged” the queue ever since. These projects continue to languish, years after applying for interconnection, because Duke refused to go forward with studying the projects as required by the Settlement Agreement and the Interconnection Procedures. Now, the proposal would change the rules for these projects and force them, because Duke has refused to study them, to be “withdrawn from the queue.”

On information and belief, this subset of projects includes approximately 32 projects in DEP’s territory in North Carolina, representing approximately 160 MWs (i.e., $32 \times 5 \text{ MW} = 160 \text{ MWs}$). These are projects that should be receiving the benefit of the Settlement Agreement but which have been held up by Duke due to its unilateral imposition of a grouping study approach for these projects. Again, based on information and belief, none of these projects would be eligible for transitional serial treatment because Duke has unilaterally refused to move to the Facilities Study stage for these projects. Under Duke’s Proposal, all of these projects will be forced into the cluster process or they will be “withdrawn from the queue.” *See* Proposal, Attachment 1 at Section 1.10. This will effectively nullify the commitments Duke made in the Settlement Agreement.

GreenGo’s lawsuit

GreenGo has initiated litigation in the North Carolina Business Court against DEP on behalf of six Covered Projects alleging that Duke has breached the Settlement Agreement by introducing new policies, practices, or screens to hold up the study of these projects.

Specifically, the lawsuit alleges that Duke has violated the Settlement Agreement by applying a new “transmission impacts” analysis to distribution projects and conducting

this analysis by aggregating the potential impacts of all known and potential generation sources on a system-wide basis, without regard to whether such projects were protected under House Bill 589 or under the Settlement Agreement. *See Elk Solar, LLC, et al., v. Duke Energy Progress, LLC*, Case No. 19 CVS 0012012 (filed Aug. 30, 2019). In other words, the lawsuit challenges DEP’s unilateral imposition of a “grouping” or “cluster” review process similar to what it proposes here. This matter remains pending before the Court as of this date.⁶

I. THE COMMISSION SHOULD NOT INTERFERE WITH THE PRIVATE CONTRACTUAL COMMITMENTS MADE BY DUKE IN THE SETTLEMENT AGREEMENT NOR SHOULD IT ENTERTAIN DUKE’S INVITATION TO INTERFERE WITH PENDING LITIGATION RELATED TO THE SETTLEMENT AGREEMENT.

A. Duke’s Proposal contravenes its obligations and commitments under the Settlement Agreement.

In the Settlement Agreement, Duke agreed:

(1) not to materially change the Method of Service Guidelines or any other currently effective interconnection policies and practices applied to studying the Covered Projects, including, but not limited to, the Duke Utilities’ current practice of offering multiple mitigation options at various MWAC sizes and costs, and (2) not to introduce any new interconnection policies, screens, or practices applied to studying such Covered Projects, unless required by a change in applicable law or ordered by the Commission.

⁶ On November 4, 2019, DEP filed a Motion to Dismiss and/or Stay raising several alternative arguments, including that the Complaint is subject to the Commission’s exclusive original jurisdiction; that Plaintiffs had failed to exhaust their administrative remedies; and that the Court should dismiss or stay the Complaint under the doctrine of primary jurisdiction. This motion was opposed by Plaintiffs, and the Court heard oral argument on the motion on January 22, 2019. As of this date, the parties await a decision on Duke’s motion by the Court.

Settlement Agreement ¶ 2(b). Put simply, Duke agreed that—with regard to Covered Projects—it would not apply *or even introduce* any new interconnection policies, practices, or screens, unless it was required to do so.

There is no question but that Duke’s Proposal would, in fact, drastically and materially change the interconnection policies and practices applicable to the Covered Projects. Unlike the current serial process, where interconnection requests are generally studied in sequence on a one-off basis based on the time the interconnection request is submitted, a grouping study allows for multiple projects to be studied at the same time. In point of fact, what Duke is proposing here is precisely what it has already unilaterally implemented as to the Covered Projects resulting in a years long delay in interconnection. Despite the fact that the Commission has previously expressly rejected the application of cluster studies for distribution projects, Duke nonetheless implemented its own version of a “cluster study” in the April 2018 timeframe—with the result that the impacted projects have been frozen since that time. As stated, Duke’s unilateral action violated both the directive of the Commission and its contractual commitment of in the Settlement Agreement not to introduce new interconnection screens or practices. It is this latter breach that is being challenged in GreenGo’s lawsuit.

In addition to substantively changing the study process itself, the Proposal also seeks to apply to Covered Projects a number of other new policies and practices, including policies regarding study deposits and withdrawal penalties, none of which exist under the current Interconnection Procedures.

