

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. SP-13695, SUB 1
BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Orion Renewable Resources LLC

)
) **PREFILED SUPPLEMENTAL**
) **REBUTTAL TESTIMONY OF**
) **TIMOTHY LASOCKI ON BEHALF OF**
) **ORION RENEWABLE RESOURCES**
) **LLC**
)

OFFICIAL COPY

May 12 2021

INTRODUCTION

Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.

A. My name is Timothy Lasocki. I am Vice President for Origination and Finance with Orion Renewable Energy Group LLC ("OREG"), located at 155 Grand Avenue, Suite 706, Oakland, California. OREG is an affiliate of Orion Renewable Resources LLC ("Orion").

Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE NORTH CAROLINA UTILITIES COMMISSION?

A. Yes. I provided direct testimony on behalf of Orion at the evidentiary hearing held in this matter on November 2, 2020.

Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL REBUTTAL TESTIMONY?

A. The purpose of my testimony is to respond to factual statements made in the Corrected Late-Filed Exhibit filed in this docket by Duke Energy Carolinas, LLC ("Duke") on November 25, 2020 ("LFE"); to the Direct Testimony of Phillip H. Cathcart and Orvane Piper on behalf of Duke, filed on April 20, 2021; and to the Direct Testimony Of David Ball, Harold T. Judd, Philip Layfield, Ralph Monsalvatge, and Garey Rozier on behalf of Accion Group, LLC ("Accion"), the CPRE Independent Administrator, filed on April 28, 2021.

Q. IS THE SCOPE OF YOUR TESTIMONY LIMITED TO FACTS AND MATTERS CONTAINED IN THE LFE?

A. Yes, it is. Pursuant to the Commission's Order Denying Motion to Strike and Reopening Record, Allowing Testimony Or Comments On Late-Filed Exhibit, And Scheduling Further Hearing, issued on April 14, 2021, my testimony is limited to facts and matters contained in the LFE. Per the Commission's directive, I do not address additional factual issues raised only

1 in the Post-Hearing Briefs of Duke and/or Accion, such as those relating to the February 28, 2020
2 Memorandum published by Accion and discussed in Orion's Verified Petition for Relief.

3 **Q. PLEASE SUMMARIZE THE CONTENTS OF YOUR TESTIMONY.**

4 A. My testimony addresses the following issues raised or discussed in the LFE:
5 (1) whether the existence of other projects eliminated from CPRE Tranche 1 based on Accion's
6 Net Benefit Analysis creates undue complications or requires further analysis; (2) whether
7 granting Orion's request for relief would create a risk of "over-procurement" of CPRE resources
8 by Duke; (3) the implications of Duke's reclassification of POI switching equipment as Network
9 Upgrades between the Tranche 1 RFP and Tranche 2 RFP; and (4) Duke's claim that a PPA award
10 for Orion's proposal in the Tranche 1 RFP ("Proposal") would be "detrimental to customers."

11 **RESPONSE TO FACTS AND MATTERS CONTAINED IN LFE**

12 1. Other Tranche 1 proposals eliminated based on Net Benefit analysis

13 **Q. DOES THE LFE DISCUSS PROPOSALS OTHER THAN ORION'S THAT**
14 **WERE ELIMINATED FROM TRANCHE 1 BASED ON A "NET BENEFIT" ANALYSIS?**

15 A. Yes. The LFE describes two categories of such projects. First, there are two
16 proposals that, like Orion's Proposal, were eliminated in Step 1.¹ Second, the LFE describes
17 fifteen projects that were advanced to Step 2 and eliminated based on a Net Benefit analysis "after
18 the application of T&D costs determined in Step 2."²

19 **Q. DUKE CLAIMS THAT THE EXISTENCE OF THESE OTHER PROJECTS**
20 **SIGNIFICANTLY COMPLICATES ORION'S REQUEST FOR RELIEF. IS THAT**
21 **TRUE?**

¹ Duke Energy Carolinas, LLC's Corrected Late-Filed Exhibit (Nov. 25, 2020) at 6.

² LFE at 6-7.

1 A. No. Relying on the LFE, Duke claims in its Post-Hearing brief that a Commission
2 finding that elimination of Orion's Proposal based on Net Benefit was improper "will set off a
3 cascading series of questions and likely challenges that will take months to resolve, requiring the
4 resolution of a series of complex conceptual questions concerning the retroactively-assessed
5 hypothetical outcome of Tranche 1."³ But the existence of these other projects does not
6 significantly complicate Orion's request for relief.

