



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

December 17, 2021

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Docket No. EMP-115, Sub 0
Application of Cherry Solar, LLC, for a Certificate of Public
Convenience and Necessity to Construct a 180-MW Solar Facility in
Northampton County, North Carolina

Dear Ms. Dunston:

In connection with the above-referenced docket, I transmit herewith for filing on behalf of the Public Staff the supplemental testimony and exhibits of Jay B. Lucas, Manager, Electric Section – Operations and Planning, Energy Division.

By copy of this letter, I am forwarding a copy to all parties of record by electronic delivery.

Sincerely,

Electronically submitted
s/ Nadia L. Luhr
Staff Attorney
nadia.luhr@psncuc.nc.gov

NLL/cb

Attachments

Executive Director
(919) 733-2435

Accounting
(919) 733-4279

Consumer Services
(919) 733-9277

Economic Research
(919) 733-2267

Energy
(919) 733-2267

Legal
(919) 733-6110

Transportation
(919) 733-7766

Water/Telephone
(919) 733-5610

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. EMP-115, SUB 0

In the Matter of)	
Application of Cherry Solar, LLC, for a)	SUPPLEMENTAL
Certificate of Public Convenience and)	TESTIMONY OF
Necessity to Construct a 180-MW Solar)	JAY B. LUCAS
Facility in Northampton County, North)	PUBLIC STAFF – NORTH
Carolina)	CAROLINA UTILITIES
)	COMMISSION

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. EMP-115, SUB 0

Supplemental Testimony of Jay B. Lucas

On Behalf of the Public Staff

North Carolina Utilities Commission

December 17, 2021

1 **Q. PLEASE STATE YOUR NAME AND ADDRESS FOR THE**
2 **RECORD.**

3 A. My name is Jay B. Lucas. My business address is 430 North
4 Salisbury Street, Raleigh, North Carolina.

5 **Q. BRIEFLY STATE YOUR QUALIFICATIONS AND DUTIES.**

6 A. My qualifications and duties are included in Appendix A.

7 **Q. WHAT IS YOUR POSITION WITH THE PUBLIC STAFF?**

8 A. I am the manager of the Electric Section – Operations and Planning
9 in the Public Staff's Energy Division.

10 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL**
11 **TESTIMONY IN THIS PROCEEDING?**

12 A. The purpose of my supplemental testimony is to update my
13 recommendations on the application for a certificate of public

1 convenience and necessity (CPCN) for a solar photovoltaic facility
2 (Facility) owned by Cherry Solar, LLC (Cherry Solar or the Applicant),
3 with PJM interconnection queue number AC1-086. The Facility will
4 have a capacity of 180-megawatts alternating current (MW_{AC}) and be
5 located in the territory of Dominion Energy North Carolina (DENC) in
6 Northampton County, North Carolina.

7 On November 4, 2021, the Public Staff filed a Motion for Leave to
8 File Supplemental Testimony based upon a recent decision made by
9 the Federal Energy Regulatory Commission (FERC) that I explain
10 more fully below. On November 5, 2021, the Commission issued its
11 Order Granting Public Staff Motion to File Supplemental Testimony.

12 This testimony is supplemental to my direct testimony filed on April
13 14, 2021, and relates to the Facility and its relation to four other
14 facilities in PJM cluster AC1 that were part of the AC1 affected
15 system study completed by Duke Energy Progress, LLC (DEP)
16 (collectively, the DEP AC1 facilities). I show the status of the Facility
17 and the four other DEP AC1 facilities in **Lucas Exhibit 1**.

18 **I. Public Staff's Previous Testimony**

19 **Q. PLEASE SUMMARIZE THE PUBLIC STAFF'S CONCERNS IN**
20 **YOUR DIRECT TESTIMONY FILED ON APRIL 14, 2021.**

21 **A.** The Public Staff continues to have the following concerns described
22 in my direct testimony:

1 1. Unneeded upgrades do not serve the using and consuming
2 public no matter how much energy they provide. This situation is of
3 particular concern if the cost of the upgrades could potentially be
4 borne by customers who will not receive the energy produced;

5 2. DEP could build affected system upgrades that go unused for
6 extended periods of time if some interconnection projects withdraw
7 from the queue late in the review process; and

8 3. In order to accommodate future clusters, DEP may need to
9 replace network upgrades that were built to accommodate an earlier
10 cluster with transmission assets of an even higher capacity long
11 before the end of their normal service life of 40 to 60 years, thereby
12 resulting in stranded costs that could potentially be borne by DEP's
13 customers. For example, DEP finished upgrading the Rocky Mount-
14 Battleboro line in December 2017 to accommodate PJM cluster AA2.
15 DEP could potentially need to remove the equipment for the AA2
16 upgrade and replace it with additional upgrades to accommodate the
17 DEP AC1 facilities or later clusters.

18 **Q. PLEASE SUMMARIZE THE RECOMMENDATIONS IN YOUR**
19 **DIRECT TESTIMONY FILED ON APRIL 14, 2021.**

20 A. On pages 14 through 16 of my direct testimony, I recommended that
21 the Commission issue the CPCN with conditions, based upon the
22 evidence in this docket and the orders, comments, and reply

1 comments in Docket No. E-100, Sub 170. In addition, my
2 recommendation that the CPCN be issued with conditions was:

3 subject to the Public Staff's understanding that DEP
4 and DENC's current interconnection procedures
5 applicable to merchant generation do not provide for
6 reimbursement for interconnection facilities, network
7 upgrade costs, affected system costs, or other costs
8 required to allow energization and operation of the
9 Facility

10 (emphasis added).

11 **II. Supplemental Testimony**

12 **Q. SINCE THE FILING OF YOUR DIRECT TESTIMONY, HAS DEP**
13 **MADE ANY CHANGES TO THE AFFECTED SYSTEM STUDY**
14 **FOR THE AC1 CLUSTER?**

15 Yes. The estimated cost of upgrading the Rocky Mount-Battleboro
16 115 kilovolt transmission line has increased from \$23,204,593 to
17 approximately \$31,285,275 as shown in **Lucas Exhibit 2**.

