



**Progress Energy**

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**FILED**

**APR 04 2011**

**Clerk's Office  
N.C. Utilities Commission**

April 4, 2011

Ms. Renne Vance  
Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, NC 27699-4325

Re: Docket No. E-100, Sub 127

Dear Ms. Vance:

Enclosed for filing in the above-referenced docket are the original and 30 copies of Progress Energy Carolinas, Inc.'s Reply Comments and Revised Attachments 1 and 2. Attached in a sealed envelope stamped "Confidential" are 30 copies of Revised Exhibit 3 supporting the proposed rates.

As explained in PEC's November 1, 2010 Initial Statement and pursuant to N.C. Gen. Stat. § 132-1.2, PEC designates the Revised Exhibit 3 as "confidential" and "trade secret" information and requests that the Commission protect it from public disclosure. PEC will make this information available to other parties pursuant to an appropriate confidentiality agreement.

Very truly yours,

Len S. Anthony  
General Counsel  
Progress Energy Carolinas, Inc.

LSA:mhm

Attachment

STAREG1432

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a/b  
1 Com.  
Beauk  
W/B  
Heart  
Hoe  
Lesmo  
Kite  
Edison  
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**APR 04 2011**

*Clerk's Office  
N.C. Utilities Commission*

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

**DOCKET NO. E-100, SUB 127**

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

|                                   |   |                                   |
|-----------------------------------|---|-----------------------------------|
| In the Matter of                  | ) |                                   |
| Biennial Determination of Avoided | ) |                                   |
| Cost Rates for Electric Utility   | ) | <b>PROGRESS ENERGY CAROLINAS,</b> |
| Purchases from Qualifying         | ) | <b>INC.'S REPLY COMMENTS</b>      |
| Facilities - 2010                 | ) |                                   |

Pursuant to the North Carolina Utilities Commission's (the "Commission") Orders issued May 5, 2010 and January 12, 2011, Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc. ("PEC") submits its Reply Comments in the above-referenced docket. In support thereof, PEC shows the following:

1. The Public Staff filed comments in the above-referenced docket on March 1, 2011. In its comments the Public Staff identified one issue and recommendation specific to PEC and another issue potentially impacting PEC as well as other utilities.

2. First, the Public Staff explained that PEC's avoided energy rates were calculated using the same methodology (the PROSYM production simulation model) as in previous proceedings and found that the inputs used in the model are

reasonable for the determination of PEC's avoided energy costs. However, the Public Staff expressed concerns with the exclusion of start costs in the output data used to calculate the on-peak and off-peak marginal energy costs that underlie PEC's avoided energy costs.

3. The Public Staff recommends that the Commission order PEC to re-file its avoided energy costs using the Total System Cost output data in PROSYM (which include start costs) for all four proposed avoided energy rates (i.e., variable, five-year, ten-year and 15-year).

4. After careful review of the Public Staff's recommendation, PEC agrees to re-file its avoided energy costs using the PROSYM Total System Cost output data, which includes start costs.

5. Attached for filing with the Commission are Revised Attachments 1 and 2, which are markup and clean copies, respectively, of its proposed CSP-27 Rate Schedule. These Revised Attachment 1 and Revised Attachment 2 replace the original attachments which were included with PEC's November 1, 2010 Initial Statement and Exhibits in the above-referenced docket. The revised schedules have been updated to reflect PROSYM Total System Cost output data including start costs, as proposed by the Public Staff.

6. PEC's November 1, 2010 Initial Statement and Exhibits included PEC's supporting documentation as PEC Confidential Exhibits 1-5. Attached to

these Reply Comments is a Revised Exhibit 3, also updated to reflect PROSYM Total System Cost output data including start costs. As explained in PEC's Initial Statement and pursuant to N.C. Gen. Stat. § 132-1.2, PEC designates the Revised Exhibit 3 as "confidential" and "trade secret" information and requests that the Commission protect it from public disclosure. Accordingly, one copy of Revised Exhibit 3 is attached in a sealed envelope stamped "Confidential". PEC will make this information available to other parties pursuant to an appropriate confidentiality agreement.

7. PEC's revisions to its proposed Cogeneration and Small Power Producer Schedule CSP-27 address the concern raised by the Public Staff by adjusting the energy rates to reflect PROSYM Total System Cost output data including start costs. Therefore, PEC requests Commission approval of its proposed CSP-27 rate schedule attached hereto as Revised Exhibit 2.

8. The second of the Public Staff's comments of interest to PEC pertains to the Legally Enforceable Obligation ("LEO") date as it relates to rate options available to Qualifying Facilities ("QFs"). It appears that the Public Staff is taking the position that PURPA and the FERC's enabling regulations grant to the QF complete discretion in determining the date of the LEO which then governs the vintage of the utility's forecasted avoided costs which will be the basis for the fixed energy and capacity rates the utility must offer the QF.

