

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

**DOCKET NO. E-2, SUB 1297
DOCKET NO. E-7, SUB 1268**

In the Matter of Duke Energy Progress, LLC, and Duke Energy Carolinas, LLC, 2022 Solar Procurement Pursuant to Session Law 2021- 165, Section 2(c)))))))	Petition to Intervene and Initial Comments of the North Carolina Electric Membership Corporation
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NOW COMES the North Carolina Electric Membership Corporation (“NCEMC”) and, pursuant to North Carolina Utilities Commission (“Commission”) Rule R1-19 and in accordance with the Commission’s March 11, 2022 *Order Opening Separate Dockets and Establishing Procedural Deadlines*, (“Order”), files this Petition to Intervene and Initial Comments.

I. Motion for Leave

NCEMC requests that it be permitted to participate in the above-referenced dockets and shows unto the Commission as follows:

1. NCEMC’s attorneys, to whom all communications and pleadings should be addressed are:

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2. NCEMC is a generation and transmission cooperative organized pursuant to Chapter 117 of the North Carolina General Statutes and is responsible for the power supply of its 25 member distribution cooperatives throughout the State of North Carolina. Those 25 members, in turn, supply electricity to more than one million homes, farms, and businesses in which more than 2.5 million North Carolinians live and work.

3. In addition to generating its own power and energy, NCEMC and its members purchase power and energy, pursuant to wholesale contracts, from Duke Energy Carolinas, LLC (“DEC”), Duke Energy Progress, LLC (“DEP,” and collectively with DEC, “Duke”), Virginia Electric and Power Company d/b/a Dominion Energy North Carolina (“Dominion”), and others to supply its members in 93 counties in North Carolina. NCEMC and its member distribution cooperatives also take retail service from DEC and DEP at multiple locations.

4. In the Order, the Commission requested comments on the 2022 solar procurement plan anticipated to be filed by Duke on March 14, 2022, consistent with Section 2(c) of North Carolina Session Law 2021-165, (commonly referred to as “House Bill 951” or “H951”), which authorized the Commission to direct the procurement of:

solar energy facilities in 2022 by the electric public utilities if, after stakeholder participation and review of preliminary analysis developed in preparation of the initial Carbon Plan, the Commission finds that such solar energy facilities will be needed in accordance

with the criteria and requirements set forth in Section 1 of this act to achieve the authorized carbon reduction goals.

5. NCEMC was actively involved in the development of H951 and has a direct interest in seeing the policies and goals of the law implemented in a manner consistent with legislative intent. The cooperatives were identified, along with municipalities, as key stakeholders to be involved in the implementation of H951 before the Commission by its legislative sponsors.¹ As such, the perspectives of NCEMC as a stakeholder in these matters will assist the Commission in ensuring that the legislative intent supporting H951 is met. The Commission already granted NCEMC's intervention in Docket No. E-100, Sub 179, related to Duke's overall Carbon Plan filing, on December 16, 2021.

6. In its March 14, 2022, Petition for Authorization of 2022 Solar Procurement Program ("Petition"), Duke noted that:

The utility-owned resources and third-party PPA proposals procured under the 2022 SP Program will be "system supply resources" delivering energy and capacity to the Companies' grid to serve all North Carolina retail, South Carolina retail, and wholesale jurisdictional customers. As such, the Companies are planning to allocate the cost of energy, capacity, and renewable and environmental attributes generated by facilities procured through the 2022 SP Program to all jurisdictions and customers.

Petition at 28.

¹ See statement by Sen. Paul Newton on October 5, 2021, before the Senate Committee on Agriculture, Energy, and Environment, in which Sen. Newton responded to the question "Are co-ops and munis [municipal power agencies] qualifying stakeholders under the bill?" by stating affirmatively that "Yes. So if this plan is being considered, and they want a voice, and they want to address the Utilities Commission about the proposed plan going forward, they are absolutely stakeholders. I don't want there to be any confusion about that." Audio available online at:

https://nccommittee.s3.amazonaws.com/20211005/Senate:%20%20Agriculture,%20Energy,%20and%20Environment%20--%20UPDATED/Auditorium%20LB_Senate%20%20Agriculture_1200PM_wucxdgnbdqf.mp3.

7. For the reasons stated above, NCEMC and its member cooperatives have direct, substantial, and pecuniary interests that could be materially affected by the Commission's actions in this proceeding. No other party can adequately represent NCEMC's interests in this proceeding.