18 **Q. PLEASE EXPLAIN THE OTHER CIRCUMSTANCES THAT LED**
19 **YOU TO FILE SUPPLEMENTAL TESTIMONY IN THIS DOCKET.**

20 The recommendations in my direct testimony were based on the
21 assumption that, consistent with DEP's Affected Systems Business
22 Procedure and current Open Access Transmission Tariff, generators
23 that cause affected system costs will be responsible for those
24 upgrade costs without reimbursement from DEP customers.

1 However, on October 1, 2021, FERC rejected an Affected System
2 Operator Agreement (ASOA) entered into between DEP and
3 American Beech, LLC (American Beech), another interconnection
4 customer in the AC1 cluster. FERC's order rejecting the ASOA
5 (ASOA Rejection Order) is attached as **Lucas Exhibit 3**. The ASOA
6 between DEP and American Beech provided that, consistent with
7 DEP's Affected Systems Business Procedure, American Beech
8 would not be reimbursed for costs associated with upgrading the
9 Rocky Mount-Battleboro line.

10 If the American Beech ASOA remained in effect, it would have
11 alleviated the Public Staff's concern that DEP's customers would
12 have to pay for transmission upgrades that they do not need.

13 FERC's rejection of the ASOA only applied to American Beech, but
14 it conveyed FERC's position that DEP's customers must ultimately
15 reimburse merchant generators for any affected system costs the
16 generators incur. Paragraph 36 of the ASOA Rejection Order states
17 in part, ". . . DEP has failed to justify its proposed departure from the
18 requirement, as stated in Order No. 2003 and reflected in DEP's
19 LGIA, that DEP must reimburse American Beech for the cost of
20 network upgrades on DEP's affected system." In addition, Paragraph
21 41 of the ASOA Rejection Order states: "we urge DEP to file a
22 revised ASOA and commence construction of the required network

1 upgrades expeditiously.” The Public Staff is not aware of any other
2 ASOA between DEP and the DEP AC1 facilities. If DEP and
3 American Beech do not execute a new ASOA acceptable to FERC,
4 the affected system upgrades to accommodate the DEP AC1
5 facilities could be passed to Cherry Solar.

6 On November 1, 2021, DEP filed a Request for Rehearing with
7 FERC, requesting reconsideration of the ASOA Rejection Order. On
8 December 2, 2021, FERC issued a Notice of Denial of Rehearing.¹
9 The Notice of Denial of Rehearing stated that “no answers to the
10 rehearing request will be entertained.”

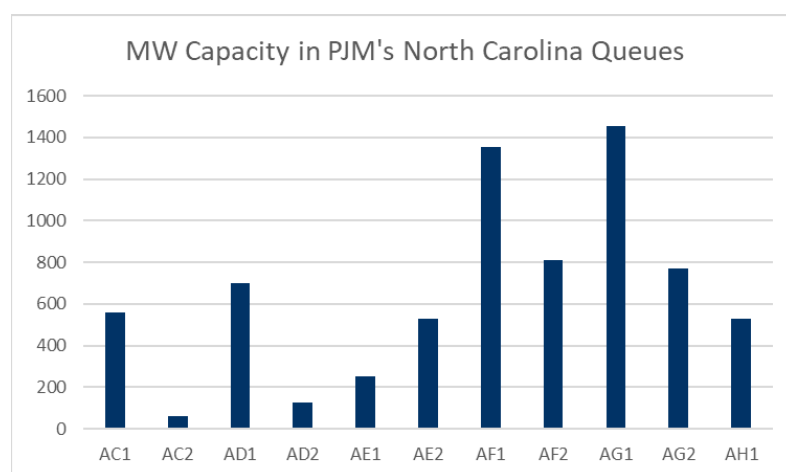
11 Because FERC has rejected an ASOA that required a merchant
12 generator to pay affected system upgrade costs without
13 reimbursement from DEP customers, and may do so again in the
14 future with similar ASOAs, it is appropriate for the Commission to
15 consider the reasonableness of affected system costs when
16 determining whether a facility is in the public convenience and
17 necessity.

18 **Q. DO YOU HAVE ANY OTHER UPDATES TO YOUR DIRECT**
19 **TESTIMONY?**

¹ FERC Docket No. ER21-1955-003, Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration (Dec. 2, 2021).

1 Yes. As I explained above, DEP may need to replace network
2 upgrades built to accommodate one cluster with transmission assets
3 of an even higher capacity in order to accommodate a later cluster.
4 The generating capacity entering PJM's North Carolina queue
5 continues to grow as shown in Lucas Figure 1 below:

6 **Lucas Figure 1**



8 DEP must upgrade its portion of the Rocky Mount-Battleboro line to
9 accommodate Cherry Solar and the other four DEP AC1 facilities.
10 However, there is one large project in a later PJM cluster that could
11 potentially require DEP to further upgrade its portion of the Rocky
12 Mount-Battleboro line, a 2640-MW wind energy facility to be built off
13 the coast of Virginia (AF1-123, -124, and -125). It is not included in
14 Lucas Figure 1 because it is not interconnecting in North Carolina.
15 PJM cluster AF1 opened three years after AC1. If DEP builds the \$31
16 million AC1 upgrades expeditiously as urged by FERC, DEP might

1 have to replace those upgrades after only achieving a small fraction
2 of their useful life.

3 **III. RECOMMENDATIONS**

4 **Q. WHAT ARE YOUR RECOMMENDATIONS ON CHERRY SOLAR'S**
5 **APPLICATION FOR A CPCN?**

6 A. The Public Staff has reviewed the application, the testimony of
7 witness Nwadike, and the other evidence in this docket. Based on
8 this information, the Public Staff recommends that the Commission
9 deny the CPCN application for the following reasons:

10 i. It is likely that DEP customers will ultimately be responsible for
11 \$31 million in affected system upgrades that are not needed for
12 reliable service.

13 ii. The \$31 million in upgrades could sit idle for extended periods
14 of time because some projects enter the PJM queue and later
15 withdraw.

16 iii. Future projects in PJM may result in the early retirement of
17 some or all of the \$31 million in AC1-caused upgrades long
18 before the end of their service life and install larger and more
19 costly upgrades, thereby unduly economically burdening
20 DEP's captive customers.