In fact, Duke has unilaterally refused to move forward with the study of these projects and, accordingly, they would either be forced into the cluster proceed or “deemed

withdrawn.” *See* Proposal, Attachment 1 at Section 1.10. Rather than do what it promised to do, Duke seeks to change the rules or eliminate these projects.

The Commission, of course, has not required Duke to do anything at all except to “file a queue reform proposal consistent with the Commission’s June 14, 2019 Order.” *2019 Interconnection Procedures Order*, at 2. The Commission’s June 14, 2019 Order included no substantive requirement for any queue reform proposal submitted by Duke. More specifically, the Commission has not required Duke to submit a proposal that would involve the application or introduction of new interconnection policies, screens, or practices to be applied to any legacy projects, much less the Covered Projects.

B. The Commission should not permit Duke to escape its private contractual commitments under the guise of “queue reform.”

While Duke has framed its proposal in the vernacular of “queue reform”, as to Covered Projects, the Proposal is not so much a “reform” but an eraser. In the Proposal, Duke seeks to fundamentally alter the interconnection policies and practices applied to projects in the interconnection queue, including Covered Projects—precisely what it agreed not to do in the Settlement Agreement.

Duke has not proposed an exception for Covered Projects from the new interconnection policies and practices in the Proposal. While Duke has included a transitional serial process for projects that have reached the Facilities Study Agreement stage, Duke has unilaterally and intentionally—in breach of the Settlement Agreement—prevented a number of Covered Projects from obtaining a Facilities Study Agreement. In any event, whether or not it is Duke’s fault that any given Covered Project is ineligible for the proposed transitional serial process, Duke’s attempt to force Covered Projects into the new study process is a breach of the Settlement Agreement.

The Settlement Agreement does not allow Duke to seek to change Duke's obligations thereunder by asking the Commission to change the Interconnection Procedures, but instead requires Duke to actively oppose any attempt to deny Covered Projects the benefit of the Settlement Agreement. While the form System Impact Study Agreement (§ 30), Facilities Study Agreement (§ 20), and Interconnection Agreement (§ 12.12) set forth in the Interconnection Procedures include a "right to make a unilateral filing with the Commission to modify" those agreements, the Settlement Agreement provides no such right. Rather, the Settlement requires Duke to "*intervene and actively oppose*" any challenge to the relief provided to the Settling Developers. Settlement Agreement § 6(b). That is, having submitted the Proposal in breach of the Settlement Agreement, *Duke is contractually obligated to oppose the Proposal to the extent its provisions affect the relief afforded to Covered Projects under the Settlement Agreement.* Duke's failure to do so constitutes an additional breach of the Agreement.

In its Order regarding the Settlement Agreement, the Commission made clear that, in implementing the Settlement Agreement, Duke "may request a waiver" from any provision of the Interconnection Procedures that conflicts with Duke's obligations under the Agreement. *Order Regarding Duke Settlement Agreement and Requiring Testimony in Cost Recovery Proceedings*, Docket No. E-100, Sub 101, at 1 (Aug. 27, 2018). In other words, even if the Commission had ordered Duke to propose to change the interconnection policies applicable to all projects in the queue—which the Commission unequivocally has not done—Duke's contractual obligation of good faith and fair dealing would require Duke to seek an exception from the proposed changes for the Covered Projects.

In sum, the Commission should not help Duke in its attempt to evade the Settlement Agreement.

II. DUKE HAS NOT DEMONSTRATED THAT THE CLUSTER STUDY PROPOSAL SHOULD BE EXTENDED TO DISTRIBUTION PROJECTS.

A. There is no evidence supporting the need to apply a cluster study approach to distribution projects.

Much of Duke's queue reform proposal is premised on two ideas: First, that the distribution queues are clogged with no end in sight and no option other than a wholesale change to the interconnection process; and second, that the cluster study process is necessary to deal with transmission impacts of distribution projects. However, Duke's own data refute the first premise and Duke has made no showing that the second premise is true.

As described on page 9 of the Proposal, there are 5,390 MW of additional proposed utility scale solar projects, and, as described on page 12 and shown in Figure 4 of the proposal, approximately 4,600 MW of that is proposed for connection to Duke's transmission systems. That is, less than 800 MW of proposed distribution-connected capacity remains "pending." Comparing Figure 2 to Figure 4, it is clear that the amount of "pending" distribution capacity has been declining.

