

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

DOCKET NO. SP-13695, SUB 1

In the Matter of:	)	ACCION GROUP, LLC's, THE CPRE
	)	INDEPENDENT ADMINISTRATOR,
Orion Renewable Resources LLC	)	RESPONSE TO VERIFIED
	)	PETITION FOR RELIEF BY ORION
	)	RENEWABLE RESOURCES LLC

NOW COMES, Accion Group, LLC, the Independent Administrator for the Competitive Procurement of Renewable Energy Program ("CPRE" or "Program") (hereinafter "IA" or "Accion") for the purpose of providing the North Carolina Utilities Commission (hereinafter, "NCUC" or "Commission") with factual information regarding the CPRE Tranche 1 solicitation as it relates to the Petition for Relief ("Petition") filed by Orion Renewable Resources, LLC ("Petitioner").

The Petition presents numerous misunderstandings and misrepresentation about the CPRE process, the role of Duke Energy Carolinas ("DEC" and together with the Duke Energy Progress, LLC, ("Duke")) and the actions of the IA. The IA declines to participate in the hyperbolic rhetoric that would be necessary to address the mincing of argument, opinion and misunderstanding woven through the Petition. However, the IA believes it important to point out that there is a misstatement of fact concerning the involvement of DEC personnel in the evaluation process. To be clear, while the Duke T&D Evaluation Team conducted the Step 2 transmission interconnection analysis (after the IA provided a ranking of Proposals), DEC personnel played no role in the evaluation of Proposals. The Duke T&D Team did not receive any Proposal pricing information. Duke personnel did not receive Proposal pricing information until after the conclusion of CPRE Step 2. The evaluation tools employed by the IA were not provided by Duke and Duke personnel made no determinations as to the disposition of Proposals prior to the IA providing recommendations as

to the Proposals eligible for PPAs. That is the role of the IA. The petitioner is well aware of the CPRE process and the limited role of Duke. The Petitioners repeatedly allege that DEC participated in the evaluation process. This is untrue. In the view of the IA, attempts to discredit the NCUC's process and the attacks on the Commission's process should be rejected outright. The CPRE evaluation process employed in CPRE Tranche 1 is set forth herein.

The core of this dispute can be reduced to a simple question: Should the value of CPRE Proposals, and in turn the eligibility for a Power Purchase Agreement ("PPA"), be based on the IA's robust and detailed evaluation of the 8760 hourly impacts of each year of the 20-year analysis which determines the net benefit to customers, or on whether Proposals are at or below Duke's levelized avoided energy and capacity rates utilizing the methodology most recently approved by the Commission?

N.C. Gen. Stat. § 62-110.8(b)(2) caps the price at which Duke procures CPRE resources at the current forecast of its avoided cost calculated over the term of the PPA "consistent with the Commission-approved avoided cost." Commission Rule R8-71(b)(2) defines "Avoided cost rate" as the long-term, levelized avoided energy and capacity costs utilizing the methodology most recently approved by the Commission. In accordance with N.C. Gen. Stat. § 62-110.8(b)(2), the Tranche 1 RFP did, in fact, identify the maximum bid price based on the then current Commission-approved avoided cost methodology (such prices, the "Avoided Cost Cap") and all bidders were required to bid a decrement to such Avoided Cost Cap.

However, while N.C. Gen. Stat. § 62-110.8(b)(2) establishes a maximum price on bids selected through CPRE (i.e., a "cap"), it does not mandate that the IA and Duke must select each and every bid that submits a bid price below the Avoided Cost Cap subject only to the total CPRE procurement total. Instead, under the CPRE Rule (R8-71), the IA is given wide latitude to evaluate

Proposals based on its CPRE Program Methodology. For instance, Commission Rule R8-71(f)(1)(iii) references the “economic and noneconomic factors to be considered by the Independent Administrator in its evaluation of proposals.” It would make no sense to refer to “economic factors to be considered” if the IA was required as a matter of law to simply rank bids solely on their price decrement. Instead, the IA is required to develop the optimal evaluation tool, which the IA did when it developed the overall CPRE Program Methodology. And where the IA determines that a Proposal is not in the best interest of customers based on the IA’s CPRE Program Methodology, the IA and Duke are not required to select a Proposal simply because the Proposal is below the Avoided Cost Cap.