21 If the Commission issues the CPCN, the Public Staff recommends
22 that the Commission include the following conditions:

- 1 i. The Applicant shall notify the Commission within 30 days
2 of any change or any revisions to the cost estimates for
3 the construction of the Facility, interconnection facilities,
4 network upgrades, or affected system costs within 30 days
5 of becoming aware of such revisions. Once the
6 Commission is notified, subsequent steps and actions
7 along with a respective timeline for additional actions can
8 be defined on an as-needed basis;
- 9 ii. That the Applicant file a copy of any executed ASOA with
10 the Commission at the same time such filing is made at
11 FERC (at least 61 days prior to commencing construction
12 on the upgrades); and
- 13 iii. The Applicant shall file in this docket an itemized list of the
14 affected system costs reimbursed.

15 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

16 A. Yes, it does.

QUALIFICATIONS AND EXPERIENCE

JAY B. LUCAS

I graduated from the Virginia Military Institute in 1985, earning a Bachelor of Science Degree in Civil Engineering. Afterwards, I served for four years as an engineer in the Air Force performing many civil and environmental engineering tasks. I left the Air Force in 1989 and attended the Virginia Polytechnic Institute and State University (Virginia Tech), earning a Master of Science degree in Environmental Engineering. After completing my graduate degree, I worked for an engineering consulting firm and worked for the North Carolina Department of Environmental Quality in its water quality programs. Since joining the Public Staff in January 2000, I have worked on utility cost recovery, renewable energy program management, customer complaints, and other aspects of utility regulation. I am a licensed Professional Engineer in North Carolina.

EMP-	Sub	Applicant	MW	App Filed	Approved	County	PJM Queue	Public Staff Affidavit/Testimony Filed		
101	0	Edgecombe Solar LLC	75	10-05-18	11-13-20	Edgecombe	AC1-034	12-31-18	09-04-20	
107	0	Halifax County Solar LLC	80	08-30-19	09-02-20	Halifax	AC1-208	10-25-19	08-24-20	
108	0	American Beech Solar LLC	110	01-28-20		Halifax	AC1-098/099 (80 MW) and AC2-083/084 (30 MW)	04-15-20	07-22-20	
102	1	Pitt Solar, LLC (Phase 1)	80	08-10-20		Pitt	AC1-189	11-12-20	07-07-21	10-19-21
115	0	Cherry Solar, LLC	180	11-13-20		Northampton	AC1-086	04-14-21		

Public Staff
Lucas Exhibit 1
DEP AC1 Facilities

Public Staff
Lucas Exhibit 2
DEP's AC1 Affected System Costs

DEP provided this information to the Public Staff in a data request response received on October 20, 2021, in Docket No. EMP-102, Sub 1.

Category	Cost
Design & Project Management	\$ 478,304
Land	\$ -
Materials	\$ 2,494,451
Construction	\$ 17,216,022
Telecom	\$ 59,977
O&M	\$ -
Loadings & AFUDC	\$ 4,283,771
Contingency	\$ 4,706,051
TOTAL	\$ 29,238,575
CIAC (11.2%)	\$ -
NC Utility Tax (7%)	\$ 2,046,700
Total + Tax	\$ 31,285,275
Line Cost	\$ 28,362,363
Substation Cost	\$ 876,212
Total Cost	\$ 29,238,575
Tax	\$ 2,046,700
Grand Total	\$ 31,285,275
Line Cost + Tax	\$ 30,347,728
Substation Cost + Tax	\$ 937,547
Grand Total	\$ 31,285,275

177 FERC ¶ 61,001
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
James P. Danly, Allison Clements,
and Mark C. Christie.

Duke Energy Progress, LLC

Docket No. ER21-1955-002

ORDER REJECTING AFFECTED SYSTEM OPERATOR AGREEMENT

(Issued October 1, 2021)

1. On May 20, 2021, as amended on August 4, 2021, Duke Energy Progress, LLC (DEP) filed, pursuant to section 205 of the Federal Power Act (FPA)¹ and Part 35 of the Commission's regulations,² an executed Affected System Operating Agreement (ASOA) between DEP, as the affected system operator, and American Beech Solar, LLC (American Beech), as the interconnection customer (the DEP ASOA) under DEP's Joint Open Access Transmission Tariff (Joint OATT).³ We reject the DEP ASOA because we find that the terms of the DEP ASOA are unjust and unreasonable, as discussed below.

I. Background

2. Order No. 2003 set forth requirements that interconnection customers and transmission providers must follow during the generator interconnection process and reflected these requirements in the *pro forma* Large Generator Interconnection Procedures (*pro forma* LGIP) and in the *pro forma* Large Generator Interconnection Agreement (LGIA).⁴ As relevant here, Order No. 2003 requires transmission providers

¹ 16 U.S.C. § 824d.

² 18 C.F.R. § 385.206 (2020).

³ Duke Energy Progress, L.L.C., Tariffs, Rate Schedules and Service Agreements, OATT SA. No. 388, DEP-American Beech Solar - ASOA, 0.0.0.

⁴ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103, at P 36 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

to conduct a series of interconnection studies that will evaluate the proposed interconnection of generating facilities in detail, identify any adverse system impacts on the transmission provider's transmission system or affected systems, and specify the facility modifications that are needed to safely and reliably provide the interconnection.⁵ Upon completion of the interconnection studies, the transmission provider and the interconnection customer will negotiate the schedule for constructing and completing any necessary network upgrades.⁶

3. Order No. 2003 states that a non-independent affected system operator may require an interconnection customer to initially fund the costs of network upgrades that must be constructed on the affected system to accommodate the interconnection of the generating facility to another transmission provider's transmission system.⁷ Order No. 2003 requires that, upon commencement of commercial operation, any affected system operator that has received payments from an interconnection customer for the costs of network upgrades must reimburse the interconnection customer by means of: (1) credits against the interconnection customer's transmission bills (if it takes transmission service from the affected system); or (2) direct payments to the interconnection customer under a mutually agreeable repayment schedule (if it does not take transmission service from the affected system). If there is any remaining balance 20 years from the commercial operation date of the generating facility, a lump sum payment is due to the interconnection customer.⁸ When the interconnection customer is required to pay for network upgrades on the affected system, it must enter into an agreement with the affected system operator that specifies the terms governing payments to be made by the interconnection customer as well as the payment of refunds by the affected system operator.⁹ These payment and reimbursement requirements are reflected in article 11.4 of the *pro forma* LGIA, which the Commission made applicable to all jurisdictional affected system operators on whose systems network upgrades are

⁵ Order No. 2003, 104 FERC ¶ 61,103 at P 36. Under Order No. 2003, an affected system is an electric system other than the transmission provider's transmission system that may be affected by the proposed interconnection. *Id.* P 29 n.32.