8. NCEMC asks that the Commission make it a party to this proceeding and permit it to exercise all rights provided to intervenors under North Carolina law and this Commission's rules.

9. NCEMC agrees to accept electronic service of all filings in these Dockets.

II. Initial Comments of NCEMC

10. In its Petition, Duke stated that it proposed to commence a system wide solar procurement request in 2022 targeting a minimum of 700 megawatts ("MW") of utility-owned and third-party solar energy resources in North and South Carolina to serve customer needs as part of the Carbon Plan called for in Section 1 of H951.

11. Duke further indicated that it held a stakeholder engagement process, facilitated by the Great Plains Institute, to establish a framework for the 2022 solar procurement. NCEMC participated in the stakeholder discussions held on January 20, 2022, February 7, 2022, and February 25, 2022. As part of those discussions, Duke presented information from DEC's and DEP's recent integrated resource plan ("IRP") portfolios to provide indicative quantities of the solar resources that will be needed to meet the carbon reduction goals authorized in H951. Under all the IRP portfolios discussed, significant quantities of incremental new solar resources were needed to meet the goals of

its still-under-development initial Carbon Plan. Duke specifically notes that the 700 MW initial minimum target volume in its 2022 solar procurement proposal is expected to be needed under all reasonable and feasible future scenarios to comply with H951's 2030 carbon reduction goals.

12. Due to the expedited nature of the timeframe during which Duke is seeking to move forward with its 2022 solar procurement plan to align with its 2022 Definitive Interconnection System Impact Study ("DISIS") Cluster Process, Duke has relied heavily on the existing framework from its Competitive Procurement of Renewable Energy Program ("CPRE") established pursuant to N.C. Gen. Stat. § 62-110.8. NCEMC does not take issue with Duke's proposed 2022 solar procurement request, but wishes to raise the following two topics for Commission consideration of future solar procurements, as well as the overall cost effectiveness of Duke's carbon reduction plan under Section 1 of H951.

A. Location of procured solar resources

13. Duke indicated in its Petition that the joint procurement will be system-wide in North and South Carolina across both utility service territories. (*See, e.g.*, Petition at 2, "the Companies and stakeholders have developed plans for a system-wide 2022 SP RFP targeting at least 700 MW of new solar resources across the Carolinas"; Petition at 7, "the Companies evaluated DEC's and DEP's 'system-wide' need for solar resources across both states as the Companies plan and operate the grid on a system-wide basis"; Petition at 13, "A system-wide, joint procurement without specific allocations best ensures that the lowest cost portfolio of assets can be sourced under the 2022 SP Program for all customers"; and Petition at 29, "the energy delivered by facilities procured through the

2022 SP Program is needed to meet DEC's and DEP's future system-wide resource needs, and these new solar resources provide system-wide benefits by serving all customers within the Companies' balancing authority areas.”).

14. NCEMC does not take exception to the location limitations proposed in the Petition for the purposes of the expedited 2022 procurement, but notes that the locational guidance and requirements provided by the General Assembly under H951 vary considerably from the CPRE Program enacted in S.L. 2017-192 (H589). N.C.G.S. § 62-110.8(c), enacted as part of H589, authorized the participating electric utilities “to determine the location and allocated amount of the competitive procurement within their respective balancing authority areas, whether located inside or outside the geographic boundaries of the State,” after taking into consideration a number of factors. H951 does not place any limits on the locations from where new resources may be located for Carbon Plan compliance. Instead, Section 1.(2) of H951 requires that any new generating facilities or other resources selected must “comply with current law and practice with respect to least cost planning for generation”; “be owned and recovered on a cost of service basis by the applicable electric public utility”, and “ensure any generation and resource changes maintain or improve upon the adequacy and reliability of the existing grid.” With regard to any new solar generation selected by the Commission, the Section 1.(2)b. provided an exception to the ownership requirement to require:

forty-five percent (45%) of the total megawatts alternating current (MW AC) of any solar energy facilities established pursuant to this section shall be supplied through the execution of power purchase agreements with third parties pursuant to which the electric public utility purchases solar energy, capacity, and environmental and renewable attributes from solar energy facilities owned and operated by third parties that are 80 MW AC or less

that commit to allow the procuring electric public utility rights to dispatch, operate, and control the solicited solar energy facilities in the same manner as the utility's own generating resources[.]

