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September 20, 2019

VIA ELECTRONIC FILING

Ms. Kimberly A. Campbell, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

RE: Duke Energy Progress, LLC's and Duke Energy Carolinas, LLC's Joint Response to Motion for Clarification
Docket Nos. E-2, Sub 1170 and E-7, Sub 1169

Dear Ms. Campbell:

Enclosed for filing in the above-referenced dockets, please find Duke Energy Progress, LLC's and Duke Energy Carolinas, LLC's Joint Response to Motion for Clarification.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance with this matter.

Sincerely,

Jack E. Jirak

Enclosure

cc: Parties of Record

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

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 G.S. 62-159.2	))))))	DUKE ENERGY CAROLINAS, LLC'S AND DUKE ENERGY PROGRESS, LLC'S JOINT RESPONSE TO MOTION FOR CLARIFICATION

NOW COME Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP" and together with DEC, the "Companies" or "Duke"), and hereby jointly respond to the Motion for Clarification ("Motion") filed in the above-captioned dockets on September 10, 2019 by the North Carolina Clean Energy Business Alliance ("NCCEBA") and the North Carolina Sustainable Energy Association ("NCSEA" and together with NCCEBA, "Movants"). In summary, the Companies have consulted with NCCEBA, NCSEA and Public Staff and, unless otherwise directed by the Commission, will use the avoided cost structure approved in Docket No. E-100, Sub 148 ("Sub 148 Rates") to determine bill credit amounts for Green Source Advantage ("GSA") 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) and will not apply the Solar Integration Services Charge ("SISC") to the relevant GSA power purchase agreements ("PPAs") until such time as the North Carolina Utilities Commission ("Commission") issues its decision in Docket No. E-100, Sub 158 providing further direction.

I. Procedural Background

1. On January 23, 2018, the Companies filed their proposed GSA Program with the Commission pursuant to the requirements of N.C. Gen. Stat. 62-159.2, as enacted by Session Law 2017-192 ("HB 589").

2. On November 1, 2018, the Companies filed updated standard offer avoided cost rates and terms and conditions in the 2018 biennial avoided cost proceeding, Docket No. E-100, Sub 158. In addition to utilizing the most current inputs in calculating the Companies' avoided cost rates, the Companies proposed an updated, more granular avoided capacity and energy rate design, as directed by the Commission[1] ("Sub 158 Rates"). The Companies also undertook a study of the increasing costs to integrate the growing levels of variable and intermittent solar generators on the DEC and DEP systems and proposed SISC applicable to solar Qualifying Facilities ("QFs") in order to assign the increased ancillary services to the solar generators causing these costs.

3. On February 1, 2019, the Commission issued its *Order Modifying and Approving Green Source Advantage Program, Requiring Compliance Filing and Allowing Comments* ("GSA Program Order") in the above captioned dockets.

4. As directed by the GSA Program Order, the Companies jointly submitted their GSA Program Compliance Filing on March 18, 2019 ("Compliance Filing").

5. On August 5, 2019, the Commission issued its *Order Approving Compliance Filing*, finding the Companies' Compliance Filing to be consistent with the GSA Program Order and directing the Companies' to open the GSA Program to eligible customers within 60 days of the date of the Order.

[1] The Commission's June 26, 2018, *Order Establishing Biennial Proceeding, Requiring Data, and Scheduling Hearing* issued in Docket No. E-100, Sub 158, specifically directed Duke to "file proposed rate schedules that reflect each utility's highest production cost hours, as well as summer and non-summer peak periods, with more granularity than the current Option A and Option B rate schedules."

6. Subsequently, the Companies posted a "GSA Program Announcement" on the Duke Energy website advertising the GSA Program to potentially eligible customers ("GSA Customers") and providing notice that the Companies plan to open the Program on October 1, 2019. For the convenience of prospective GSA Customers, the GSA Program Announcement provided "estimated" two-year and five-year avoided cost rates, noting that such rates were "subject to adjustment based on the Commission's decision in Docket No. E-100, Sub 158, and assuming a project achieves commercial operation in one year."[2] The GSA Program Announcement also notified prospective GSA Customers, as well as solar developers interested in participating in the GSA Program as a "GSA Supplier," that the SISC was "under review [by the Commission] . . ." and "should be factored into price negotiations between the GSA [C]ustomer and [prospective GSA Supplier] developer."