⁶ Order No. 2003 defines network upgrades as the additions, modifications, and upgrades to the transmission system required at or beyond the point at which the interconnection facilities connect to the transmission provider's transmission system to accommodate the interconnection of the generating facility. *Id.* P 66.

⁷ *Id.* P 738.

⁸ *Id.* PP 720, 738; Order No. 2003-C, 111 FERC ¶ 61,401 at P 13.

⁹ Order No. 2003, 104 FERC ¶ 61,103 at P 739.

constructed to accommodate an interconnection customer's interconnection request.¹⁰ Order No. 2003 also provides that interconnection customers are entitled to reimbursement regardless of whether the interconnection customer has contracted for delivery service on the affected system operator's transmission system.

4. Order No. 2003 also provides non-independent transmission providers the opportunity to propose tariff terms and conditions that deviate from the *pro forma* LGIA if they can prove that the proposed variation is "consistent with or superior to" the requirements of the Final Rule.¹¹ If the Commission approves a proposed variation under this standard, the rates, terms and conditions of an interconnection agreement between an interconnection customer and relevant non-independent transmission provider are governed by the terms of its tariff with the proposed "consistent with or superior to" variation. By contrast, non-independent transmission providers that do not receive Commission approval for a "consistent with or superior to" variation from the *pro forma* LGIA are required to comply with the *pro forma* LGIA requirements.

5. DEP has not sought or been granted a variation from the Order No. 2003 requirements with respect to affected systems provisions described above. Accordingly, DEP's LGIA requires that an affected system operator reimburse an interconnection customer for its upfront payments for network upgrades that must be constructed on the affected system. Article 11.4.1 of DEP's LGIA provides that:

The Interconnection Customer shall be entitled to a cash repayment, equal to the total amount paid to the Transmission Provider and Affected System Operator, if any, for Network Upgrades, including any tax gross-up or other tax-related payments associated with the Network Upgrades, and not otherwise refunded to the Interconnection Customer, to be paid to the Interconnection Customer on a dollar-for-dollar basis for the non-usage sensitive portion of transmission charges, as payments are made under the Transmission Provider's Tariff and Affected System's Tariff for transmission services with respect to the Large Generating Facility.¹²

¹⁰ *Id.* P 738.

¹¹ *Id.* P 826.

¹² DEP Joint OATT, attach. J., app. 6, art. 11.4.1.

II. DEP's Filing

6. DEP states that American Beech is developing a new 80 MW solar generating facility (Solar Project) that will interconnect to a 115kv transmission line owned by Dominion Energy North Carolina (Dominion), which is in the footprint of PJM Interconnection, L.L.C. (PJM).¹³ DEP states that PJM identified DEP as an affected system because the proposed interconnection of the Solar Project will cause adverse impacts on DEP's Rocky Mount-Battleboro 115 kV line. Accordingly, DEP states that it performed an affected system study which concluded that the construction of the Solar Project will require: (1) the reconductoring of DEP's Rocky Mount-Brattleboro 115kV line; (2) the replacement of current poles with steel poles on 8.5 miles of the same line; and (3) uprating the existing Rocky Mount 230 kV substation.

7. DEP states that it entered into negotiations with American Beech to create the DEP ASOA, which sets forth the terms and conditions relating to the network upgrades required to mitigate the impacts on DEP's transmission system resulting from the interconnection of the Solar Project to the PJM transmission system.¹⁴ DEP states that, under the terms of the DEP ASOA, American Beech has agreed to pay DEP's actual costs for construction of the network upgrades identified in the DEP ASOA. DEP asserts that the cost estimate for such network upgrades is \$31,285,275.¹⁵ DEP argues that there is ample Commission precedent supporting total cost allocation for network upgrades on an affected system to an interconnection customer under an ASOA.¹⁶ Specifically, DEP states that the Commission has accepted for filing without modification other ASOAs under which the parties have mutually agreed to allocate all network upgrade costs to the

¹³ DEP Filing, Transmittal Letter at 1.

¹⁴ *Id.*

¹⁵ *Id.* at 2.

¹⁶ *Id.* (citing the ASOA between Southern Company Services, Inc. and Cooperative Energy in Docket No. ER21-1701-000 (Southern ASOA); the ASOA between Dominion Energy South Carolina, Inc. and Georgia Power Company in Docket No. ER20-1788-000 (Dominion/Georgia Power ASOA); the Agreement for Engineering and Construction with LMR Solar LLC and Florida Power & Light Company in Docket No. ER19-2445-000 (FPL/LMR Solar ASOA); the ASOA between MidAmerican Energy Company and Indianapolis Power and Light Company in Docket No. ER09-1654-000 (MidAmerican/Indianapolis ASOA); the ASOA between Southern Company Services, Inc. and Duke Energy Florida, LLC in Docket No. ER20-2825 (Southern DEF ASOA); the ASOA between DEF and Florida Power & Light in Docket No. ER20-2419 (DEF Service Agreement No. 258); and the ASOA between DEF and Florida Power & Light in Docket No. ER20-2419 (DEF Service Agreement No. 269)).

Docket No. ER21-1955-002

interconnection customer without providing reimbursement for such costs. DEP also states that the DEP ASOA was structured to eliminate adverse impacts to DEP's existing transmission customers, which DEP contends is consistent with Order No. 2003-B's finding that the Commission has an objective to protect existing transmission customers from adverse rate impacts due to network upgrades that are required to accommodate generator interconnection.¹⁷

8. DEP asks the Commission to accept the DEP ASOA, effective as of May 21, 2021.¹⁸

III. Notice of Filing and Responsive Pleadings

9. Notice of DEP's filing was published in the *Federal Register*, 86 Fed. Reg. 28,592 (May 27, 2021), with interventions and protests due on or before June 10, 2021. American Beech and Edgecombe Solar Energy, L.L.C (Edgecombe) filed timely motions to intervene and comments. On June 21, 2021, DEP filed an answer to the comments. On July 6, 2021, American Beech filed a motion to lodge the answer of the North Carolina Utilities Commission (NCUC) submitted in a related proceeding, Docket No. EL21-73-000, on the grounds that it clarifies statements made in DEP's answer. On September 1, 2021, DEP filed a notice alleging that American Beech has breached the DEP ASOA. On September 10, 2021, American Beech filed a response to DEP's notice of breach.

