

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 180

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:
Investigation of Proposed Net Metering) JOINT RESPONSE TO MOTION FOR
Policy Changes) EXTENSION OF TIME

NC WARN, North Carolina Climate Solutions Coalition, the Sunrise Movement Durham Hub, and The Environmental Working Group (“EWG”) (collectively, the “Respondents”), by and through undersigned counsel, jointly provide the following response to the Joint Motion for Additional Extension of Time to File Reply Comments filed today by Duke Energy Carolinas, LLC, Duke Energy Progress, LLC (collectively, the “Companies”), Sundance Power Systems, Inc., Southern Energy Management, Inc., and Yes Solar Solutions (collectively, the “Rooftop Installers”):

1. On November 29, 2021, the Companies filed a Joint Petition for Approval of Revised Net Energy Metering Tariffs (the “Joint Petition”) in the above-referenced docket.

2. On January 10, 2022, the Commission entered an Order Requesting Comments. In the said Order, this Commission set the following deadlines:

- a. March 15, 2022 – deadline for initial comments;
- b. March 15, 2022 – deadline for petitions to intervene; and
- c. April 14, 2022 – deadline for reply comments.

3. The Respondents timely and diligently intervened and investigated the Joint Petition, retained consulting subject-matter experts, served data requests, and otherwise performed substantial work designed to prepare initial comments in the above-referenced docket.

4. However, based upon the complexity of the matters involved with the Joint Petition, on February 23, 2022, the Respondents requested an extension of 45 days on the deadlines for initial and reply comments. The Companies objected to that request but indicated that they would not object to a 14-day extension of time. In its Order of March 3, 2022, the Commission granted a 15-day extension of time on the deadlines for initial and reply comments.

5. On April 22, 2022, the Companies and the Rooftop Installers requested a 14-day extension of time on the deadline for reply comments. The basis for that request was the existence of settlement negotiations between the Companies and the Rooftop Installers. The Respondents did not object to that initial extension request. The Commission granted the 14-day extension of time on April 25, 2022. Therefore, the reply comments deadline is presently today: May 12, 2022.

6. During the early afternoon of today, the following 3 sets of reply comments were filed: (a) NC WARN, NCCSC and Sunrise Durham (collectively, "NC WARN *et al.*"); (b) EWG; and (c) 350 Triangle, 350 Charlotte, and The North Carolina Alliance to Protect Our People and the Places We Live.

7. After the above-referenced reply comments were filed, the Companies and the Rooftop Installers, at approximately 3:27 pm, served their Joint

Motion for Additional Extension of Time to File Reply Comments.¹ In the said motion, the Companies and the Rooftop Installers requested an 8-day extension of time to file reply comments.

8. The Companies' and the Rooftop Installers' extension request should be partially denied. Instead, a 1-day extension of time should be granted. The Respondents believe that this 1-day extension is appropriate so that the Companies and other intervenors are not prejudiced if they delayed filing reply comments based upon the Joint Motion for Additional Extension of Time to File Reply Comments. However, any reply comments filed during the 1-day extension period should exclusively address matters raised in initial comments. In other words, reply comments filed during the 1-day extension period should not benefit from an advanced review of reply comments filed today (*i.e.*, May 12, 2022).

9. In support of their extension request, the Companies and the Rooftop Installers stated the following: "The Companies have been working diligently with the North Carolina Rooftop Solar Installers to talk through the recommendations in the initial comments. The Companies and the North Carolina Rooftop Solar Installers have used the initial extension productively and have made substantial progress in those discussions." See ¶ 4.

10. Notably, the Companies and the Rooftop Installers do not state that a settlement has been achieved. Instead, negotiations are apparently still being conducted. The current situation, therefore, is nearly identical to the situation when

¹ After the Joint Motion for Additional Extension of Time to File Reply Comments was served, a set of Joint Reply Comments was served by SACE, Vote Solar and NCSEA.

the Companies and the Rooftop Installers filed their first extension request. Accordingly, the Companies and the Rooftop Installers have already received one extension for the exact same basis being cited for this second extension. Given the uncertain nature of negotiations, the Companies and the Rooftop Installers should not be given yet another extension within which a settlement may—or may not—be achieved.

11. Moreover, if the requested extension is granted, then the Respondents will suffer prejudice.

12. As noted, three (3) sets of reply comments were filed before the subject extension request, including separate reply comments by NC WARN *et al.* and EWG. If a subsequent extension on the deadline for reply comments is granted, then the Companies and the Rooftop Installers would not only receive extra time that the Respondents did not receive, but additionally, the Companies and the Rooftop Installers would be able to respond to the Respondents' reply comments, thereby receiving an unjustified "last word." These circumstances would unfairly advantage the Companies and the Rooftop Installers and would unfairly prejudice the Respondents.

13. Moreover, if the extension of time is granted, then the Companies and the Rooftop Installers would be able to file reply comments which partially function as support for a prospective settlement (if any is consummated) that no other party has yet seen. The more equitable procedure would be for everyone to file reply comments now, and if a settlement is eventually consummated, then a procedure

should be implemented to ensure that all parties have a fair opportunity for evaluation and feedback on the settlement.

WHEREFORE, the Respondents respectfully request that (a) the Joint Motion for Additional Extension of Time to File Reply Comments be partially denied; (b) all parties who have not already filed reply comments should be given a 1-day extension of time through 5:00 pm on May 13, 2022 to file reply comments; (c) any reply comments filed on May 13, 2022 should respond exclusively to initial comments and should not include responses to those reply comments filed today; (d) if the Companies and the Rooftop Installers achieve a settlement, then the said settlement should be publicly filed and all parties should be given a reasonable opportunity for evaluation and feedback; and (e) such other and further relief which may be just and proper.

[Signatures Follow on Next Page]

This the 12th day of May, 2022.

/s/ Matthew D. Quinn

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon all counsel of record in the above-referenced docket by email transmission.

This the 12th day of May, 2022.

/s/ Matthew D. Quinn

Matthew D. Quinn