7 As to the two other proposals eliminated in Step 1: The total capacity of those two
8 proposals plus Orion's is only 127 MW, meaning that even if all three projects were awarded
9 Tranche 1 PPAs, DEC would still be below its 600 MW procurement goal for Tranche 1.⁴

10 With regard to the fifteen proposals eliminated based on Net Benefit in Step 2, DEC
11 determined that their Net Benefit was negative after consideration of T&D Upgrade costs. The
12 LFE raises the question of whether any of those projects would have been below Avoided Cost
13 after T&D Upgrade costs were considered.

14 **Q. PLEASE EXPLAIN HOW YOU CAME TO THAT CONCLUSION.**

15 A. Attachment A to my testimony is Accion's response to a data request from Orion,
16 asking for information about the fifteen proposals that were eliminated in Step 2 of Tranche 1.
17 The information provided by Accion includes, among other things, each proposal's net benefit
18 without its T&D Upgrade costs and the Upgrade costs as determined by Duke's T&D Team.⁵

19 As indicated in footnote 1 to Accion's response, the proposals with rank numbers 9, 14,
20 17, 21, 24, and 26 were located within or near a constrained area of the grid, and were dependent

³ Duke Post-Hearing Brief at 3.

⁴ Hearing Tr. at 79-80; Step 2 Report at 5 (127 MW of Proposals found to be "Above avoided cost" in Step 1); Final Report at Attachment 1; CPRE Program Update at 6.

⁵ Accion has thus far refused to disclose to Orion information requested concerning the generating capacity, proposal decrement, and "Maximum Allowable T&D Upgrade Costs" of each proposal. Orion attempting to negotiate a resolution of this issue with Accion and may seek leave from the Commission to file additional testimony pending resolution of this dispute.

1 on substantial Network Upgrades assigned to earlier queued upgrades. According to Accion's
2 response, these projects were not (contrary to Duke's claims) eliminated from consideration based
3 on a negative Net Benefit. Rather, they were eliminated because of transmission constraints and
4 "potential uncertainty regarding the ultimate cost responsibility for such Upgrades."

5 The other nine proposals (those ranked 10, 15, 16, 20, 28, 34, 38, 47, and 48) would only
6 have been below the Avoided Cost Cap if the cost of their Upgrades was less than the "Maximum
7 Allowable T&D Upgrade Costs," a term defined in the Tranche 2 memorandum and calculated by
8 Accion based on the proposal's decrement to avoided cost. Accion calculated the Maximum
9 Allowable T&D Upgrade Costs for Orion's Proposal and for the two other Proposals eliminated
10 in Step 1 based on Net Benefit ("Bid A" and "Bid B"), and included that information in the LFE.⁶
11 Orion requested a calculation of Maximum Allowable T&D Upgrade Costs for these proposals in
12 discovery but unfortunately, Accion has not provided this information.⁷ This information is
13 needed to provide a definitive answer to whether any of these proposals were below the Avoided
14 Cost Cap.

15 3. Impact on CPRE Procurement Targets

16 **Q. WHAT DOES THE LFE SAY ABOUT DUKE'S PROGRESS TOWARDS**
17 **ITS OVERALL PROCUREMENT TARGET?**

18 A. The LFE states that Duke is not currently certain about the total amount of MW
19 that will be procured under the CPRE program, because the total amount of "Transition MW" (as
20 that term is used under HB 589) is determined. However, Duke states that "under certain realistic

⁶ LFE at 8.

⁷ Orion continues to seek this information through the discovery process, and may seek leave from the Commission to file supplemental testimony if and when it is provided.

1 scenarios, the Company (together with DEP) is already over-procured for CPRE based on Tranche
2 1 and Tranche 2 due to higher than projected amounts of Transition MWs.”

3 **Q. WHAT IS THE RELEVANCE OF THIS FACT TO ORION’S REQUEST**
4 **FOR RELIEF?**

5 A. None that I am aware of. As Duke notes, Orion’s Project was awarded a PPA in
6 CPRE Tranche 2, so that granting Orion’s request for relief (a PPA corresponding to its Tranche
7 1 proposal pricing) would have no impact on Duke’s overall CPRE procurement targets. Duke
8 claims that “the retroactive procurement of two additional projects from Tranche 1 [*i.e.*, those that
9 were eliminated in Step 1 based on Net Benefit] ... would further increase risk of over-
10 procurement.” However, no other Tranche 1 participant, including those corresponding to the two
11 other bids eliminated in Step 1, has requested any relief from the Commission, and no other party
12 has requested that the Commission authorize or require such a “retroactive procurement.”