The CPRE Program Methodology consisted of (1) the IA’s proprietary evaluation tools that were based on Duke’s current forecast of its hourly avoided capacity and energy costs calculated over the 20-year term of the CPRE PPA (the “IA Evaluation Tool”), and (2) other non-economic factors, such as having control of an appropriate development site. The IA Evaluation Tool is consistent with established methods utilized by regulated utilities and regulatory commissions in the United States when making cost/benefit determinations in resource decisions. The IA Evaluation Tool considered the full system impact of a Proposal on Duke’s system on an hourly basis (8760) over the 20-year term of a CPRE PPA (the results of such IA Evaluation Tool are referred to as the “Net Benefit”). The evaluations were based on the production profile provided by the Market Participant (“MP”). This produced a ranking of Proposals from the most beneficial to customers to the least beneficial. The CPRE Program Methodology, including the overall structure of the IA Evaluation Tool, was described in substantial detail in the draft and final RFP.

The on-line Proposal form required each Proposal to be proposed at or below the Avoided Cost Cap. The IA Evaluation Tool identified the full system benefit of each Proposal rather than simply rank Proposals using the decrement identified by the MP. The robust evaluation was designed to prevent a MP from “gaming” the process by submitting an unrealistic 20-year forecast of production. The IA Evaluation Tool also provided the most comprehensive analysis of the benefit of each Proposal to customers rather than mechanically assuming that a simplistic evaluation of bid decrements was sufficient. The determination of a more accurate assessment of the value of Proposals was endorsed by the Duke Evaluation Team and the Public Staff as the IA developed the evaluation tools for the CPRE program.

Contrary to the assertion in the Petition, the IA Evaluation Tool was not used to “determine whether a bidder’s proposal complied with the avoided cost cap”. There is no dispute that Petitioner bid a price that was a decrement to the Avoided Cost Cap. Rather, the IA Evaluation, as part of the CPRE Program Methodology, was utilized to determine that the Orion Proposal was not beneficial to customers.

The IA Evaluation Tool was developed by the IA to meet the needs of the CPRE program. While the IA Evaluation Tool is proprietary to Accion Group, LLC, the unique application for the CPRE program was developed with the cooperation of the Duke Evaluation Team and the Public Staff. The IA Evaluation Tool was demonstrated for Duke and the Public Staff, using mock Proposal data, prior to the receipt of Proposals in Tranche 1. Duke and the Public Staff agreed that the IA Evaluation Tool was a vital tool to rank Proposals relative to each other, controlling for size and output characteristics.

The IA believe that N.C. Gen. Stat. 62-110.8(b)(2) requires the IA to determine “the cost-effectiveness of procured new renewable energy resources” of Proposals, and believes that the IA

has the latitude to identify which Proposals are found to be cost effective relative to the system as determined by the IA Tool. Similarly, Commission Rule R8-71 provides latitude for the IA to reject a Proposal based on the IA's evaluation of the Proposal using the CPRE Program Methodology (including the IA Evaluation Tool). The IA measures cost effectiveness as whether a Proposal would provide a positive benefit for Duke's customers.

Using the IA Evaluation Methodology, Orion's Proposal was ranked last among all 58 Proposals received in DEC and determined to have a negative Net Benefit to customers, thus it would create the least value for customers. That is, even though the Proposal was bid as a decrement to the Avoided Cost Cap, the IA's evaluation under its IA Evaluation Tool determined that the Proposal was not beneficial to customers. For this reason, and in light of the latitude provided to the IA under the applicable law, the IA did not recommend Duke execute a PPA with Orion. The IA believes the goal of CPRE is to provide long-term value to customers, and in order to achieve that goal, it is appropriate to assess the full value of Proposals over the 20-year life of a PPA.

The IA requests that the NCUC provide clarity and direction concerning two matters:

1. Should the value of CPRE Proposals, and in turn the eligibility for a Power Purchase Agreement ("PPA"), be based on the IA's robust and detailed evaluation of the 8760 hourly impacts of each year of the 20-year analysis which determines the net benefit to customers, or on whether Proposals are at or below Duke's levelized avoided energy and capacity rates utilizing the methodology most recently approved by the Commission?
2. Whether a challenge to the final determinations in a CPRE Tranche must be made before final PPAs are awarded, or whether the Commission will accept as timely challenges submitted eight months after the fact.

The Commission's determination concerning the second posited question may affect Duke's willingness to execute PPAs while, in effect, the appeal period has not tolled, and the IA would

want to advise CPRE participants of Duke's position prior to inviting MPs to provide Proposal Security in order to proceed to the Step 2 evaluations in Tranche 2 and subsequent tranches.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I certify that a copy of Accion Group, LLC's, The CPRE Independent Administrator, Response To Verified Petition For Relief By Orion Renewable Resources LLC in Docket No. SP-13695, SUB 1, 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 9th day of April, 2020.



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