

STATE OF NORTH CAROLINA  
 UTILITIES COMMISSION  
 RALEIGH  
 DOCKET NO. E-2, SUB 1297  
 DOCKET NO. E-7, SUB 1268

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:	)	
	)	
Duke Energy Progress, LLC, and Duke	)	<b>COMMENTS OF</b>
Energy Carolinas, LLC, 2022 Solar	)	<b>WALMART INC.</b>
Procurement Pursuant to Session Law	)	
2021-165, Section (c)	)	

Pursuant to the North Carolina Utilities Commission's ("Commission") March 11, 2022, Order in the above-referenced matters, Walmart Inc. ("Walmart") submits the following Comments in response to Duke Energy Carolinas, LLC's ("DEC") and Duke Energy Progress, LLC's ("DEP") (collectively, "Companies") 2022 Solar Procurement Plan:

**COMMENTS**

1. Walmart is concerned with the required 25-year PPA length.

It appears that all power purchase agreements ("PPAs") are required to be 25 years in length. *See* Petition, p. 19. Walmart has two concerns with dictating contract length. First, mandating contract length may result in more expensive, less economic projects than if the Request for Proposal ("RFP") participant was given latitude regarding the contract length. Second, if all PPA contracts are for the same duration and go online during the same general timeframe as the Companies propose (2026-2030), then customers will be faced with a potentially large number of contracts (and/or contracted load) expiring at the same time. It may prove difficult and/or incredibly costly for the Companies to renegotiate such a large volume of

contracts simultaneously. To avoid these two issues, Walmart recommends that the Commission consider increased flexibility on contract terms.

2. Walmart opposes any requirement in the RFP process that bidders include a mandatory price escalator.

In a recent proceeding before the Virginia State Corporation Commission ("VSCC"), Walmart learned that Virginia Electric and Power Company ("Dominion") required all bidders participating in its RFP conducted pursuant to the Virginia Clean Economy Act ("VCEA") to include a mandatory 2.5 percent price year-over-year escalator in their bid proposals.<sup>1</sup> By mandating a price escalator, Walmart believes that Dominion caused unnecessary inflation in the bids submitted in response to the RFP, to the detriment of customers. When the Companies mandate terms, it sets a floor on what a bid might include. Rather than mandating a price escalator (or other similar term), Walmart supports a more flexible RFP process that allows the bidder to make its best offer.

The Companies have previously indicated an intent to include a "cost control mechanism" to adjust its target volume up or down by 20 percent depending on the competitiveness of bids submitted during the RFP. Petition, p. 15. Having more flexibility in contract terms ensures that the bids submitted are as competitive as possible, which ultimately benefits customers. The Companies can evaluate whether proposed changes to initial bids are necessary *after* bids in response to the RFP are submitted. At the front end, the Companies should only dictate those terms absolutely necessary.

---

<sup>1</sup> See generally *Petition of Virginia Electric and Power Company For approval of the RPS Development Plan, approval and certification of the proposed CE-2 Solar Projects pursuant to §§ 56-580 D and 56-46.1 of the Code of Virginia, revision of rate adjustment clause, designated Rider CE, under § 56-585.1 A 6 of the Code of Virginia, and a prudence determination to enter into power purchase agreements pursuant to § 56-585.1:4 of the Code of Virginia*, VSCC Case No. PUR-2021-00146 ("Dominion 2021 RPS Plan").

3. Walmart supports the use of an Independent Evaluator ("IE") to oversee the RFP process.

Walmart supports the Companies' decision to appoint a third-party IE to conduct and oversee the Solar Procurement RFP, particularly in light of the potential that either DEC or DEP submit self-build proposals. *See* Petition, p. 22. Walmart recently supported a similar request in the Commonwealth of Virginia related to the implementation of the various requirements of the VCEA. *See* Dominion 2021 RPS Plan, Post-Hearing Brief of Walmart, p. 13.

4. The IE should rank all projects collectively and report any findings to the parties in this case.

The Companies indicate that the IE will "independently evaluate both utility ownership and third-party proposals bid" into the 2022 Solar Procurement RFP. Petition, p. 3. As part of that process, it appears that the IE intends to "rank all proposals -- including utility-ownership proposals, self-build projects, and third-party PPAs." Petition, Attachment 3, p. 3. Thereafter, the IE will provide its ranking of projects to the Companies' team in order to "receive and accept feedback...prior to finalizing the evaluation results." *Id.*


Walmart supports the IE ranking all bids, regardless of type. Although House Bill ("HB") 951 provides that 55 percent of new solar generation under the Carbon Plan is to be "supplied from solar energy facilities that are utility-built or purchased by the utility from third parties and owned and operated and recovered on a cost of service basis by the soliciting electric public utility," it is important for all stakeholders, interested parties, and the Commission to understand whether the most economic projects are being selected. *See* S.L. 2021-165 § (1).2.b. To that end, Walmart believes that the initial evaluation of bids conducted by the IE should be made available by the Companies to participating parties in this case. Moreover, where the ultimate recommendations differ from the IE's ranking and recommendations, the Companies should provide a clear explanation for such differences.

### CONCLUSION

Walmart thanks the Commission for the opportunity to provide comments in these dockets and looks forward to further participation in this matter.

Respectfully submitted,

SPILMAN THOMAS & BATTLE, PLLC

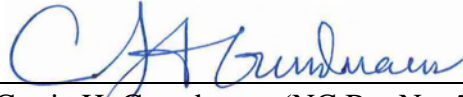
By:   
Carrie H. Grundmann (NC Bar No. 52711)  
Stephanie U. Eaton (NC Bar No. 25111)  
110 Oakwood Drive, Suite 500  
Winston-Salem, NC  
Phone: (336) 725-4710  
Fax: (336) 725-4476  
E-mail: [cgrundmann@spilmanlaw.com](mailto:cgrundmann@spilmanlaw.com)  
[seaton@spilmanlaw.com](mailto:seaton@spilmanlaw.com)

*Counsel to Walmart Inc.*

Dated: March 28, 2022

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Comments of Walmart Inc. has been served this day upon the parties of record in this proceeding by electronic mail.



---

Carrie H. Grundmann (NC Bar No. 52711)

Dated: March 28, 2022