A. Comments

10. American Beech states that, according to the terms of its interconnection agreement with PJM, the Solar Project cannot come fully in service prior to the completion of the upgrade to the Battleboro-Rocky Mount 115 kV line.¹⁹ American Beech explains that, even if DEP begins work immediately, the work will not be completed until June of 2024, which is five years later than when American Beech originally planned to enter commercial operation. American Beech further explains that it was informed by DEP that, if the engineering work was not completed prior to the rainy autumn months, an additional year would be added to the schedule and the Solar Project would not be able to fully commence commercial operations until June of 2025. American Beech contends that it will experience substantial and severe financial harm if it is not able to fully enter commercial operations until June of 2025. American Beech explains that it executed the agreement so that it can deliver the needed capacity and

¹⁷ *Id.* (citing Order No. 2003-B, 109 FERC ¶ 61,287 at P 56).

¹⁸ *Id.* at 3.

¹⁹ American Beech Comments at 5.

Docket No. ER21-1955-002

OFFICIAL COPY

Dec 17 2021

energy to willing buyers that have been expecting to receive such products on or about its revised target commercial operation date of November 2022.

11. American Beech argues that PJM should have coordinated the affected system process with interconnection customers so that American Beech was not forced to sign the agreement on an expedited basis with a monopoly counterparty.²⁰ American Beech further contends that, because multiple signatories to the DEP ASOA were not allowed, American Beech was forced into choosing between signing the agreement or accepting another year of delay while the agreement was filed unexecuted and litigated at the Commission. American Beech requests that the Commission accept the DEP ASOA so that DEP will begin the necessary engineering, design, and erosion control work to produce the network upgrade cost estimate no later than September of 2022. American Beech also requests that the Commission make such acceptance contingent on the outcome of the complaint proceeding in Docket No. EL21-73-000 and clarify that a just and reasonable ASOA requires DEP to reimburse American Beech for the cost of the network upgrades.²¹

12. Edgecombe states that American Beech and Edgecombe, along with three other interconnection customers in PJM, have proposed generating facilities in PJM's footprint that have been identified in connection with the same network upgrades on DEP's affected system that are addressed in the DEP ASOA.²² Edgecombe asserts that DEP has insisted that it will only enter into an ASOA with one of these interconnection customers. Edgecombe explains that DEP, acting in its capacity as affected system operator, tendered an ASOA to Edgecombe in connection with the same network upgrades at issue in this proceeding. Edgecombe states that the ASOA similarly proposed to directly assign the costs of network upgrades to Edgecombe without reimbursement, and that DEP refused to revise the terms to provide for reimbursement. Edgecombe explains that, because it was unwilling to execute the ASOA that DEP tendered, Edgecombe filed a complaint in Docket No. EL21-73-000 challenging DEP's refusal to reimburse interconnection customers for the costs of affected system network upgrade costs.²³ Edgecombe argues that Commission policy requires an affected system operator, like DEP, to reimburse an interconnection customer, like American Beech, for the costs of network upgrades constructed on the affected system through transmission credits or a

²⁰ *Id.* at 6.

²¹ The complaint in Docket No. EL21-73-000 is pending before the Commission.

²² Edgecombe Comments at 1.

²³ *Id.* at 2.

lump sum payment.²⁴ Edgecombe states that the Commission should accept the DEP ASOA subject to revisions directing DEP to reimburse American Beech for network upgrade costs.

B. DEP's Answer

13. DEP reiterates that the terms of the DEP ASOA are consistent with the Commission's acceptance of other affected system agreements under which the parties have mutually agreed to allocate all network upgrade costs to the interconnection customer without providing reimbursement for such costs.²⁵ DEP requests that the Commission accept the DEP ASOA for filing as of the requested effective date to permit the parties to move forward with the work described in the DEP ASOA.²⁶

14. DEP contends that American Beech's request for acceptance of the DEP ASOA, contingent on the outcome of the Edgecombe complaint proceeding in Docket No. EL21-73-000, is not reflective of American Beech's actions while entering into the DEP ASOA.²⁷ DEP states that American Beech willingly chose not to file an unexecuted version of the DEP ASOA and instead chose to negotiate the milestones under the DEP ASOA, sign the DEP ASOA, and undertake all of the obligations set forth in the DEP ASOA. DEP argues that, because American Beech knowingly and voluntarily entered into the DEP ASOA, which does not contain reimbursement provisions, it is unnecessary for the Commission to clarify that DEP is obligated to reimburse American Beech for network upgrade costs. DEP states that the DEP ASOA stands on its own as a fully executed contract and argues that the Commission should reject American Beech's request to tie the acceptance of the DEP ASOA to the Edgecombe complaint proceeding because doing so would thwart the contractual certainty afforded by the DEP ASOA and the contracting parties' business objectives.²⁸ DEP adds that American Beech's request for clarification concerning reimbursement for the costs of network upgrades is directly opposite to American Beech's representations made to the NCUC, in which American Beech filed a letter stating that it would not object to the issuance of a certificate of public convenience and necessity conditioned on the requirement that an interconnection

²⁴ *Id.* at 5.

²⁵ DEP Answer at 2 (citing the Southern ASOA, the Dominion/Georgia Power ASOA, the FPL/LMR Solar ASOA, and the MidAmerican/Indianapolis ASOA).

²⁶ *Id.* at 3.

²⁷ *Id.*

²⁸ *Id.* at 3-4.

customer be responsible for all affected system costs assigned to the interconnection customer's facility without reimbursement.²⁹

15. DEP argues that Edgecombe lacks privity of contract with DEP and American Beech under the DEP ASOA because the ASOA is a two-party agreement that does not include Edgecombe.³⁰ DEP further states that Edgecombe has not demonstrated how it will be harmed or injured by the Commission's acceptance of the DEP ASOA. DEP argues that the Commission should disregard Edgecombe's comments raised in this proceeding because they seek to unlawfully undermine a contract that was willingly entered into and fully executed by both contracting parties.