9. PEC disagrees with this interpretation. Rather, PEC interprets the applicable federal laws and regulations as requiring a balance between the dual and competing interests of encouraging QFs and its duty to protect electric customers. As further explained below, in exercise of the Commission's authority to determine when a LEO arises, the Commission should establish a "viability prerequisite". The "viability prerequisite" would require that a QF be ready, willing, and able to enter into a contract within 12 months of the LEO. This will ensure that QFs are not simply locking in higher rates to the detriment of the consumer public.

10. While the determination of the LEO is "up to the States," the FERC stresses that the States are still confined to the PURPA language which requires that "the rates for qualifying facilities shall: (1) be just and reasonable to the electric utility's consumers and in the public interest; and (2) not discriminate against qualifying cogenerators or small power producers."<sup>1</sup>

*"[A] balance must be struck between the local public interest of a utility's electric consumers and the national public interest in development of alternative energy sources."*<sup>2</sup>

11. In regulatory pursuit of this balance, the interpretation of the "just and reasonable" language has spawned brisk debate in many jurisdictions. The Supreme Court of the United States addressed the ambiguity of what constitutes

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<sup>1</sup> 16 U.S.C. § 824a-3(b); 18 C.F.R. § 292.304(a)(1), (2) (1995).

<sup>2</sup> *Rosebud Enter., Inc. v. Idaho Pub. Util. Comm'n*, 917 P.2d 766, 770-71 (1996).

“just and reasonable” rates in the *American Paper Institute* case, and consulted the legislative history behind the language for guidance.<sup>3</sup> The Supreme Court stated,

*We interpret the ‘just and reasonable’ language of § 210(b) to require consideration of potential rate savings for electric utility consumers. Of course, even when utilities purchase electric energy from qualifying facilities at full avoided cost rather than at some lower rate, the rates the utilities charge their customers will not be increased, for by hypothesis the utilities would have incurred the same costs had they generated the energy themselves or purchased it from other sources. ... But it does not follow that the full-avoided-cost rule is necessarily “just and reasonable to the electric consumers of the electric utilities” within the meaning of § 210(b) of PURPA. Unless the “just and reasonable” language is to be regarded as mere surplusage, it must be interpreted to mandate consideration of rate savings for consumers that could be produced by setting the rate at a level lower than the statutory ceiling.<sup>4</sup>*

12. The market forces which act as an impetus for the actions of the utilities and QFs may also be taken into account by the state utility commission when determining what is “just and reasonable.”<sup>5</sup> “[T]he Commission must consider the rules’ impact on these consumers and the public interest in striking the proper balance.”<sup>6</sup>

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<sup>3</sup> *American Paper Institute, Inc. v. American Electric Power Service Corporation*, 461 U.S. 402, 406, 103 S.Ct. 1921, 1925 (1983) (citing 45 Fed.Reg. 12214 (Feb. 15, 1980)).

<sup>4</sup> *American Paper Institute, Inc. v. American Electric Power Service Corporation*, 461 U.S. 402, 416, 103 S.Ct. 1921, 1929 (1983) (footnote 9).

<sup>5</sup> *American Electric Power Service Corporation v. Federal Energy Regulatory Commission*, 675 F.2d 1226, 1235, 219 U.S.App.D.C. 1, 10 (1982).

<sup>6</sup> *Id.*

13. State utility commissions may consult other states' analyses for guidance on issues such as when a LEO is present in order to ensure that interpretation of PURPA is uniform.<sup>7</sup> When the Commonwealth Court of Pennsylvania was grappling with the issue of whether the Pennsylvania Utilities Commission appropriately incorporated a "viability prerequisite" for creation of a LEO, the Court considered the actions of other state utility commissions.<sup>8</sup> The Pennsylvania Court considered that in New Hampshire, the State Supreme Court found "that a legally enforceable obligation was created when the utility filed a rate petition accompanied by an interconnection agreement signed by the small power producer."<sup>9</sup> The rate petition demonstrated that most of the common developmental issues had been addressed, that there was a reasonable expectation the QF would be able to provide energy to the utility by the date specified in the rate filing, and that the QF possessed sufficient economic resources to ensure the project's viability.<sup>10</sup> The Pennsylvania Court also considered that in Oklahoma a LEO was not established because the QF had failed to perform certain key steps. The QF never presented a contract to the Commission for consideration, it did not enter into a contract for "construction, operation and maintenance of the proposed

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<sup>7</sup> *South River Power Partners v. Pennsylvania Public Utility Commission*, 696 A.2d 926, 931 (1997) (footnote 6).

<sup>8</sup> *South River Power Partners v. Pennsylvania Public Utility Commission*, 696 A.2d 926, 930-31 (1997).

<sup>9</sup> *Id.* at 931 (citing *Appeal of Public Service Company of New Hampshire*, 130 N.H. 285, 239 A.2d 275 (1988)).