7. On September 10, 2019, Movants jointly filed their Motion, petitioning the Commission to issue an expedited order clarifying and ruling (1) that renewable energy projects that are part of applications to the GSA Program administered by the Companies not be assessed a SISC; (2) that a SISC not be used to reduce the Participating Customer Bill Credit ("Bill Credit") under the GSA Program; and (3) that the Participating Customer Bill Credit option equal to DEC and DEP's five-year avoided cost rates be based on those rates as they currently exist pursuant to the Commission's *Order Establishing Standard Rates and Contract Terms for Qualifying Facilities* issued on October 11, 2017 in Docket No. E-100, Sub 148 ("Sub 148") and not be subject to modification based on the outcome of the pending biennial avoided cost proceeding in Docket No. E-100, Sub 158.

II. The Companies' initial proposal to apply Sub 158 Rates to the GSA Program is reasonable but, after consultation with the Movants and Public Staff, the Companies will, unless otherwise directed by the Commission, apply Sub 148

[2] *Available at:* https://www.duke-energy.com/business/products/renewables/nc-green-source-advantage.

Rates to the GSA Program as requested by Movants until the Commission issues a decision in Docket No. E-100, Sub 158.

8. Movants argue that the Companies have made a "unilateral, eleventh-hour decision" to utilize the Sub 158 Rates for purposes of the GSA Program, and that "during the approximately eighteen months of proceedings, there has never been any suggestion that the avoided cost rates used to determine the Bill Credit…would be based on the avoided cost rates that will be established in the E-100, Sub 158 docket, rather than those that have been established in [Sub 148]." Motion, ¶ 16, 23. Additionally, Movants argue that "the Commission's orders in this proceeding do not authorize…utilization of the [Sub 158 Rates]" for purposes of the GSA Program. Motion, ¶ 17.

9. Although the Companies generally agree with Movants that the application of the Sub 158 Rates to the GSA Program is one of the few issues that has not been litigated in this proceeding, the Companies' decision to provide notice to GSA Customers of the Sub 158 Rates was in alignment with both HB 589 and the Commission's *GSA Program Order*.[3]

10. N.C. Gen. Stat. § 62-159.2(e) specifies that the GSA Bill Credit should "not exceed the utility's avoided cost," and that non-participating customers should be held "neutral" from GSA Program implementation. Although "avoided cost" is not defined in the statute, the Commission's *GSA Program Order* determined that "avoided cost," for purposes of the GSA Program, would be "understood and implemented through N.C. Gen. Stat. § 62-156(c)." The Commission therefore directed the Companies to "design the [Bill Credit] consistent with the most recent Commission-approved avoided cost methodology," and to use "up-to-date data in determining the inputs for negotiated avoided cost rates,

[3] The issue raised by Movants is not relevant to GSA Customers selecting the marginally-priced Bill Credit.

updated at the time of the submission of the GSA Service Agreement." *GSA Program Order*, at 46

11. On November 1, 2018—three months before the Commission approved the GSA Program—the Companies updated the three-year old avoided cost rates approved in the 2016 Sub 148 docket to more accurately reflect the Companies' current avoided cost rates. Consistent with long-established practice, as of November 1, 2018, the proposed Sub 158 Rate inputs and proposed rate design became the sole option available to QFs opting to negotiate with the Companies pursuant to N.C. Gen. Stat. § 62-156(c), subject to adjustment by the Commission's final decision in Docket No. E-100, Sub 158. Consistent with this practice, the Companies reasonably advertised in their GSA Program Announcement an estimate of the potential GSA Bill Credit utilizing the proposed Sub 158 Rates. The Companies also noted that the estimate would be subject to adjustment per the Commission's decision in Docket No. E-100, Sub 158.