15. As such, solar resources that are sited and interconnect outside of DEC or DEP's service territories, including within cooperative service territories, that enter into arrangements to allow the energy to be transmitted to DEC's or DEP's system, can and should be considered as part of any least-cost planning process for meeting the Carbon Plan goals called for in Section 1 of H951, so long as those resources comply with the ownership, operational control, and grid reliability requirements for any new generation facilities or other resources called for in H951.²

B. Control of procured solar resources

16. Duke noted that it plans to "procure the most reliable and least cost portfolio of solar energy from North Carolina and South Carolina developers through third-party PPAs that can be operated and controlled in the same manner as the Companies' own generating resources." Petition at 19. This is consistent with the requirement in Section 1(2)b. of H951 that requires third parties executing PPAs for qualifying solar generation resources with Duke to "commit to allow the procuring electric public utility rights to dispatch, operate, and control the solicited solar energy facilities in the same manner as the utility's own generating resources".

17. Duke indicated that the PPAs used for the 2022 solar procurement will include similar control instructions to those called for in the PPAs previously approved for

² NCEMC notes that additional considerations, such as the protections and limitations provided in the Regulatory Conditions and Code of Conduct adopted by Commission Order dated August 24, 2018, in Dockets E-2, sub 1095A, E-7, sub 1100A, and G-9, sub 682 would also be applicable to the ownership and control of resources to be procured by DEC and DEP in their public utility operations.

use by the Commission in the CPRE Program, which defined limits and compensation for resource dispatch and curtailments. However, Duke stated that “certain market participant stakeholders as well as the Public Staff have noted that the PPA generation control and related compensation structure should be reviewed prior to the next solar procurement to determine whether alternative contractual arrangements to those proposed for the 2022 SP Program might deliver greater dispatchability and control to the Companies at a lower cost to customers while minimizing revenue risk for third-party developers.” (Petition at 20). NCEMC agrees that other contractual and technological arrangements can provide enhanced control and optimization capabilities equal to or exceeding Duke’s current PPA curtailment provisions, potentially at a lower cost to customers, and should be fully considered in future procurements. For example, NCEMC and its member distribution cooperatives have developed and implemented the NCEMC Distribution Operator (“DO”), a single entity that monitors, aggregates, and centrally coordinates distributed energy and demand response resources, bringing operational benefits to the distribution system, optimization to the market interface, and positive system impacts on the transmission systems upstream, including DEC, DEP, and Dominion. The DO currently provides access to over 300 MW of distributed energy and demand resources, including solar, storage, microgrids, consumer devices, and behind-the-meter generation located on member cooperative systems, and will continue to grow as additional resources are integrated into the DO system and processes become more automated. To the extent cost-effective resources located within cooperative service territories are identified and selected as part of the solar procurement process, the DO can provide enhanced control and coordination over those third-party solar resources to help achieve compliance with the H951 Carbon

Plan goals in a least cost manner, while maintaining or improving upon the adequacy and reliability of the existing grid at both the distribution and transmission level.

WHEREFORE, NCEMC respectfully requests that the Commission grants NCEMC's petition to intervene and consider the enclosed comments.

Respectfully submitted this the 28th day of March 2022.

**NORTH CAROLINA ELECTRIC
MEMBERSHIP CORPORATION**

By: /s/ Timothy R. Dodge
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STATE OF NORTH CAROLINA**COUNTY OF WAKE**

Timothy R. Dodge swears and says under penalty of perjury:

1. He is Regulatory Counsel for North Carolina Electric Membership Corporation.
2. He has read the foregoing *Petition to Intervene and Initial Comments* and knows its contents.
3. The matters stated in this instrument are true of his knowledge, except as to those matters that are stated to be on information and belief, and, as to those matters, he believes them to be true.

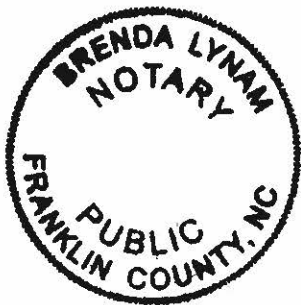

Timothy R. Dodge

Sworn to and subscribed before me
this the 28th day of March 2022.


Notary Public
Brenda Lynam

My Commission Expires: 11/18/2023

[SEAL]



CERTIFICATE OF SERVICE

It is hereby certified that the foregoing document has been served upon all parties of record by electronic mail, or depositing the same in the United States mail, postage prepaid.

This the 28th day of March 2022.

/s/ Timothy R. Dodge

Timothy R. Dodge

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