The numbers are even less drastic when the meaning of "pending" is examined closely. The need for a cluster study is supposedly based on the large number of projects that remain "pending." However, the number of projects in the queue that require study, and the total capacity of those projects, are significantly smaller than Duke's Proposal would lead the Commission believe. The following table, which is derived from the "snapshot" data of the DEP and DEC queues as shown in Duke's website (last updated as

of May 21, 2020) shows the state of the queue of solar projects when only projects that are still in the study stages⁷ are considered:

		0-1 MW	>1 MW, < 2 MW	2-5 MW	>5 MW	Total
DEP	# projects	24	7	73	3	104
	Capacity (MW)	5.5	13.5	331	32.6	382.9
DEC	# projects	73	0	12	4	89
	Capacity (MW)	12.5	0	53.3	40	105.8

Although not insubstantial, the table shows that there are fewer than 200 projects in the study stage, representing a total of less than 500 MW. Looking at Figure 3 of Duke’s proposal, Duke interconnected an average of approximately 61 projects per year from 2014 to 2019, which appears to be roughly keeping pace with the number of new interconnection requests each year. Of the 193 pending projects that have not completed the study process, more than a third are smaller than 100 kW. Practically all of the projects that entered the queue after 2018 in DEP are smaller than 1 MW; only 2 of the study-stage projects that are larger than 1 MW have entered the queue since 2018.

New interconnection requests are also slowing. As shown in Figure 1 of the Direct Testimony of Jack McNeill filed in Docket No. E-2, Sub 1220, since 2018, DEP has received only a very tiny number of projects sized larger than 1 MW, and the number of interconnection requests has declined steadily since 2015. *See* Exhibit 1. DEC is facing similar trends.

⁷ To this end, the data in the DEC and DEP queue snapshots were filtered to eliminate: non-solar projects; projects that have proceeded to construction; projects that are in commercial operation; projects for which the facilities study or fast track study is complete; and projects that have been withdrawn or canceled. The remaining projects are those at the interconnection request stage, the System Impact Study stage, the facilities study stage, or in fast-track review.

All of this data indicates that the back log “problem” is something that would solve itself if Duke would simply continue processing applications rather than spending resources on making the interconnection process more complicated and more expensive. In fact, there are dozens of projects that Duke has unilaterally stopped from proceeding through the queue, including more than 30 projects that have been in the queue since 2016 or earlier, all of which have been held up by repeated changes to the technical screens applied by Duke. The Commission has not instructed Duke to include legacy projects in queue reform; however, it seems clear that Duke is aiming queue reform at a number of projects that it has simply refused to process in the hope that these projects can be discarded rather than interconnected.

Duke has provided no information to support its second premise that cumulative distribution-connected capacity is affecting the transmission system. While it is theoretically possible for such effects to occur, Duke has not shown that such effects are, in fact, occurring.

In sum, neither of Duke’s supposed motivations for queue reform hold water. The Commission should maintain the stance it took back in 2015: Duke should clear the queue before implementing cluster studies, rather than using cluster studies to clear the queue.

B. The examples relied on by Duke in support of its Proposal are distinguishable.

In support of its proposal, Duke states that “[q]ueue reform efforts similar to the Companies’ either have already occurred or are now occurring in other parts of the country where rapid growth in new renewable energy generation is occurring.” Proposal, at 20. Further, Duke explains that cluster studies have been approved in various RTO/ISO regions, including CAISO, MISO, PJM, and ISO New England, and that a number of

utilities in non-RTO regions have sought approval to implement cluster studies, including Public Service Company of New Mexico (“PNM”), Public Service Company of Colorado (“PSCo”), and PacifiCorp.

While it is clear that Duke has patterned aspects of its Proposal on prior work of RTO/ISO regions and utilities, the proceedings relied upon by Duke in its Proposal are distinguishable from the present situation in that (a) they typically apply to larger, transmission connected projects, and (b) they often apply in situations where there is some form of wholesale competition available to the QF—not to a vertically integrated utility like Duke. In point of fact, Duke is unable to cite to any positive track record with respect to the application of a cluster study approach to distribution projects.⁸

For example, Duke cites extensively to the Public Service Company of Colorado (“PSCo”) FERC proceeding. *See* Proposal, at 22-26. In that proceeding, PSCo sought to implement cluster studies for interconnection with generating facilities with a capacity greater than 20 MWs by making revisions to its Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA). Among other things, PSCo noted that the revision was necessary in light of the extensive backlog associated with these large projects, noting that it had over 22,000 MW of generation interconnection requests pending in its LGIP interconnection queue while having only 6,000 MW of native load in its balancing authority.⁹ In this connection, “virtually all” of

⁸ In this regard, a more fruitful inquiry might be to look at regions where the queue is moving—such as in ERCOT. There, ERCOT has successfully created interconnection procedures that have resulted in the interconnection of very large projects on time tables that are greatly accelerated in comparison to that experienced with Duke.