13 4. Reclassification of POI Switching Equipment

14 **Q. THE LFE SPENDS SEVERAL PAGES DISCUSSING “CHANGES IN**
15 **EQUIPMENT CLASSIFICATION BETWEEN TRANCHE 1 AND TRANCHE 2.” CAN**
16 **YOU SUM UP WHAT DUKE APPEARS TO BE SAYING IN THIS DISCUSSION?**

17 A. Duke says that after Tranche 1 concluded, it changed the classification of certain
18 interconnection equipment required by all projects – “POI Switching Equipment” from
19 Interconnection Facilities to Upgrades. CPRE participants bear the cost of Interconnection
20 Facilities (which costs are factored into their proposal pricing), while Upgrade costs are borne by
21 the utility, and ultimately the ratepayer.⁸ The cost of POI Switching Equipment is approximately
22 \$1M – \$1.25M.

⁸ LFE at 2-3.

Orion submitted its Tranche 1 Proposal pricing based on the assumption that POI Switching Equipment would be considered Interconnection Facilities and the Project would have to pay for them. However, Orion's actual Interconnection Agreement will, pursuant to this change in policy, classify POI Switching Equipment as an Upgrade. According to Duke, if Orion is awarded a Tranche 1 PPA based on its Tranche 1 bid price, Orion would receive a "windfall" because its Tranche 1 bid price assumed cost responsibility for POI Switching Equipment while its Interconnection Agreement) will not assign Orion cost responsibility for POI Switching Equipment.⁹

Q. HAS DUKE EXPLAINED WHY IT BELIEVES THAT FERC AUTHORITY REQUIRES IT TO CLASSIFY POI SWITCHING EQUIPMENT AS A NETWORK UPGRADE?

A. No. Orion asked Duke in discovery to identify the "FERC Guidance" referenced in the LFE, and to explain why that guidance required the Company to change its classification of POI switching equipment. In response, Duke refused to explain its rationale but did provide copies of the "relevant FERC guidance," which consisted of a 2019 FERC Order rejecting a proposed FERC-jurisdictional Network Integration Transmission Service Agreement between Duke and the North Carolina Electric Membership Corporation ("NCEMC") based on Duke's assignment of costs for a transmission tap line to NCEMC,¹⁰ and three FERC filings dating back to 2007 or earlier.

Although these documents do relate to the classification of interconnection equipment as either Upgrades or Interconnection Facilities, it's not clear how they apply to POI Switching equipment. More importantly, these documents don't explain why general FERC guidance should

⁹ LFE at 5.

¹⁰ *Duke Energy Carolinas, LLC*, Docket No. ER19-2459-000, 168 FERC ¶ 61,190 (Sept. 23, 2019).

1 constrain this Commission's ability either to administer its state-jurisdictional interconnection
2 procedures or to fashion an appropriate remedy in this proceeding.

3 **Q. CAN DUKE'S CONCERN ABOUT A "WINDFALL" BE ADDRESSED IF**
4 **THE PROJECT IS AWARDED A TRANCHE 1 PPA?**

5 A. Yes, easily. There are at least three ways to do this without impacting ratepayers
6 or treating Orion's proposal unfairly. First, Orion could be awarded a PPA with Tranche 1 bid
7 pricing reduced by an amount corresponding to the 20-year levelized cost of POI Switching
8 Equipment treated as Upgrades. This would prevent any "windfall" to the Project or any negative
9 impact to ratepayers from the reclassification. Second, the Project's Interconnection Agreement
10 could follow the Tranche 1 policy and classify POI Switching Equipment as Interconnection
11 Facilities rather than Upgrades, so that the Project would bear this cost. Finally, Orion could
12 voluntarily assume the cost of the POI Switching Equipment, regardless of how it is classified
13 under the Interconnection Agreement. Orion would have no objection to bearing those costs if its
14 request for relief were granted, as they were factored into its Tranche 1 Proposal.

15 Because this is fundamentally an accounting issue that will have no material impact on
16 either Orion's Project or ratepayers, any of these alternatives would be acceptable to Orion.

