

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-2, SUB 1314
DOCKET NO. E-7, SUB 1289

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition of Duke Energy Progress, LLC,)	THE UNITED STATES DEPARTMENT
and Duke Energy Carolinas, LLC,)	OF DEFENSE AND ALL OTHER
Requesting Approval of Green Source)	FEDERAL EXECUTIVE AGENCIES'
Advantage Choice Rider GSAC)	INITIAL COMMENTS

The Secretary of Defense, through duly authorized counsel and on behalf of the United States Department of Defense (DOD) and all other Federal Executive Agencies (FEA'), and Pursuant to Commission Rule R-1-5-2 and the Commission's February 9, 2023 Order Requesting Comments, as amended by the Commission's March 28, 2023 Order Granting Extension, hereby submits Initial Comments in the above-referenced dockets.

I. Administration Carbon Pollution-Free Electricity Policy

On December 28, 2021, President Biden issued Executive Order No. 14057, *Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability*.¹ E.O. 14057 states that the Federal Government is the single largest land owner, energy consumer, and employer in the Nation, and can catalyze private sector investment and expand the economy and American industry by transforming how we build, buy, and manage among other things, electricity. E.O. No. 14057 calls on the Federal Government to lead by example in order to achieve a carbon pollution-free electricity (CFE) sector by 2035 and net-zero emissions economy-wide by no later than 2050 using a whole-of-government approach. Section 203 of E.O. 14057 calls for each

¹ *Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability*, 86 Fed. Reg. 70,935 (Dec. 13, 2021) (E.O. No. 14057), available at <https://www.govinfo.gov/content/pkg/FR-2021-12-13/pdf/2021-27114.pdf>.

FEA to (1) increase its percentage use of CFE so that it constitutes 100 percent of facility electrical energy use on an annual basis, and (2) seek to match use on an hourly basis to achieve 50 percent 24/7 CFE, by fiscal year 2030.

DOD/FEA seek to implement E.O. 14057 Section 203 through programs such as Green Source Advantage Choice, which will help enable DOD/FEA to scale CFE procurement to 100 percent of DOD/FEA load by 2030 and 50 percent CFE by 2030 on a 24/7 hourly-matched basis.

II. E.O. 14057 Implementing Instructions

On August 30, 2022, the U.S. Council on Environmental Quality (CEQ) issued Implementing Instructions for E.O. 14057. Section 4.2 of the Implementing Instructions sets forth directions to FEAs for implementing the CFE policy contained in E.O. 14057. The Implementing Instructions describe four CFE sourcing strategies that FEAs can use to meet the net annual 100 percent by 2030 and 50% 24/7 hourly matched by 2030 targets:²



Purchased CFE is electricity purchased from a qualifying CFE generation source with the associated Energy Attribute Certificates (EACs), i.e., the original associated energy attributes have not been separately sold, transferred, or retired. Subject to agency contracting authority, agencies can purchase CFE and the associated EAC from a utility provider (including through a green tariff), retail service provider, energy supply contractor, or through a power purchase agreement (PPA).

² Implementing Instructions for Executive Order 14057, *Catalyzing Clean Energy Industries and Jobs Through Federal Sustainability* at Section 4.2.4 (August 2022) available at https://www.sustainability.gov/pdfs/EO_14057_Implementing_Instructions.pdf.

On-site CFE is electricity generated at a Federal facility. To count CFE produced at a Federal facility toward the net annual CFE requirement, an agency must obtain and retire the EACs sourced from the on-site CFE generation.

Purchased EACs are EACs that are procured independently from the agency's purchases of physical power, often referred to as "unbundled" EACs.

Grid-supplied CFE is CFE delivered as part of default electricity service or the electricity grid mix from a utility or electric service provider (in contrast to purchased CFE, in which the CFE and associated EAC are specified contractually).³

In order for electricity procured or produced to count toward net annual CFE progress, an agency must obtain and retire the associated EAC for all strategies identified in section 4.2.4, except grid-supplied CFE for which an EAC is not currently required. Federal agencies must source CFE from resources that: (1) produce CFE; (2) were placed in service on or after October 1, 2021, either as a new resource or as new capacity at an existing resource modified to increase output; and (3) deliver CFE to the same grid region of Federal facility consumption. Further, EACs may be generated within six months prior to or three months after the net annual CFE compliance year.

E.O. 14057 Section 203 is ambitious, impactful and achievable. DOD/FEAs seek to partner with their retail public utility electric service providers to develop reasonable CFE tariff offerings that will enable all FEAs to achieve CFE goals⁴. DOD/FEA support and encourage

³ To ensure standardized calculation of grid-supplied CFE across the Federal Government, the U.S. Department of Energy and Federal Energy Management Program have provided necessary data on grid-supplied CFE, by Emissions and Generation Resource Integrated Database (eGRID) subregion, using a residual mix methodology that subtracts CFE and unbundled EACs that third parties have purchased, retired or claimed. As market data regarding the CFE content of delivered electricity becomes available, CEQ and the U.S. Office of Management and Budget may refine methods for calculating grid-supplied CFE.