⁹ *See* Order on Tariff Filing, 169 FERC ¶ 61,182, at ¶ 8 (Dec. 4, 2019) (“*PSCo Order on Tariff Filing*”).

the interconnection requests were for “network resource interconnection service,” a transmission-based service. *Id.*, at ¶ 9 and note 17. While the Proposal put forward by Duke here bears many similarities to that approved by FERC in the *PSCo Order on Tariff Filing*, the facts forming the basis for PSCo’s proposal are markedly different from those here—mostly significantly, that Duke’s Proposal would apply equally to smaller, distribution connected projects.

Other proceedings cited by Duke are of similar effect. *See, e.g., Ariz. Pub. Serv. Co.*, 137 FERC ¶ 61,099 (2011) (approving Arizona Public Service Companies’ proposed revisions to its LGIP); *El Paso Elec. Serv. Co.*, 137 FERC ¶ 61,101 (2011) (same); *NV Energy, Inc.*, 142 FERC ¶ 61,165 (2013) (same). The *NV Energy, Inc.* proceeding is particularly instructive as, in that proceeding, the utility requested approval of various changes to both its small and large generator procedures but it only sought to implement cluster-based study for larger generators under its LGIP. 142 FERC at ¶¶ 26-27. Similarly, driving home the fundamental differences between interconnection types, FERC rejected the utility’s request to require small interconnectors to request, essentially, transmission-based interconnection given FERC’s prior recognition that “[b]ecause Network Resource Interconnection Service entails high technical standards, we expect that an Interconnection Customer, particularly one interconnecting at a lower voltage, would rarely find this service to be efficient or practical.” 142 FERC at ¶ 28.

Duke itself has recognized the substantial differences between large and small interconnections. In the proceedings related to FERC Order 845, Duke opposed extending the reforms adopted for larger generators to small generators, pointing out that “the SGIP and SGIA processes are designed to be streamlined and that states use the processes as the

bases for state small generator interconnection processes.” 163 FERC at ¶ 61,043. The FERC accepted this reasoning in declining to make the new requirements applicable to the *pro forma* SGIP and SGIA. In so holding, the FERC noted that the majority of commentators opposed such a change and that the “differences between the large and small interconnection processes are significant enough to prevent us from acting in this proceeding.” *Id.* Further confirming these differences, in its Rehearing Order, FERC clarified: “the requirements of Order No. 845 will not apply to WDATs [wholesale distribution access tariffs] at this time. We find that the distinct engineering and jurisdictional implications of an interconnection with a distribution system should be further evaluated before requiring California Utilities or other entities with a WDAT to apply the requirements of Order No. 845 to their WDATs.” 166 FERC at ¶ 61,137.

North Carolina, of course, has been a leader in the development and encouragement of renewable energy generation and its public policy, as expressed in the Clean Energy Plan is to continue this leadership. In the absence of a clear and definitive record—which is lacking here—the Commission should continue the path of incremental reform so that it does not inadvertently adopt procedures that would the effect of thwarting interconnection rights for a discrete subset of projects.

CONCLUSION

While GreenGo appreciates the complexity of the issues involved with queue reform, as well as Duke’s efforts to engage stakeholders in a meaningful way in the development of the proposal, GreenGo is left with serious concerns about one aspect of the proposal as it directly relates to its existing projects, its prospects for pursuing additional distribution-interconnection projects in this state, and its rights under the Settlement

Agreement entered into by Duke. Duke's own submission suggests that if it simply would study the pending applications that it has, heretofore, refused to study, the backlog in the queue as regards distribution projects would be cured in approximately a year's time. In light of the Commission's prior correct conclusion that "cluster" methodology should not be used as a mechanism to clear the queue, Duke's Proposal should be denied, at least as regards distribution-connected projects.

Respectfully submitted, this the 15th day of June, 2020.



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Certificate of Service

I hereby certify that a copy of the foregoing *Comments of GreenGo Energy US, Inc. on Queue Reform Proposal*, has been served this day upon all parties of record in this proceeding, or their legal counsel, by electronic mail or by delivery to the United States Post Office, first-class postage pre-paid.

This the 15th day of June, 2020.

BROOKS, PIERCE, MCLENDON,
HUMPHREY & LEONARD, LLP



By: _____

Exhibit 1

Excerpt from Testimony of Jack McNeill on behalf of Duke Energy Progress, LLC, Docket No. E-2, Sub 1220 (May 12, 2020), at 9

* * *

Figure 1

