

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 101

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Petition for Approval of Revision to Generator Interconnection Standards))))))	REPLY COMMENTS OF THE PUBLIC STAFF ON CCEBA'S PROPOSED MODIFICATIONS
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NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Christopher J. Ayers, and respectfully submits the following comments in response to the Commission’s *Order Requesting Reply Comments* dated September 9, 2021, allowing the parties to file reply comments on the further modifications proposed by the Carolina Clean Energy Business Association (CCEBA), filed on September 8, 2021 in response to the Petition for Approval of Limited Modifications to the North Carolina Interconnection Procedures to Expand Transitional Cluster Study Eligibility (Petition) filed by Duke Energy Progress, LLC (DEP) and Duke Energy Carolinas, LLC (DEC) (collectively, Duke or the Utility) on August 17, 2021.

Background

On August 17, 2021, Duke filed its Petition to allow certain projects in the current interconnection queue as of the effective date of the North Carolina Interconnection Procedures (NCIP) queue reform proposal to be permitted to enter a Section 1.10.2 Transitional Cluster Study (TCS) process, if the Interconnection

Customer meets the requirements of NCIP Section 1.10.2.1 prior to the close of the 60-day Transitional Cluster enrollment window. These limited modifications were proposed in order to potentially, in part, include the Competitive Procurement of Renewable Energy (CPRE) Tranche 3 generator interconnection studies in the Transitional Cluster.

On August 19, 2021, the Commission issued its *Order Implementing Queue Reform*. As part of that order, queue reform was approved for implementation on August 20, 2021 (Effective Date). Duke provided written notice of the Utility's transition to the Definitive Interconnection Study Process on September 1, 2021 (Transition Notice Date). The 60-day Transitional Cluster enrollment window began on the Transition Notice Date and closes on October 31, 2021.¹

On September 1, 2021, Duke filed its 2021 CPRE Program Plan Update in Docket No. E-100, Sub 165 (CPRE Update). In the CPRE Update, Duke projected the need for approximately 300 MW² of new renewable resources to be procured in Tranche 3 of the CPRE to meet the goal of 2,660 MW, adjusted for estimated Transition MW.³ The CPRE Update discussed the complexity of implementing

¹ NCIP Section 1.10.2 states that an Interconnection Customer with a queue number before the Effective Date may opt into the TCS if the Interconnection Customer meets the requirements of 1.10.2.1 and provides written notice to the Utility pursuant to Section 1.1.3. Section 1.1.3 states that the Interconnection Customers must meet the requirements under 1.10 and provide written notice within 60 days of the later of the Effective Date or the Transition Notice Date.

² Duke states in the CPRE Program Plan Update, "The Companies project an additional 230 MW of resources will qualify as Transition MW by the end of the CPRE Program Procurement Period. Therefore, the Companies project that the final Transition MW will be 4,683 MW, resulting in a total remaining amount to be procured of 300 MW." CPRE Update, at p 55.

³ Transition MWs is the term used to refer to projects that qualify under N.C. Gen. Stat. § 62-110.8(b)(1) as having executed PPAs and interconnection agreements within the DEC and DEP Balancing Authorities that are not subject to economic dispatch or curtailment and were not procured under the Green Source Advantage program. Pursuant to the statute, should the level of Transition MWs exceed 3,500 MW, the aggregate CPRE target of 2,660 MW will be reduced

Tranche 3 after the queue reform Effective Date, stating that two viable options existed: integrate Tranche 3 into the TCS process, or delay Tranche 3 until the first Definitive Interconnection System Impact Study (DISIS) process, which will be the first cluster study after the TCS under the revised NCIP.

On September 8, 2021, the Public Staff and CCEBA filed comments in response to Duke's Petition. The Public Staff did not object to the proposed modifications. CCEBA stated that it generally supports the Petition but proposed four modifications to Transitional Cluster eligibility to "more smoothly integrate Tranche 3 and the Transitional Cluster in a fair and equitable manner."

On September 9, 2021, the Commission issued an *Order Requesting Reply Comments* to CCEBA's proposed modifications. On September 17, 2021, the Commission issued its *Order Granting Extension of Time*, requiring reply comments to be filed on or before September 22, 2021.

On September 17, 2021, the Independent Administrator (IA), Accion Group, held a stakeholder webinar (Webinar) to discuss CPRE Tranche 3 with market participants. The Webinar was well attended, and both the IA and Duke responded to numerous questions from market participants and the Public Staff.

Reply Comments

In these reply comments, the Public Staff responds specifically to the four modifications proposed by CCEBA. As an initial matter, the integration of Tranche

by such excess capacity. Duke anticipates approximately 4,683 MW of Transition MW by November 21, 2021 (2021 CPRE Program Plan at 55).

3 with the TCS will require significant consensus on major issues, including on required waivers to Commission Rule R8-71(f)(3) as well as any required modifications to the Tranche 3 Request For Proposals (RFP) and pro-forma Power Purchase Agreement. Without substantial agreement on these issues, it is likely that the Commission will need to delay Tranche 3 until the first DISIS following the TCS.