17 5. Assertion that the Proposal is "Detrimental to Customers"

18 **Q. ON PAGE 1 OF THE LFE, DUKE CLAIMS THAT ORION'S TRANCHE 1**
19 **PROPOSAL IS "DETRIMENTAL TO CUSTOMERS" BECAUSE ACCION**
20 **CONCLUDED THAT IT HAD A NEGATIVE "NET BENEFIT." WHAT IS YOUR**
21 **RESPONSE?**

22 A. The claim that the Proposal is "detrimental to customers" makes very little sense,
23 and at most shows that Duke is opposed to Orion's request for relief. As Orion discussed in its

1 filings, H.B. 589 sets the standard of “cost-effectiveness” for resources procured under CPRE: the
2 utility’s published Avoided Cost rate.¹¹ The Public Staff, whose job it is to look out for ratepayers,
3 agrees.¹² I am not a lawyer, but I my assumption is that the North Carolina General Assembly
4 wouldn’t have chosen this metric for cost-effectiveness if they had thought it would be detrimental
5 to Duke’s customers, or otherwise not in the public interest.

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

7 **A.** Yes, it does.

¹¹ Post-Hearing Brief of Orion Renewable Resources LLC (Jan. 4, 2021) at 4, 9; G.S. § 62-110.8(b)(2).

¹² Motion For Leave To File Comments And Comments Of The Public Staff (May 29, 2020) at 7-9.

Attachment A

| CPRE Tranche 1 for DEC: Orion 4/20/2021 Data Request, Item #1 | | | | | | | | | | | | |
|---------------------------------------------------------------|-----------------------------------------|--------------------|--------------|---------|------------------------------|-----------------------|-------------------------------------------------------------|---------------------------------------------------|-----------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| Bid No. | Step 1 Rank (out of 58 Proposals) | Market Participant | Project Name | Queue # | Generating Capacity MW AC | Proposal Decrement | Step 1 - Net Benefit (\$/MWh) without T&D Costs | Step 1 - Net Benefit (\$) without T&D Costs | Duke T&D Evaluation Team - Step 2 system upgrade costs (capital \$) * see footnote 1 below | Step 2 - Net Benefit (\$) with T&D Costs * see footnote 2 below | "Maximum Allowable T&D Upgrade Costs", [See: February 28, 2020 IA Memo] applied to T-1 Proposals. * see footnote 2 below | Proposal awarded a PPA in Tranche 2? |
| | 9 | | | | | | 9.8989 | \$6,616,200 | \$5,283,835 | n/a | n/a | no |
| | 10 | | | | | | 9.8141 | \$10,573,500 | \$15,000,000 | n/a | n/a | no |
| | 14 | | | | | | 9.6682 | \$7,026,300 | \$5,521,066 | n/a | n/a | no |
| | 15 | | | | | | 8.3235 | \$14,699,500 | \$40,000,000 | n/a | n/a | no |
| | 16 | | | | | | 8.2945 | \$14,555,200 | \$44,000,000 | n/a | n/a | no |
| | 17 | | | | | | 8.1607 | \$14,097,800 | \$11,205,470 | n/a | n/a | no |
| | 20 | | | | | | 7.9074 | \$12,205,900 | \$20,000,000 | n/a | n/a | no |
| | 21 | | | | | | 7.3657 | \$9,217,100 | \$7,500,000 | n/a | n/a | no |
| | 24 | | | | | | 6.9122 | \$11,091,800 | \$8,867,279 | n/a | n/a | no |
| | 26 | | | | | | 6.3989 | \$5,647,600 | \$4,544,744 | n/a | n/a | no |
| | 28 | | | | | | 5.9411 | \$10,385,400 | \$15,000,000 | n/a | n/a | no |
| | 34 | | | | | | 4.2335 | \$3,732,300 | \$20,000,000 | n/a | n/a | no |
| | 38 | | | | | | 3.3413 | \$6,507,600 | \$15,000,000 | n/a | n/a | no |
| | 47 | | | | | | 2.0479 | \$1,120,100 | \$4,000,000 | n/a | n/a | no |
| | 48 | | | | | | 1.7561 | \$2,190,800 | \$14,000,000 | n/a | n/a | no |

FN 1 The bolded projects are located within or near a constrained region identified in the Tranche 1 locational guidance maps. As a result, the projects were dependent on substantial network upgrades that exceed \$10M but that were assigned to earlier queued projects or were otherwise dependent on other substantial upgrades. In light of the potential uncertainty regarding the ultimate cost responsibility for such upgrades and the potential for such projects to have a negative net benefit after application of the upgrades, the projects were not advanced.

FN 2 Neither Net Benefit nor "Maximum Allowable T&D Upgrade Cost" was calculated for these Proposals