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March 18, 2016

VIA ELECTRONIC FILING

Ms. Gail L. Mount
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

**Re: Biennial Determination of Avoided Cost Rates for Electric Utility Purchases from Qualifying Facilities - 2012
Docket No E-100, Sub 136**

Dear Ms. Mount:

Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") (collectively, the "Companies") are writing to inform the Commission of their implementation of the "30 month" provisions of the *Order Establishing Standard Rates and Contract Terms for Qualifying Facilities*, issued by the Commission on February 21, 2014, in Docket No. E-100, Sub 136 ("Sub 136 Order"). In the Sub 136 Order, the Commission reviewed, *inter alia*, the availability of long-term fixed avoided cost rates pursuant to the establishment of a legally enforceable obligation ("LEO") by a Qualifying Facility ("QF"). Sub 136 Order at pp. 32-38. The Commission held that QFs that established a LEO prior to the filing of the next biennial avoided cost proceeding should be given 30 months from the date of the Commission's Sub 136 Order (February 21, 2014) to begin delivering power to retain the fixed, long-term avoided cost rates approved therein. Sub 136 Order at p. 38[1]. The 30-month deadline expires on August 20, 2016. The Commission further concluded that QFs should be allowed additional time beyond the 30 months "if the projects in question *are nearly complete* and the QF is

[1] The Companies note that they filed their proposed rates in the next avoided cost proceeding, Docket No. E-100, Sub 140, on March 2, 2015.

making a good faith effort to complete the project in a timely manner." Sub 136 Order at p. 38. (Emphasis added).

In recent months, the Companies have been approached by QFs that are concerned that they will be unable to meet the 30 month deadline due to their position in the Companies' interconnection queues. As the Companies have previously noted before the Commission, the "existing North Carolina interconnection landscape is unique because of the unprecedented surge of utility-scale solar development over the past few years." *Joint Reply Comments of DEC, DEP and Dominion North Carolina Power*, Docket No. E-100, Sub 101, filed Dec. 22, 2014, at pp. 2-3.

Because of the status of their interconnection queues, the Companies believe it is appropriate to provide additional explanation of how they intend to implement the Commission's Sub 136 Order in allowing QFs additional time beyond the 30 months:

- QFs that have established a LEO under the Sub 136 docket, and who have executed a Notice to Proceed (NTP) to its Engineering, Procurement, and Construction contractor ("EPC") by August 20, 2016, will be able to extend the 30 month period that expires in August 2016.
- Documentation demonstrating this NTP should be delivered to the Companies by August 20, 2016. This NTP will be deemed to satisfy the "nearly complete" and "proceeding in good faith" test, even though the developer may not have started any construction of the facility. The developer, however, would have committed to building the facility by that date.
- For QFs that are also the EPCs (or affiliated with the EPC) for their projects, those QFs would issue a letter that they are (or are affiliated with) the EPC and commit to construct the project within 60 days from the date that interconnection facilities are provided by the Companies.
- After DEC or DEP, as appropriate, completes interconnection on those facilities, the Facility shall have 60 days to deliver energy to the Company.

For QF projects that do not meet the above test, but that obtained their LEO under the Sub 136 docket, the QF has the option of having its project deemed to have begun its delivery period on August 21, 2016 (the date after the 30 months runs) and having its purchase power agreement ("PPA") term run from that August 21, 2016 date <u>or</u> terminating its PPA and establishing a new LEO and PPA.

The Companies' proposal here is intended to be a good faith effort to resolve a pressing issue related to the size of their interconnection queues and the expiration of the Commission-approved 30-month period during which QFs must begin delivering power to remain eligible for the Sub 136 rates; therefore, it is limited to those QFs that established a LEO under the Sub 136 order. The Companies do not intend to set precedent for QFs that are eligible for rates other than those approved in Sub 136 and reserve their rights to make other proposals in the future.

The Companies made the Public Staff and the North Carolina Sustainable Energy Association aware of their implementation plan in advance of this filing. In addition, the Companies held discussions with certain developers of QFs, including Cypress Creek Renewables, FLS Energy, and Strata Solar LLC.

This letter is being filed for informational purposes only and is not intended to seek any Commission action.

Sincerely,

Kendrick C. Fentress

Kendrick C. Fentress

cc: Parties of Record

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Biennial Determination of Avoided Cost Rates for Electric Utility Purchases from Qualifying Facilities - 2012 in Docket No. E-100 Sub 136 has been served on all parties of record either by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid.

This the 18th day of March, 2016.

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