12. In addition, the Commission's July 2, 2019, *Order Modifying and Accepting CPRE Program Plan* ("*Tranche 2 CPRE Order*"),[4] delayed implementation of Tranche 2 of the Competitive Procurement of Renewable Energy ("CPRE") Program to October 15, 2019—a mere ten days after October 5, 2019 opening of the GSA Program—for the Commission to issue a final decision Docket No. E-100, Sub 158. Accordingly, the Companies reasonably assumed a decision would be issued providing final approval of the Sub 158 Rates relatively contemporaneous with opening of the GSA Program and desired to put GSA Customers on notice of the Sub 158 Rates in case the Commission's Sub 158

[4] Docket Nos. E-2, Sub 1159 and E-7, Sub 1156 (July 2, 2019).

decision was issued prior to the date on which the GSA Program opens for applications (October 5, 2019).

13. Consistent with the Commission's directive to "design the [Bill Credit] consistent with the most recent Commission-approved avoided cost methodology," the Companies have used the peaker methodology in calculating the avoided cost rates provided to GSA Customers in the GSA Program Announcement and will 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." *GSA Program Order*, at 46.

14. In summary, the Companies believe that its initial proposal to provide notice of the Sub 158 Rates for GSA Customers is consistent with the Companies' treatment of negotiated QFs and also aligns with the *GSA Program Order*, as well as the intent perceived by the Companies in the Commission's *Tranche 2 CPRE Order*.

15. In posting the GSA Program Announcement, the Companies were attempting to inform GSA Customers of the applicable avoided cost and other relevant information to guide business decisions, particularly in light of the uncertain timing of the Commission's decision in Docket No. E-100, Sub 158. In doing so, the Companies were attempting to adhere to the statutory directive and the Commission's prior orders. However, the Companies are sympathetic to the practical challenges faced by potential GSA Customers in negotiating with potential GSA Suppliers without sufficient clarity regarding the applicable avoided cost Bill Credit and the practical impacts of the extended timeline of the GSA proceeding.[5]

[5] The Companies strenuously disagree with the various statements in the Motion that assert or imply that the timing of the opening of the GSA Program is the result of actions of the Companies.

16. Therefore, after consulting with NCCEBA, NCSEA and Public Staff, the Companies will, unless otherwise directed by the Commission, apply the Sub 148 Rates to the GSA Program until such time as the Commission issues its decision in Docket No. E-100, Sub 158.

17. Use of the Sub 148 Rates (and exemption from the SISC as discussed below) will result in a larger Bill Credit to GSA Customers (and therefore, higher costs to non-participating customers as compared with the Sub 158 Rates) and, all things being equal, it is reasonable to assume that a larger Bill Credit will incent more participation.

18. The Companies intend, unless otherwise directed by the Commission, to utilize as a cutoff point in determination of the applicable avoided cost Bill Credit the date of submission of a GSA Application. Therefore, 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 Rates (assuming that it is allocated capacity under the GSA Program and is able to consummate the transaction through the execution of GSA Service Agreement, PPA, etc.)

19. For the sake of clarity, the Company will use "up-to-date data in determining inputs…updated at the time of the submission of the GSA Service Agreement" as directed by the Commission in the *GSA Program Order*.[6]

III. <u>The Companies will, unless otherwise directed by the Commission, not apply the SISC to GSA projects for which a GSA Application is submitted prior to the Commission's decision in Docket No. E-100, Sub 158.</u>

[6] The Motion does not expressly address this issue but states that the Bill Credit should be "based on those rates as they currently exist pursuant to the Commission's Order Establishing Standard Rates and Contract Terms for Qualifying Facilities issued on October 11, 2017 in Docket No. E-100, Sub 148." Motion at 1. Later, the Motion states that the Bill Credit should be "be based on rates that were approved in Docket No. E-100, Sub 148." Motion at 10. Those statements could be read to imply that Movants seek application of the Sub 148 rates applicable to standard offer QFs, as they existed on October 11, 2017, which would not be consistent with the *GSA Program Order*.