CCEBA's first proposal is to modify Transitional Cluster Eligibility to allow a statement of commitment to enter Tranche 3 to suffice to show readiness for entry into the Transitional Cluster, rather than a completed application. The Public Staff agrees that this modification is reasonable for purposes of the TCS, and during the Webinar, Duke agreed to create a form for market participants to indicate their commitment to enter Tranche 3 in order to demonstrate eligibility for the TCS. The Public Staff's only concern is that projects might indicate their commitment to enter the TCS, but not actually bid into Tranche 3. The IA has indicated that part of the Step 1 evaluation process will be to cross reference projects that bid into Tranche 3 with those that joined the TCS with a statement of commitment; those projects that used a Tranche 3 commitment to show eligibility but did not bid into Tranche 3 will be removed from the TCS. With this check in place, the Public Staff supports this modification.

CCEBA's second proposed modification is to expand Transitional Cluster eligibility to projects that "submit a statement of intention to participate in CPRE Tranche 3 and an Interconnection Request within a grace period after the decision to combine Tranche 3 and the Transition Cluster is approved." This expansion

would allow projects that enter the Interconnection Queue after the Effective Date to be made eligible for the TCS. CCEBA made this proposal despite Duke explicitly stating in filings before this Commission, the South Carolina Public Service Commission (SCPSC), and the Federal Energy Regulatory Commission (FERC) that eligibility for the Transitional Cluster would be based upon queue status as of August 20, 2021. Because of these Duke filings, Duke believes that FERC and South Carolina approval would be required to allow for this request.

The Public Staff notes that, at this time, Duke is only seeking 300 MW of winning projects and Duke has indicated that there are more than enough potential bidders that are eligible to participate in both DEC and DEP at this time. In its CPRE Plan, Dukes states:

There are a significant number of projects currently eligible to elect into the Transition Cluster Study that would potentially consider participating in Tranche 3 if it is integrated with the Transitional Study—based on the Companies’ preliminary analysis, it appears that there are over 100 state jurisdictional renewable, transmission-connected interconnection requests adding up to more than 5,500 MW.

CPRE Plan, at 59.

The Public Staff expects many projects currently in the queue to participate in the TCS. The Public Staff is concerned that implementing the modification to allow more projects in, during a yet to be determined length of time, could result in a large number of Interconnection Requests submitted between the approval of the integration of Tranche 3 with the TCS, and the end of the “grace period” proposed by CCEBA. These requests would likely be very early in development and would therefore be at greater risk of failing to meet TCS or Tranche 3

milestones. The potential for numerous early-stage proposals permitted to join the TCS as a result of CCEBA's proposal may lead to a higher risk Transitional Cluster re-studies, which would be more likely if a higher number of projects drop out after Phase 1 or Phase 2. One of the goals of queue reform was to reduce the interconnection queue backlog by forcing speculative projects without significant financial capital from the study process in an effort to streamline the study and interconnection of economically viable projects. In light of the large number of projects already expected to participate in the TCS and the greater risk for required restudies, the Public Staff opposes this modification request.

The Public Staff believes the remaining two requests are more appropriately considered in the CPRE dockets,⁴ but for the sake of expediency, and recognizing that the Transitional Cluster process is already underway, we will address CCEBA's third and fourth recommendations jointly in these comments.

The third request CCEBA makes is that "Tranche 3 CPRE award decisions should be made concurrently with the Transitional Cluster Phase 1 reports, so that applicants will know that they will have offtake before entering into the financial guarantees required in Phase 2." The fourth proposed modification from CCEBA requests that CPRE contracts "should be awarded under Tranche 3 before the end of Phase 2 so that Power Purchase Agreements can be executed before moving past Phase 2." These requests were a topic of much discussion at the Webinar.

As an initial matter, the Public Staff notes that Commission Rule R8-71(f)(3)

⁴ Docket Nos. E-2, Sub 1159 and E-7, Sub 1156.

clearly lays out the procedure for evaluation and selection of CPRE proposals, breaking the evaluation into Step 1 and Step 2. In Step 1, the proposals are ranked by the IA in order of most competitive to least competitive. This ranked list is passed to the Utility's Transmission and Distribution (T&D) Sub-Team to begin Step 2, in which network upgrade costs are estimated via cluster studies, imputed to each project's bid price, and re-ranked. This process continues until the ranking order does not change with further studies. Critically, it is the CPRE RFP structure, and not Commission rules or the NCIP, that dictate the Step 2 proposal security amount and terms, as well as the timing of the final selection of winning CPRE projects and the subsequent contracting period.

The Public Staff also notes that the Commission has previously stated the importance of accurate network upgrade estimates in its July 2, 2019 *Order Modifying and Accepting CPRE Program Plan*, in Docket No. E-2, Sub 1159, at 18:

The parties' written comments and the statements made at the technical conference focused the Commission's attention on the potential that network upgrade costs exceed the estimates developed within the proposal evaluation process and used to evaluate cost-effectiveness. **The Commission's emphasis in resolving this issue is on the importance that all network upgrade costs be appropriately assigned to a proposal for evaluating cost-effectiveness pursuant to N.C.G.S. § 62-110.8(b)(2).** In addition, the Commission recognizes that the potential for actual costs to exceed projected costs is presently without an effective regulatory limit. (emphasis added)

CCEBA's third and fourth proposed modifications grant CPRE awards and contracts earlier in the CPRE evaluation process than in either Tranches 1 or 2,

when these decisions were made after CPRE cluster studies and re-studies based on economic rankings were completed, and prior to the Facilities Study process.