⁴ One of many successful examples of Federal agency – electric supplier partnership is the Memorandum of Understanding agreed to in October 2022 between the U.S. General Services Administration and Entergy –

public utility companies, regulatory commissions, and customer groups working together to develop reasonable CFE program offerings needed to achieve the requirements of E.O. 14057, including full electric grid decarbonization by 2035.

III. Federal Agency Requirements and Principles Alignment with Green Source Advantage Choice

The Green Source Advantage (GSA) Choice program is comprised of a renewable energy offering and an energy storage or other clean technology option. The program would allow large-load customers to contract with the Companies to provide locally-sourced Clean Energy Environmental Attributes (CEEAs)⁵ generated from both utility-owned generation assets and third-party-owned generation assets that have a power purchase agreement (“PPA”) with either of the Duke Companies, or through a three-party agreement between one of the Companies, a renewable developer and the customer in the same manner as the legacy GSA Program.⁶

Pursuant to the Implementing Instructions, utility green tariff offerings align with E.O. 14057 if the CFE offered is sourced from carbon pollution-free resources, that will have been placed in service in October 2021 or later, and that is delivered to the same balancing area where the Federal load is consumed. Important principles underlie the Implementing Instructions including (1) leadership by example, (2) whole-of-government procurement, and (3) grid transformation, such that the CFE tariff offerings are made available to all eligible customers to accelerate a full transition of the electricity sector to CFE by 2035. DOD/FEAs look forward to

Arkansas supporting the development of a first-of-its-kind 24/7 hourly matched CFE tariff offering to be filed with the Arkansas Public Service Commission. See <https://www.gsa.gov/cdnstatic/Entergy-MOU.pdf>.

⁵ A CEEA qualifies as an EAC so long as it meets the generation, vintage and location requirements described in Section II above.

⁶ The Duke Companies Transmittal Letter at 5 (June 27, 2023). As noted below, DOD/FEA is currently participating in the GSA Bridge Program that was approved by the Commission on November 4, 2022, *Order Approving GSA Bridge Program*.

working with all stakeholders to ensure that the GSA Choice programs are structured to be viable pathways for DOD/FEA CFE procurement.

The Duke Companies' transmittal states that the approximately 4,000 MW of program capacity will be sourced from solar resources approved as part of the 2022 to 2024 solar procurement, and that the program may in the future include wind resources.⁷ The transmittal further describes the CEEAs generated from the CFE as locally-sourced, "meaning that these CEEAs would be sourced from resources located within the Companies' balancing authority areas."⁸ Finally, the Companies commit to retiring the CEEAs on behalf of participating customers in the customer's name.

The energy storage or other clean energy technology option purports to allow customers to "virtually time-align their energy use with renewable or clean energy output from a combination of utility-owned renewable generation and energy storage or other clean energy resources."⁹ This option conceptually aligns with the Implementing Instruction goal of Federal agency achievement of 50% CFE on a 24/7 hourly-matched basis by 2030.¹⁰

An equally important goal for DOD/FEA is installation and grid resiliency. The term "energy resilience" as defined in federal statute means "the ability to avoid, prepare for, minimize, adapt to, and recover from anticipated and unanticipated energy disruptions in order to ensure energy availability and reliability sufficient to provide for mission assurance and readiness, including mission essential operations related to readiness, and to execute or rapidly

⁷ Transmittal Letter at 5-6.

⁸ Id. at 6-7.

⁹ Id. at 5.

¹⁰ The Duke Companies clarify that the term "other clean energy technology" can include any carbon-free resource option that becomes available in the future." Transmittal at 11 n.10.

reestablish mission essential requirements.”¹¹ DOD military installations often have land available located on the installation for the development and siting of renewable energy projects in exchange for increased energy resiliency. We encourage the Commission to consider structuring the Rider GSAC energy plus storage option to allow an option for DoD to provide easements for use of its land for renewable energy and storage project-siting, in exchange for DoD capturing the value of increased installation resiliency and potential cost savings.

Battery storage resources provide valuable grid resilience whether or not they are hosted on a military site. Grid-connected batteries, coupled with renewable technologies such as photovoltaics, can provide power in the event of a grid outage when installed with appropriate islanding controls.¹² In addition to resilience, grid-connected batteries can offer system-wide cost savings by decreasing the size of generation assets used solely for backup power, while offering an additional layer of grid redundancy.¹³

IV. All Program Participation Costs to the Federal Agency Customer Should be Transparent and Presented to the Federal Customer as Soon as Practicable.

According to the Duke Companies, customers would pay for participation in the GSA Choice program non-storage option an amount computed under the customer’s primary rate schedule and any other applicable riders, plus the sum of (1) a CEEA charge¹⁴ and (2) the GSA Choice administrative fee, which shall not exceed 20% of the cost of the CEEAs. A second

¹¹ 10 U.S.C. §101(e)(6).