20. Movants also oppose applying the proposed SISC to solar generators that contract to sell and deliver power to a GSA Customer under the GSA Program on generally the same grounds of adversely impacting project economics and "weaken[ing] this legislatively mandated program." Motion, at ¶ 28.

21. The Companies recognize that the SISC remains pending before the Commission in Docket No. E-100, Sub 158. The intent of the recent GSA Program Announcement was to notify potential GSA Customers that the SISC would potentially be applied to GSA Suppliers selling and delivering power from uncontrolled solar generators under the GSA Program depending on the Commission's decision in Docket No. E-100, Sub 158. In other words, the Companies thought it worthwhile to provide notice of the potential application of the SISC to GSA PPAs.

22. Application of the SISC to GSA Suppliers is generally consistent with the Solar Integration Services Charge Stipulation filed with the Commission on May 21, 2019, in Docket No. E-100, Sub 158 ("Sub 158 SISC Stipulation"), which contemplated that the SISC "shall be applied to all other solar generators [in addition to standard offer QFs] that either have committed to sell or prospectively commit to sell to Duke at future Schedule PP or negotiated avoided cost rates on or after November 1, 2018, [excepting "Controlled Solar Generators"] . . ." *Sub 158 SISC Stipulation*, at 4-5.

23. All incremental utility-scale solar generation—whether committing to sell and deliver power under negotiated avoided rates calculated pursuant to N.C. Gen. Stat. § 62-156(c) or under the GSA Program—causes the same increased ancillary services costs on the DEC and DEP systems. Therefore, the Companies' decision to notify GSA Customers of the potential for the SISC was informed by the Companies' view that,

pending Commission approval, it would be reasonable to apply the SISC to solar generators contracting to deliver power under the GSA Program.[7] Applying the proposed charge would assign the increased ancillary services costs now being incurred by DEC and DEP to integrate incremental solar to the solar generators causing the costs and would therefore arguably meet the requirements of the GSA Program statute to ensure that non-participating customers are held neutral from the impact of the renewable electricity procured on behalf of the GSA Customer. N.C. Gen. Stat. § 62-159.2(e).

24. However, Duke also notes that the *Sub 158 SISC Stipulation* attempted to balance the objective of assigning this newly identified integration cost to the solar generators causing the cost with recognition that prior QFs that committed to sell and deliver power prior to November 1, 2018 or through the CPRE Tranche 1 solicitation had not contemplated the application of this charge at the time of their commitment to either deliver power or to participate in the CPRE Tranche 1. Accordingly, the *Sub 158 SISC Stipulation* effectively grandfathers these legacy solar generators for the duration of their current PPA terms.

25. Based on this structure and the prolonged nature of the GSA proceeding and after consulting with NCCEBA, NCSEA and Public Staff, the Companies will, unless otherwise directed by the Commission, not apply the SISC to GSA PPAs until the Commission issues its decision in Docket No. E-100, Sub 158. In addition, if the Commission approves the SISC, the Companies will, unless otherwise directed by the

[7] Solar generators contemplating participating as GSA Suppliers are required to be QFs under the GSA Program, and the power being delivered by solar facilities dedicated to the GSA Program will be a system asset providing energy and capacity to serve all of Duke's native load customers, similar to other solar QFs.

Solar generators that design their facilities and contractually commit to operate as a controlled solar generator, as described in the SISC Stipulation, may avoid imposition of the SISC.

Commission, utilize the same cutoff point described above in ¶ 18 (*i.e.*, submission of a GSA Application) for purposes of determining applicability of the SISC to GSA PPAs.

WHEREFORE, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC respectfully request that the Commission accept this Response and provide such further direction as the Commission deems appropriate.

Respectfully submitted, this 20th day of September, 2019.

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Counsel for Duke Energy Carolinas, LLC and Duke Energy Progress, LLC

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Progress, LLC's and Duke Energy Carolinas, LLC's Joint Response to Motion for Clarification, in Docket Nos. E-2, Sub 1170 and E-7, Sub 1169, has been served by electronic mail, hand delivery, or by depositing a copy in the United States mail, postage prepaid, properly addressed to parties of record.

This the 20th day of September, 2019.

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