Pursuant to Section 1.10.2 of the revised NCIP, which describes the TCS process, it is not possible under current rules to complete the restudy of CPRE projects based upon economic rankings within Phase 1. Phase 1⁵ requires a power flow and voltage analysis within 90 days of the customer engagement process. An updated power flow and voltage analysis is not contemplated until Phase 2 of the TCS.⁶ Requiring the IA to make CPRE award decisions prior to Phase 2 updated system impact studies undercuts the iterative analysis laid out in Commission Rule R8-71(f)(3)(iii), as there could be substantial changes to network upgrade costs assigned to CPRE projects as a result of Phase 2 studies.

In addition, the Public Staff expects that in the TCS, a number of projects will drop out before entering Phase 2 due to the Milestone Payment required. An updated power flow and voltage analysis will almost certainly be required at the onset of Phase 2 of the TCS,⁷ which could fundamentally alter the system upgrades assigned to CPRE projects within the TCS. CCEBA requests (3) and (4) would prematurely determine the winning bids when network upgrades established in Phase 1 of the TCS are at their most uncertain and grant contracts prior to any Phase 3 re-studies, if necessary. Once Phase 2 is completed, projects are notified of their assigned upgrade cost estimates. If those upgrade cost estimates exceed 125% of the Phase 1 upgrade cost estimates, projects can withdraw from the TCS

⁵ NCIP Section 1.10.2.2.

⁶ NCIP Section 1.10.2.3.

⁷ NCIP Section 1.10.2.4.

without penalties.⁸ In addition, some non-CPRE projects will likely withdraw regardless of the withdrawal penalties. These withdrawals create the potential for a Phase 3 restudy, which could once again alter the assigned network upgrade costs.

Therefore, the Public Staff opposes CCEBA's third and fourth proposed modifications, as selecting CPRE award decisions as early in the study process as CCEBA proposes would put ratepayers at risk of a sub-optimal portfolio of CPRE winners. Ratepayers would also be at risk of some CPRE winners eventually being assigned network upgrade costs large enough that power was procured above avoided cost, violating N.C.G.S § 62-110.8(b)(2). This risk existed in Tranches 1 and 2, but would be much greater in Tranche 3 if CCEBA's third and fourth modifications are approved.

The Public Staff understands the need to balance certainty for the market participants with certainty of network upgrade costs. In Tranches 1 and 2, this balance was achieved by awarding CPRE contracts prior to Facilities Studies. Based on the Public Staff's analysis of network upgrade costs during the 2021 CPRE rider proceedings,⁹ the Step 2 upgrade estimates over all projects in each tranche were reasonably accurate, relative to the latest revised estimates. This provides the Public Staff with some assurance that network upgrade costs that are estimated in the CPRE process prior to the Facilities Study are reasonably accurate and protect ratepayers from unexpected increases in network upgrade

⁸ NCIP Section 6.3.5.

⁹ Docket Nos. E-7, Sub 1247 and E-2, Sub 1275.

costs.¹⁰ Therefore, the Public Staff believes Tranche 3 should align as closely as possible with the practice followed in Tranches 1 and 2.

The Public Staff believes that if Tranche 3 is integrated into the TCS, the timing of award decisions should be discussed and decided in the ongoing stakeholder meetings. Per Commission Rule R8-71(f)(1)(iii), 30 days prior to the issuance of the Tranche 3 RFP, the draft RFP documents and the pro forma power purchase agreement must be filed with the Commission. Should stakeholder agreement not be reached during the ongoing pre-solicitation meetings, lingering issues regarding the timing of CPRE awards and contracting periods can be resolved by the Commission in the appropriate CPRE dockets. The Public Staff is optimistic that the stakeholders will reach a negotiated solution to this complex issue, as the discussions in the Webinar were robust and several potential solutions were put forth by market participants, Duke, the Public Staff, and the IA.

In summary, the Public Staff recommends that the Commission grant CCEBA's first proposed modification and deny the second, third, and fourth proposed modifications, with the understanding that additional stakeholder collaboration is required to resolve the alignment of Tranche 3 award decisions and contract executions with the Transitional Cluster Study Phases and milestone payments.

WHEREFORE, the Public Staff prays that the Commission take these

¹⁰ The Public Staff notes that final network upgrade costs for any individual non-late stage project that exceed the Step 2 estimates by 25% are presumed unreasonable and imprudent in the next general rate case.

comments into consideration in reaching its decision in this proceeding.

Respectfully submitted this the 22nd day of September, 2021.

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CERTIFICATE OF SERVICE

I certify that a copy of these comments have been served on all parties of record or their attorneys, or both, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 22nd day of September, 2021.

Electronically submitted
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