C. American Beech's Motion to Lodge

16. American Beech moves to lodge the NCUC's comment in the Edgecombe complaint proceeding to complete the record in this proceeding and ensure that the Commission has all necessary information in order to adjudicate the disputes concerning the cost responsibility to fund network upgrades.³¹ American Beech asserts that its request is appropriate because DEP claims in its answer that American Beech's request for reimbursement is contrary to American Beech's representations to the NCUC. American Beech explains that the NCUC's comment clarifies that American Beech's concession to a ratepayer advocate intervenor has no bearing on the law or policy applicable to the reimbursement of network upgrades.³²

D. DEP's Notice of Breach and American Beech's Reply

17. On September 1, 2021, DEP filed a notice alleging that American Beech has breached the DEP ASOA due to its failure to complete Milestone 3 in the DEP ASOA.³³ Milestone 3 requires American Beech to provide by August 23, 2021: (1) authorization to proceed with engineering and design work necessary to produce a cost estimate; and (2) a cash prepayment of estimated costs in the amount of \$1,725,221. DEP states that, if

²⁹ *Id.* at 4-5.

³⁰ *Id.* at 6.

³¹ American Beech Motion to Lodge at 3.

³² *Id.* at 3-4.

³³ DEP Notice of Breach at 2.

Docket No. ER21-1955-002

the breach is not cured within 30 calendar days from receipt of notice, DEP has the right to declare a default and terminate the DEP ASOA.³⁴

18. American Beech contends that it has not breached the DEP ASOA and that there are no grounds to support termination.³⁵ American Beech explains that the Milestones under the DEP ASOA must be completed in sequential order. American Beech states that Milestone 2, which is a condition precedent to completion of Milestone 3, requires receipt of a Commission order accepting the DEP ASOA without modification by July 21, 2021.³⁶ American Beech argues that, because Milestone 2 has not been achieved, American Beech is not obligated to complete Milestone 3. American Beech also contends that article 7 of the DEP ASOA requires Duke to invoice American Beech for all amounts due under the agreement; American Beech asserts that Duke never sent such an invoice for the Milestone 3 payment.

IV. Deficiency Letter, Deficiency Response, and Responsive Pleadings

19. On July 8, 2021, Commission staff issued a deficiency letter requesting further information from DEP (Deficiency Letter). Staff asked DEP to explain how the reimbursement provisions of the ASOA are consistent with article 11.4.1 of DEP's LGIA.³⁷ Staff also asked DEP to identify any relevant provisions of DEP's Joint OATT that allow for the negotiation of an ASOA that does not reimburse the interconnection customer for affected system network upgrade costs.³⁸

20. DEP filed its response to the Deficiency Letter on August 4, 2021 (Deficiency Response). Notice of DEP's Deficiency Response was published in the *Federal Register*, 86 Fed. Reg. 43,649 (Aug. 10, 2021), with interventions and protests due on or before August 25, 2021. On August 25, 2021, American Beech filed comments on DEP's deficiency letter response.

21. DEP first argues that article 11.4.1 of DEP's LGIA is inapplicable to the DEP ASOA because American Beech is not DEP's interconnection customer.³⁹ Rather, DEP

³⁴ *Id.* at 2-3.

³⁵ American Beech Response to DEP's Notice of Breach at 3.

³⁶ *Id.* at 4.

³⁷ Deficiency Letter at 2.

³⁸ *Id.* at 2-3.

³⁹ Deficiency Response at 2-3.

states, American Beech is proposing to interconnect its generating facility with Dominion's transmission system, which is in the PJM footprint. Thus, according to DEP, American Beech has not entered into an LGIA that could contain the provisions cited by the Commission in the Deficiency Letter.⁴⁰ DEP also states that, since the interconnection agreement between American Beech, Dominion, and PJM was filed with the Commission, American Beech has elected to suspend the interconnection agreement. DEP states that this suspension introduces uncertainty as to whether the network upgrades identified in the DEP ASOA will be needed.⁴¹ DEP also states that the suspension of American Beech's interconnection agreement increases the likelihood that the construction milestones may need to be amended.

22. Second, DEP asserts that the Commission ruled in Order No. 2003 that an affected system operator is not bound by the terms of the *pro forma* LGIA.⁴² Thus, according to DEP, as an affected system operator it is not bound to incorporate the provisions of its *pro forma* LGIA in the DEP ASOA.

23. Third, DEP claims that PJM's tariff expressly acknowledges that DEP, as an affected system operator, may enter into a mutually acceptable agreement with a new service customer (here, American Beech) regarding terms for payment of network upgrade costs.⁴³ DEP cites section 218.1 of PJM's tariff addressing local and network upgrades on affected systems, which states:

In the event that transmission facilities or upgrades on an Affected System are required to accommodate a New Service Request, the New Service Customer shall be responsible for the costs of such facilities to the same extent that the Affected System Operator's FERC electric tariff would allocate responsibility for such costs to a customer funding upgrades on the Affected System. Transmission Provider, the Affected System Operator and the New Service Customer shall enter into an Upgrade Construction Service Agreement, a similar agreement in a form provided in the Affected System Operator's FERC electric tariff, or another, mutually

⁴⁰ *Id.* at 3.

⁴¹ *Id.* at 3-4.

⁴² *Id.* at 3 (citing Order No. 2003, 104 FERC ¶ 61,103 at P 121).

⁴³ *Id.* at 4-5.

acceptable agreement for the construction of such upgrades on the Affected System...⁴⁴

24. Finally, DEP states that the Commission has not included in the *pro forma* tariff provisions addressing the allocation of cost responsibility for network upgrades on an affected system.⁴⁵ DEP further argues that there is nothing in Order No. 2003 that denied the ability of affected system operators and affected system customers to freely negotiate and reach mutually agreeable terms under an affected system agreement which still must be filed with the Commission.⁴⁶

25. In its comments on DEP's Deficiency Response, American Beech argues that its status as affected system customer, as opposed to interconnection customer, does not absolve DEP of its obligation to reimburse American Beech for network upgrade costs.⁴⁷ American Beech states that the Commission has held that a transmission provider seeking to directly assign the construction cost of a transmission facility must demonstrate that the facility is not integrated into the transmission provider's larger network, and argues that DEP has not met that burden.⁴⁸

26. American Beech also points out that the portion of PJM's tariff cited by DEP provides that, in the event that transmission facilities or upgrades on an affected system (here, DEP) are required to accommodate a new service request (here, the Solar Project), the "new service customer" (here, American Beech) is responsible for the costs of such facilities to the same extent that the affected system operator's tariff would allocate responsibility for such costs.⁴⁹ American Beech contends that, because DEP's Joint OATT states that interconnection customers are entitled to reimbursement for upgrades on DEP's system, American Beech is due the same treatment.