¹² *Battery Storage for Resilience*, Emma Elgqvist, National Renewable Energy Laboratory, June 2021. <https://www.nrel.gov/docs/fy21osti/79850.pdf#:~:text=Grid-connected%20batteries%2C%20often%20coupled%20with%20renewable%20technologies%20like,renewable%20energy%20technologies%29%20that%20does%20not%20need%20refueling.>

¹³ *Id.*

¹⁴ The Duke Companies state that the CEEA charge will be based on market rates for such attributes or their equivalents at the time of execution of the customer agreement (factoring in the specified contract term). Transmittal at 8.

option, the GSA Facility PPA, which could be a solar plus storage facility, would require the customer to pay amount computed under the GSA Choice Customer's primary rate schedule and any other applicable riders plus the sum of the (1) the GSA Choice Product Charge, (2) the GSA Choice Bill Credit, and (3) the GSA Choice Administrative Charge.¹⁵

According to the Duke Companies, the avoided cost rate options used to determine the GSA bill credit on the customers' account for the legacy GSA program was established to be two or five years, or an hourly bill credit. The Duke Companies have proposed a new 10-year avoided cost bill credit option as part of GSA Choice.¹⁶ The Duke Companies further state that in the case of GSA Facility PPA contract terms exceed the Administratively Established Bill Credit terms selected by the GSA Choice Customer, the Avoided Cost Bill Credit will be recalculated at the end of the initial term using the then-approved methodology.¹⁷

DOD/FEAs support the addition of the 10-year avoided cost bill credit as another option for customers. While a 10-year option could result in greater price certainty and predictability, which could aid in Federal Government budgeting and contracting efforts, DOD/FEAs will assess all available contract length options to determine viability. Actual program cost figures and actual bill impacts should be calculated and presented to the Federal agency customers as soon as practicable so that Federal agencies can align budget needs with CFE procurement requirements in a timely manner. In addition, while the avoided cost bill credit structure proposed in Tariff GSAC reflects the cost structure adopted in the legacy GSA program, a

¹⁵ Transmittal at 8. The Duke Companies state that the GSA Choice Product Charge is equal to the price negotiated between the Customer and the Renewable Supplier ("Negotiated Price"), and the monthly GSA Choice Product Charge will be determined by multiplying the Negotiated Price times the energy produced by the GSA Facility in the prior billing month. Id. at 8-9.

¹⁶ Id. at 9. The 10-year avoided cost option was approved as part of the GSA program in South Carolina.

¹⁷ Id. at 10.

structure that DOD/FEA is familiar with, DOD/FEAs still expect full transparency of all costs, fees and bill impacts so that the public trust is protected and preserved.

V. Appropriately Designed, DOD/FEA can Utilize GSA Bridge and GSA Choice to Achieve Full Decarbonization by 2030.

DOD/FEA is currently working with the Duke Companies to potentially take advantage of the CFE MWs made available through the Duke Companies GSA Bridge Program approved in Docket Nos. E-2, Sub 1170, E-7, Sub 1169, E-2, Sub 1306 and E-7, Sub 1277, respectively. DOD/FEAs indicated in that proceeding that DOD purchases large quantities of electric service from Duke Energy Progress (DEP) in North Carolina, and that DOD installations served by DEP include, but are not limited to, Fort Bragg, Marine Corps Air Station Cherry Point, Seymour Johnson Air force Base and Marine Corps Base Camp Lejeune, as well as U.S. Coast Guard facilities. DOD/FEAs further stated that Fort Bragg is the largest military installation in the world and has approximately 50,000 personnel working or training at the installation at any one time.¹⁸

DOD continues pursue the available CFE offered by the Duke Companies through the GSA Bridge Program. At the same time, DOD/FEAs acknowledge that its total load in the Duke Companies' service territory, inclusive of all DOD and FEAs, could surpass the CFE made available in the GSA Bridge Program. DOD further indicated in the GSA Bridge proceeding that it is undergoing a substantial transformation in its electricity use, citing to E.O. 14057 Section 203, and that outside of negotiating special agreements with the Duke Companies, participation in utility CFE tariff programs are the only way that military installations in North Carolina can

¹⁸ DOD/FEA Motion for order Extending DOD Exclusivity Period for 12 Months (Motion to Extend), Docket Nos. E-2, Sub 1170, E-7, Sub 1169.

make progress toward achieving the CFE requirement set forth in Section 203.¹⁹ DOD/FEAs look forward to working with all stakeholders to ensure the GSA Choice programs are structured to be viable pathways for DOD/FEA CFE procurement.

Dated this 25th day of April, 2023.

Respectfully submitted,

/s/ Kyle J Smith

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¹⁹ Id. at 3.

CERTIFICATE OF SERVICE

I, Kyle J. Smith, hereby certify that The United States Department of Defense and all other Federal Executive Agencies' Initial Comments was served to the parties of record in this case by electronic mail on April 25, 2023.

/s/ Kyle J. Smith
Kyle J. Smith