

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-100, SUB 190

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	CLEAN ENERGY BUYERS
Biennial Consolidated Carbon Plan	)	ASSOCIATION COMMENTS
and Integrated Resource Plans of	)	ON REQUEST FOR
Duke Energy Carolinas, LLC, and	)	DEVELOPMENT OF
Duke Energy Progress, LLC,	)	SUPPLEMENTAL
Pursuant to N.C.G.S. § 62-110.9 and	)	PORTFOLIOS AND
§ 62-110.1(c)	)	ADJUSTMENT TO
	)	PROCEDURAL SCHEDULE

Pursuant to the December 20, 2023, Commission Order Requesting Comments on Request for Development of Supplemental Portfolios and Adjustment to Procedural Schedule, the Clean Energy Buyers Association (“CEBA”), through its undersigned attorneys of record in this case respectfully requests that the North Carolina Utilities Commission (“Commission”): (1) find and conclude that the portfolios submitted with Duke’s plan in August do not meet Duke’s projected load across the relevant time horizons and are therefore per se unreasonable, and as a matter of law unsuitable for planning purposes under N.C.G.S. §§ 62-2(a)(3a), 62-110.1(c), or 62-110.9; (2) order Duke to file and provide at least one supplemental resource portfolio that meets its Updated 2023 Fall Load Forecast and achieves the G.S. 62-110.9-mandated 70% reduction in carbon dioxide emissions by 2030, as well as all modeling

inputs and outputs and a near-term action plan and any additional activities that would be necessary to any such compliant supplemental portfolio(s) to be filed by Duke; and (3) extend the deadline for the Public Staff and intervenors to file direct testimony and exhibits until 180 days from the filing of Duke's updated, compliant portfolio(s).

## **I. Background**

On December 18, 2023, Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP" and collectively, "Duke") filed a letter ("December 18 Letter") notifying the Commission of its intent to perform limited supplemental modeling and to submit additional portfolio analysis and supporting testimony in this proceeding based on recent substantial, material changes to Duke's load forecast since the preparation of Duke's initial plan that was submitted in these dockets last August. Duke's Updated 2023 Fall Load Forecast was provided to the parties via Duke's datasite on December 8, 2023, and Duke described this load forecast in the Supplemental Direct Testimony of Glen A. Snider filed on November 30, 2023 as "substantially exceed[ing] even the high load case included in the Companies' CPIRP filing in August".

Duke asserts that it has begun modeling additional portfolios, and it plans to file these supplemental portfolios, along with supporting supplemental testimony, on January 31, 2024. Duke has also proposed a modified procedural schedule to extend (i) the deadline for the Public Staff and intervenors to file direct testimony and exhibits to April 17, 2024 — 77 days after Duke's supplemental filing, (ii) the deadline for Duke rebuttal testimony

to May 31, 2024 — 44 days after Public Staff and intervenors’ filing deadline, and (iii) the start of the expert witness hearing to June 17, 2024.

## II. Duke’s Originally Filed Portfolios Are Not Reasonable for Planning Purposes

Duke’s revised projected load growth “substantially exceeds even the high load case included in the Companies’ CPIRP filing in August.” Supplemental Direct Testimony of Glen A. Snider at 4:3-4 (emphasis added). Duke argues that its supplemental portfolios and analysis should not supersede or otherwise negate its initial modeling, but Duke describes its Updated 2023 Fall Load Forecast as a “substantial, material change[.]” December 18 Letter at 2 & n.1 (emphasis added). The resource portfolios included with the Companies’ CPIRP filing cannot meet the current peak loads forecasted for Duke’s system over the relevant time horizons, and thus are *per se* unreasonable, and unsuitable as a matter of law on this record, for purposes of integrated resource planning, or developing an adequate Carbon Plan that complies with N.C.G.S. § 62-110.9. They are therefore not reasonable for the Commission to use for planning purposes and do not present reasonable plans for achieving the carbon dioxide emission reduction directives in a manner consistent with N.C.G.S. § 62-110.9’s requirements and prudent utility planning.

In addition, Duke’s stated intention to provide supplemental modeling incorporating “the vast majority” of suggested changes to select modeling assumptions from Public Staff without also providing reruns of its original

filings with these changes reveals Duke's unstated intent to provide supplemental resource portfolios which will provide only an apples-to-oranges comparison with Duke's original modeling, ensuring that its original modeling (and intervenors' analyses of the same) will be rendered even more useless. *See* December 18 Letter at n.3. Unless Duke also is required to file amendments to its August CPIRP based on supplemental filings which replicate exactly its original underlying modeling with the sole exception of its updated load data, continued reliance on or analyses of the now outdated, and soon to be misdirected, August CPIRP filing and modeling is a waste of the parties' limited time and resources. The Commission should find that Duke's originally filed portfolios are unreasonable *per se*, and unsuitable as a matter of law on this record for planning purposes, allowing the parties to focus on Duke's updated supplemental portfolios as requested herein, that affirmatively meet the load as currently forecasted for Duke's system and achieve the statutory reductions by the dates targeted by the General Assembly.

**III. Duke Should Continue To Be Required to File a Portfolio That Meets the Interim Target, Make Available Associated Modeling Inputs and Outputs, and a File Corresponding Near-Term Action Plan**

Because Duke's originally filed portfolios are not reasonable for planning purposes as a matter of law, they cannot be relied upon to meet the parties' and the Commission's obligations, arising by law and by rule, in this docket. The Commission should therefore require that Duke's supplemental portfolio(s) and supporting supplemental testimony meet specific standards for

modeling and such other of the Commission's minimum requirements for any carbon plan being evaluated by the Commission in this CIPRP proceeding.