27. American Beech disagrees with DEP's contention that DEP is not bound by the provisions of its LGIP or LGIA when it drafts provisions of an affected system operating

⁴⁴ *Id.* at 4 (citing PJM OATT § 218.1).

⁴⁵ *Id.*

⁴⁶ *Id.* at 5.

⁴⁷ American Beech Comments on Deficiency Response at 3.

⁴⁸ *Id.* (citing *Mansfield Muni. Elec. Dept. v. New England Power Co.*, 97 FERC ¶ 61,134, at 61,613-14 (2001), *reh'g denied*, 98 FERC ¶ 61,115 (2002)).

⁴⁹ *Id.* (citing PJM OATT § 218.1).

agreement with a generator interconnecting to a neighboring system.⁵⁰ American Beech first notes that the Order No. 2003 language quoted by DEP references a Commission statement discussing coordination for safety and reliability. American Beech also states that article 11.4.2 of DEP's LGIA clearly provides that affected system operators are required to reimburse interconnection customers for network upgrade costs. American Beech next argues that Order No. 2003-C unequivocally states that affected system operators must provide a 20-year lump sum reimbursement to refund any remaining balance for network upgrades funded by an interconnection customer, even if no transmission service was taken by that interconnection customer.⁵¹ American Beech also states that the Commission has held that Order No. 2003 requires an affected system operator to fully reimburse the interconnection customer of the affected system.⁵² American Beech contends that DEP has not demonstrated that a deviation from the policy set forth in Order No. 2003-C is warranted.

28. Finally, American Beech alleges that DEP's estimated costs for the network upgrades described in the DEP ASOA may be excessive.⁵³ American Beech references a complaint filed by the Carolina Clean Energy Business Association (CCEBA) with the Commission on July 30, 2021, which alleges that DEP may not have acted prudently and consistent with good utility practice as required by the DEP ASOA.⁵⁴

V. Discussion

A. Procedural Matters

29. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

30. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2020), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We accept the answers filed in this proceeding as they have provided information that assisted us in our decision-making process.

⁵⁰ *Id.* at 4.

⁵¹ *Id.* at 5 (citing Order No 2003-C, 111 FERC ¶ 61,401 at P 13).

⁵² *Id.* at 5-6.

⁵³ *Id.* at 6.

⁵⁴ *Id.* at 6-9.

B. Substantive Matters

31. We reject the DEP ASOA because DEP has not demonstrated that the terms of the DEP ASOA are just and reasonable, as discussed below.

32. We disagree with DEP's argument that American Beech's decision to enter into an agreement that does not reimburse American Beech for network upgrade costs necessarily means that DEP is not obligated to reimburse American Beech for such costs. As the party filing the subject agreement with the Commission under FPA section 205, DEP bears the burden of demonstrating that the terms of the agreement are just and reasonable. We find that DEP has not met that burden.

33. Order No. 2003 requires jurisdictional affected system operators to reimburse interconnection customers for network upgrade costs, including the cost of network upgrades constructed on affected systems, regardless of whether the interconnection customer has contracted for delivery service on the affected system operator's transmission system.⁵⁵ This reimbursement requirement is reflected in article 11.4 of the *pro forma* LGIA, which Order No. 2003 explicitly made applicable to all jurisdictional affected system operators on whose systems network upgrades are constructed to accommodate the interconnection customer's interconnection request.⁵⁶ Order No. 2003 established this requirement to achieve a number of goals, including: (1) ensuring that an independent interconnection customer's interconnection is treated comparably to that of a non-independent transmission provider interconnecting its own generating facilities; and (2) enhancing competition in bulk power markets by promoting the construction of new generation, particularly in areas where entry barriers due to unduly discriminatory transmission practices remained significant.⁵⁷

34. We find that DEP has not justified a deviation from the Order No. 2003 reimbursement requirement as just and reasonable.⁵⁸ DEP argues that removing this reimbursement requirement eliminates adverse impacts to DEP's existing transmission

⁵⁵ Order No. 2003, 104 FERC ¶ 61,103 at P 738; Order No. 2003-C, 111 FERC ¶ 61,401 at P 13.

⁵⁶ Order No. 2003, 104 FERC ¶ 61,103 at P 738.

⁵⁷ *Id.* P 694.

⁵⁸ See *Duke Elec. Transmission*, 113 FERC ¶ 61,139, at P 17 (2005) (*Duke Electric*) (conditionally accepting an unexecuted ASOA but directing the parties to conform the ASOA's provisions to the Duke LGIA or otherwise explain why the proposed language was just and reasonable).

customers, but contrary to the requirements of Order No. 2003, DEP does not support those generalized statements.⁵⁹

35. We disagree with DEP's contention that Order No. 2003 ruled that an affected system operator is not bound by the terms of the *pro forma* LGIA. As American Beech states, the portion of Order No. 2003 cited by DEP, which states that "the owner or operator of an Affected System is not bound by the provisions of the Final Rule LGIP or LGIA," is related to those portions of Order No. 2003 requiring a transmission provider and an affected system operator to coordinate (1) interconnection studies and (2) the timing of network upgrade construction on their respective systems, where necessary.⁶⁰ These portions of Order No. 2003 are not related to an affected system operator's obligation to reimburse an interconnection customer for network upgrade costs on the affected system. Instead, as noted above, Order No. 2003 specifically applies article 11.4 of the *pro forma* LGIA to jurisdictional affected system operators.⁶¹

36. We also disagree with DEP's contention that section 218.1 of PJM's tariff expressly acknowledges DEP's right, as an affected system operator, to enter into a mutually acceptable agreement with a new service customer (here, American Beech) that does not provide for the reimbursement of affected system network upgrade costs. The PJM tariff language cited by DEP states that a new service customer shall be responsible for the costs of network upgrades to the same extent that the affected system operator's jurisdictional electric tariff would allocate responsibility for such costs to a customer funding network upgrades on the affected system. As discussed above, DEP has failed to justify its proposed departure from the requirement, as stated in Order No. 2003 and reflected in DEP's LGIA, that DEP must reimburse American Beech for the cost of network upgrades on DEP's affected system.

