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May 15, 2018

**VIA Electronic Filing**

Ms. M. Lynn Jarvis, Chief Clerk  
North Carolina Utilities Commission  
Dobbs Building  
430 North Salisbury Street  
Raleigh, North Carolina 27603

**RE: Docket Nos. E-2, Sub 1170 and E-7, Sub 1169  
Response to Joint Motion for Leave to File Sur-Reply Comments**

Dear Ms. Jarvis:

Enclosed for filing in the above-referenced dockets is Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Response to Joint Motion for Leave to File Sur-Reply Comments.

Please feel free to contact me with any questions. Thank you for your assistance in this matter.

Very truly yours,

/s/E. Brett Breitschwerdt

Enclosures

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

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

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	<b>Response of Duke Energy</b>
Petition for Approval of Green Source	)	<b>Carolinas, LLC, and Duke Energy</b>
Advantage Program and Rider GSA to	)	<b>Progress, LLC to Joint Motion for</b>
Implement N.C. Gen. Stat. § 62.159.2	)	<b>Leave to File Sur-Reply Comments</b>

Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP” and together with DEC, the “Companies”) respectfully file this response with the North Carolina Utilities Commission (“Commission”) addressing the *Joint Motion for Leave to File Sur-Reply Comments* (“Motion”), filed by the North Carolina Clean Energy Business Alliance, the North Carolina Sustainable Energy Association, the Southern Alliance for Clean Energy, the University of North Carolina at Chapel Hill, and the United States Department of Defense and all other Federal Executive Agencies’ (collectively, “Joint Movants”) (“Response”). The Companies’ Response addresses (1) the Joint Movants’ request to comment on the Green Source Advantage (“GSA”) Program Services Agreements and Renewable Supplier Term Sheet (“GSA Agreements”) filed in support of the Companies’ Reply Comments; and (2) the Joint Movants’ characterization of the Companies’ Reply Comments and request for an additional opportunity to file comments on the customer bill credit (“GSA Bill Credit”) offered under the Companies’ GSA Program.

## **RESPONSE TO JOINT MOTION FOR SUR-REPLY**

The Companies are not opposed to the Commission providing Joint Movants and other intervenors a limited opportunity for comment on the GSA Agreements if the Commission determines such a limited sur-reply would be beneficial to the Commission's review of the Companies' GSA Program. However, the Companies fundamentally dispute Joint Movants' unsupported and baseless allegation that the Companies' Reply Comments present "inaccurate or misleading allegations" regarding the GSA Bill Credit that "warrant correction and clarification." *See* Motion at ¶4. Joint Movants fail to identify with specificity what aspects of the Companies' GSA Program design, or the legal and policy arguments presented in the Companies' Reply Comments, are "inaccurate" or are purported to have the purpose or effect of "misleading" the Commissions or what new "factual information" they would introduce through the requested sur-reply. Instead, Joint Movants simply seek to reargue their position that "the Commission [should] use Duke's avoided cost rates to establish a bill credit for the GSA Program"—which is the exact position that they have already argued in two separate rounds of comments. *See* Motion at ¶4.ii.

Moreover, the Joint Movants' request for sur-reply on the GSA Bill Credit alleges no new legal, policy or factual issues with respect to the GSA Bill Credit that were not already addressed in the extensive comments previously filed with the Commission. Joint Movants have filed well over a hundred pages of initial and reply comments on the Companies' GSA Program, and it is difficult to conceive how the Joint Movants could now need yet another opportunity to comment on what was "intended" by the GSA Program Statute. *See* Motion at ¶4(i). While there clearly remains differences of opinion

among the parties to this proceeding as to the intent of the GSA Bill Credit and the “hold neutral” provisions of the GSA Program Statute, all parties have been given ample opportunity to provide comment on the issue. As stated in the Companies’ Reply Comments, there is a fundamental disagreement amongst the parties as to the intent and application of the Bill Credit provisions of the GSA Program Statute, which ultimately requires resolution by the Commission. Allowing sur-reply on this aspect of the Companies’ GSA Program design would simply allow these parties to restate the positions and arguments they have already made.<sup>1</sup>

Ironically, the Motion contains “inaccurate and misleading” statements when it asserts that “the Public Staff, the Attorney General, and Petitioners (as well as other intervenors) all recommend that the Commission use Duke’s avoided cost rates to establish a bill credit for the GSA Program.” *See* Motion at ¶4(ii). With respect to the Public Staff, the Joint Movants fail to mention that the Public Staff provided a number of alternative recommendations depending on whether or not the Commission deemed it appropriate to utilize avoided cost for purposes of the Bill Credit. Furthermore, while the Motion implies that the Joint Movants, the Public Staff and the AG are fully aligned on the Bill Credit, the Joint Movants gloss over the fact that both the Public Staff and the AG recommend that the avoided cost be “refreshed,” which is a material difference in program design from that of the Joint Movants.<sup>2</sup>

In sum, the Companies are not opposed to the Commission granting Joint Movants a limited opportunity to file additional comments on the GSA Agreements, but

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<sup>1</sup> For the avoidance of doubt, if the Commission has further questions regarding the GSA Bill Credit or other aspects of the Companies’ GSA Program design, the Companies stand ready to provide information that would assist the Commission in resolving the issues presented in this docket.

<sup>2</sup> *See Reply Comments of the Public Staff*, at 9; *Reply Comments of the Attorney General’s Office*, at 5.

do oppose Joint Movants' attempt to reargue their position as it relates to the GSA Bill Credits and the Companies' GSA Program design. Accordingly, the Companies respectfully request the Commission deny this second aspect of Joint Movants' Motion. If the Commission does find that good cause exists to grant this second aspect of Joint Movants' Motion, the Companies similarly request an opportunity to file responsive comments, if the circumstances warrant.

Respectfully submitted, this the 15<sup>th</sup> day of May, 2018.

/s/E. Brett Breitschwerdt

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response to Joint Motion for Leave to File Sur-Reply Comments, as filed in Docket Nos. E-2, Sub 1170 and E-7, Sub 1169, was served via electronic delivery or mailed, first-class, postage prepaid, upon all parties of record.

This, the 15<sup>th</sup> day of May, 2018.

/s/E. Brett Breitschwerdt

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