First, the Commission should order Duke to provide at least one supplemental portfolio that meets its Updated 2023 Fall Load Forecast and achieves the G.S. 62-110.9-mandated 70% reduction in carbon dioxide emissions by 2030. A higher load forecast does not relieve Duke's obligation to continue to pursue compliance with the Interim Target, and the Commission has consistently required Duke to include proposed portfolios that comply with the Interim Target in its Carbon Plan proceedings. Order Adopting Initial Carbon Plan at 19, Docket No. E-100, Sub 179 (Dec. 30, 2022); Order Adopting Commission Rule R8-60A at 6, Docket No. E-100, Sub 191 (Nov. 20, 2023).

In addition, at the time of filing its supplemental portfolio(s), Duke should be required to make available complete modeling input and output data files that support its revised portfolios, as well as its methodology underlying the use of its modeling software and process steps used. *See* Order Adopting Initial Carbon Plan at 130; Order Adopting Commission Rule R8-60A at 8-9. Moreover, Duke undisputedly states that it has changed its modeling assumptions in addition to updating its load forecast. *See* December 18 Letter at n.3. An affirmative and separate list stating each and every assumption made for each portfolio, so that all modeling assumptions for that portfolio are collected at a single point in the record, should be made plain for the Commission, the Public Staff and intervenors. Given the parties' limited time

and resources to prepare direct testimony, Duke should provide this information contemporaneously with the filing of its supplemental portfolio(s) and testimony.

Lastly, Duke should be required to provide a revised near-term action plan and any additional activities that would be necessary over the next three (3) years to support its supplemental portfolio(s). This will allow the Commission to assess the impact of Duke's recommended near-term actions on Duke's execution of resource portfolios that are designed to meet its projected load. *See* Order Adopting Commission Rule R8-60A at 8.

**IV. The Deadline for Public Staff and Intervenors to File Direct Testimony and Exhibits Should Be Extended to 180 Days from Duke's Supplemental Filing Consistent with NCUC Rule R8-60A(g)(2)**

As discussed above, Duke's originally filed portfolios are not reasonable for planning purposes, and the parties must now focus on Duke's supplemental portfolio(s) that will be designed to meet the load forecasted for Duke's system. The Commission has designed procedures to allow for "the development of a robust and thorough record on which the Commission may act" in these proceedings. *See* Order Adopting Commission Rule R8-60A at 16. Specifically, the timeline set forth by Commission rule affords intervenors "more time to engage in discovery" and "to prepare and develop their own plans or analyses of Duke's plan" as compared to the truncated initial Carbon Plan Proceeding. *Id.*

Duke's proposed revised deadline for the Public Staff and intervenors to file direct testimony and exhibits is April 17, 2024. This would be 77 days after

Duke's supplemental filing — far short of the 180 days the Commission wanted the parties to have in order to develop a “robust and thorough record”. *See* Order Adopting Commission Rule R8-60A at 16; Order Adopting Initial Carbon Plan at 131. On the other hand, Duke has proposed to retain nearly the full 45 days provided for under NCUC Rule R8-60A(g)(2) in its proposed revised deadline for Duke's rebuttal testimony of May 31, 2024.

The Commission should seek to preserve the opportunity for the Public Staff and stakeholders-intervenors to meaningfully participate in the analysis of Duke's proposal and the development by the Commission of the Carbon Plan as of December 31, 2024. These stakeholders may be able to complete their discovery and their plans and analyses of Duke's plan in less than 180 days, but until the Commission and intervening parties see the scope and contours of Duke's supplemental portfolio(s) and testimony, CEBA respectfully requests that the deadline for Public Staff and intervenors to file direct testimony and exhibits be extended to 180 days from Duke's supplemental filing, consistent with NCUC Rule R8-60A(g)(2), or deferred until after receiving a compliant supplemental filing from Duke.

WHEREFORE, CEBA respectfully requests that the Commission:

1. Direct the parties to disregard the portfolios submitted with Duke's plan in August as *per se* unreasonable, and as a matter of law unsuitable for planning purposes under N.C.G.S. §§ 62-2(a)(3a), 62-110.1(c) or 62-110.9;

2. Order Duke to file and provide at least one supplemental resource portfolio and supplemental testimony that meet its Updated 2023 Fall Load Forecast and also comply with the requirements of the CPIRP rules and the G.S. 62-110.9 Interim Target;
3. Allow Public Staff and intervenors 180 days from the filing of the updated portfolio(s) to submit direct testimony and exhibits, or, in the alternative, deny Duke's proposed updated CPIRP schedule and defer setting a new CPIRP schedule until after receiving a compliant supplemental filing from Duke; and
4. Other such relief as the Commission may deem appropriate.



This the 3<sup>rd</sup> day of January, 2024.

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*Attorneys for Clean Energy Buyers  
Association*

## CERTIFICATE OF SERVICE

The undersigned attorney for Clean Energy Buyers Association hereby certifies that he served the foregoing upon the parties of record in this proceeding by electronic mail and/or depositing copies in the United States mail, postage prepaid.

This 3<sup>rd</sup> day of January, 2024.

/s/ Joseph W. Eason  
Joseph W. Eason

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