⁵⁹ See Order No. 2003-B, 109 FERC ¶ 61,287 at P 56 ("If a Transmission Provider ... believes that, for an actual interconnection, it faces circumstances where native load and other customers are not held harmless, it should make that demonstration in an actual transmission rate filing. The Transmission Provider must explain the facts of the case and the assumptions on which its calculation is based and provide evidentiary support. While we cannot envision any circumstances where our existing pricing policy will not fully protect native load and other Transmission Customers, we are willing to consider alternative pricing proposals under the facts of a specific case. We emphasize that the Transmission Provider bears the full burden of showing that any such proposal is just and reasonable and not unduly discriminatory or preferential, and is appropriate under the circumstances.").

⁶⁰ Order No. 2003, 104 FERC ¶ 61,103 at PP 117-118, 120.

⁶¹ *Id.* P 738.

37. We further disagree with DEP's argument that the Commission should accept the DEP ASOA based on the Commission's previous acceptance, pursuant to delegated authority, of several uncontested ASOAs that did not require the affected system operator to reimburse the interconnection customer for network upgrade costs.⁶² We acknowledge that our precedent on this issue could be viewed as not entirely consistent. As noted above, shortly after issuance of Order No. 2003, the Commission conditionally accepted an unexecuted ASOA, holding that the interconnection customer was entitled to be reimbursed for network upgrade costs through payments, not transmission credits, consistent with Order No. 2003-C.⁶³ By contrast, the more recent orders on which DEP relies on accepted ASOAs that did not require the affected system operator to reimburse the interconnection customer for network upgrade costs. Recognizing that potential inconsistency, we now clarify that our evaluation of an ASOA that does not require the affected system operator to reimburse the interconnection customer for network upgrade costs turns on a fact-specific analysis of whether the filing party has shown that a deviation from the Order No. 2003 reimbursement requirement is necessary or is otherwise just and reasonable. As discussed above, having conducted that analysis based on the specific facts and record presented in this case, we find that DEP has not demonstrated that the DEP ASOA is just and reasonable.⁶⁴

⁶² Supra n.17. We note that some of the cases cited by DEP are distinguishable from the facts presented in this case. DEF Service Agreement Nos. 258 and 269 concern facilities that qualify as System Protection Facilities, the costs of which are directly assignable to the interconnection customer without reimbursement under the Duke Companies' LGIA. See Duke Companies OATT, attach J, app. 6, art. 9.7.4.1. The Dominion/Georgia Power ASOA does not include language describing a reimbursement obligation because the terms of the Dominion/Georgia Power ASOA do not require the interconnection customer to initially fund the network upgrades; therefore, there is no need to include terms providing for the interconnection customer's reimbursement. The affected system operator in the MidAmerican/Indianapolis ASOA is a transmission-owning member of MISO, an independent Regional Transmission Operator (RTO). The Commission has approved certain variations regarding network upgrade reimbursement in RTOs/Independent System Operators pursuant to the "independent entity" standard. See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 129 FERC ¶ 61,060 (2009); *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,070 (2012); *N.Y. Indep. Sys. Operator, Inc.*, 108 FERC ¶ 61,159 (2004), *order on reh'g*, 111 FERC ¶ 61,347 (2005).

⁶³ *Duke Electric*, 113 FERC ¶ 61,139 at P 17.

⁶⁴ In addition, in contrast to this case, the Commission was not specifically called upon in the proceedings to which DEP refers to address the lack of interconnection customer reimbursement. See *PJM Interconnection, LLC*, 153 FERC ¶ 61,308, at P 13 (2015) ("...silence is not evidence of Commission policy. As the courts have held,

Docket No. ER21-1955-002

OFFICIAL COPY

Dec 17 2021

38. We find that all arguments related to the Edgecombe complaint proceeding in Docket No. EL21-73-000 and the complaint filed by CCEBA are beyond the scope of this proceeding. The sole issue under consideration in this proceeding is whether the terms of the DEP ASOA are just and reasonable.

39. Similarly, we deny American Beech's motion to lodge. The NCUC's comments in the Edgecombe complaint proceeding are not relevant to the Commission's consideration of whether DEP has justified the terms of the DEP ASOA as just and reasonable.

40. Because we reject the DEP ASOA based on DEP's failure to show that it is just and reasonable, we do not reach American Beech's argument regarding DEP's alleged burden to show that a transmission facility is not integrated into the transmission provider's larger network before seeking to directly assign the construction cost of that transmission facility. Finally, while we need not address DEP's notice of breach because we are rejecting the DEP ASOA, we note our agreement with American Beech that its failure to meet the obligations listed in Milestone 3 of the DEP ASOA by August 23, 2021 does not constitute a breach of the agreement because Milestone 2, which must be complete prior to Milestone 3 under the terms of the ASOA, has not been achieved.⁶⁵

41. Finally, we are concerned with the delays that American Beech will experience as a result of DEP's actions with respect to this agreement. As American Beech explains, American Beech had to choose between signing an agreement that assigned costs in contravention of Order No. 2003-C or accepting another year of delay, a delay that has challenged American Beech's business model. DEP's explanation that American Beech willingly chose not to file an unexecuted version of the DEP ASOA does not account for the position American Beech was in as a result of DEP's actions. Thus, we urge DEP to file a revised ASOA and commence construction of the required network upgrades expeditiously.

FERC's acceptance of a pipeline's tariff sheets does not turn every provision of the tariff into policy or precedent, especially when the Commission later takes the opportunity to clarify its policy." (citing *Webster v. Fall*, 266 U.S. 507, 510 (1925) (finding that "[q]uestions which merely lurk in the record, neither brought to the attention of the court nor ruled upon, are not to be considered as have been so decided as to constitute precedent."))). But see *Baltimore Gas and Elec. Co. v. FERC*, 954 F.3d 279, 286 (D.C. Cir. 2020) ("FERC cannot avoid its obligation to provide a reasoned explanation for contrary treatment of 'similarly situated' parties solely because those decisions were uncontested or unreasoned."). We note that Judge Williams dissented on this issue.

⁶⁵ Filing, proposed DEP ASOA, app. B.

Docket No. ER21-1955-002

The Commission orders:

The DEP ASOA is hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.

OFFICIAL COPY

Dec 17 2021

Document Content(s)

ER21-1955-002.docx.....1