<sup>10</sup> *Id.*

project, and did not attempt to obtain a contract for the purchase of natural gas.”<sup>11</sup>

After considering these other states’ findings, the Pennsylvania Court upheld the viability requirement set forth by the Pennsylvania Public Utilities Commission.<sup>12</sup>

It found that a legally enforceable obligation did not exist:

*at a time during serious negotiations between parties (whether at the time of agreement in principle on price or otherwise) when the QF has not yet obligated itself to deliver power and remains free to walk away from the negotiations without any liability.*<sup>13</sup>

14. Several factors were taken into account by the Pennsylvania Court when analyzing whether a QF met the viability prerequisite. The viability prerequisite analysis focused on the (1) assets, liabilities, and net worth of the QF; (2) whether a written partnership or limited partnership agreement had been created; (3) whether there are current or past employees of the facility; (4) whether the QF had been associated with any other power production projects; (5) whether the QF had applied for, or obtained the necessary permits and approvals for the project; (6) whether the QF had engaged any consultants in preparations for applying for the necessary permits and approvals; and (7) whether the QF had

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<sup>11</sup> *Id.* at 931 (citing *Smith Cogeneration Management, Inc. v. Corporation Commission and Public Service Company of Oklahoma*, 863 P.2d 1227 (Okla. 1993)).

<sup>12</sup> *South River Power Partners v. Pennsylvania Public Utility Commission*, 696 A.2d 926, 930 (1997).

<sup>13</sup> *Id.* (emphasis in the original).

consulted with any lending institutions in regards to receiving financing for the project.<sup>14</sup>

15. Currently, when determining whether a LEO exists in North Carolina, the Commission relies upon “(1) when [the QF] committed to sell its generation and (2) when [the QF] had certificates of public convenience and necessity.”<sup>15</sup> In a previous order on arbitration issued by the Commission, the “commitment to sell” criteria was addressed by stating that “[a] ‘legally enforceable obligation’ does not require a signed contract, but the QF must be ready, willing and able to sign a contract.”<sup>16</sup> However, this Commission did not clarify what factors contribute to the determination that a QF is “ready willing and able to sign a contract.”

16. In order to prevent *post hoc* justifications of when a “commitment to sell” was made, it is appropriate to incorporate a viability criterion into the current framework to ensure that QF cannot simply lock in higher rates for production to the detriment of the utility’s customers. This will, in turn, ensure that a “just and reasonable” rate is established consistent with PURPA regulations.

17. The United States Supreme Court’s analysis of what is “just and reasonable” to the retail consumer in the *American Paper Institute* case is based upon the assumption that the consumer is not being harmed through the relationship with the QF, but this hypothesis is not necessarily true in all cases.

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<sup>14</sup> *Id.*

<sup>15</sup> *EPCOR*, Docket No. E-2, Sub 966 at 10.

<sup>16</sup> *In the Matter of Economic Power & Steam Generation v. Virginia Electric and Power Co.*, Docket No. SP-467, Sub 1 at 8.

Currently in North Carolina QFs are able to lock in higher rates, without any definite obligation to proceed, to the detriment of the consumer public. The Commission has previously acknowledged that “these proceedings ha[ve] shown that a utility’s filing of a proposal to lower its avoided cost rates sometimes prompts QFs to try to ‘lock in’ at the higher, current rate before the Commission acts.”<sup>17</sup> Under the current framework, the QFs are essentially given a free option at a higher rate and have no obligation to proceed unless they feel the market conditions are favorable.

18. Such a freedom to walk away from negotiations without obligations was precisely the danger the Pennsylvania Utility Commission was defending against in the *South River* case. By amending the current analytical framework to incorporate a criterion which tracks that of the Pennsylvania ‘viability prerequisite,’ the Commission will protect the interest of the ratepaying public.

19. Incorporating a “viability prerequisite” factor will ensure that the utility and its customers will be in the same or similar positions as they would have been were they not required to purchase from the QFs, which is directly aligned with the Supreme Court’s interpretation of the “just and reasonable” language. The Commission would be restoring the balance to the competing interest of

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<sup>17</sup> *In the Matter of Biennial Determination of Avoided Cost Rates for Electric Utility Purchases for Qualifying Facilities*, Docket No. E-100, Sub 74 at 2.

encouraging QF operation and the consuming public's interest in lower rates which is well within the Commission's discretionary authority.

20. Based upon the forgoing, PEC requests the Commission to recognize and incorporate the concept of "viability prerequisite" for purposes of establishing a LEO and applicable rates for QFs.

Respectfully submitted this 4<sup>th</sup> day of April, 2011.

PROGRESS ENERGY CAROLINAS, INC.



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STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-100, SUB 127

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of )  
Biennial Determination of Avoided Cost )  
Rates for Electric Utility Purchases from )  
Qualifying Facilities - 2010 )

CERTIFICATE OF SERVICE

I, Len S. Anthony, hereby certify that the foregoing Reply Comments of Progress Energy Carolinas, Inc. has been served on all parties of record either by hand delivery or by depositing said copy in the United States mail, postage prepaid, addressed as follows this the 4<sup>th</sup> day of April, 2011:

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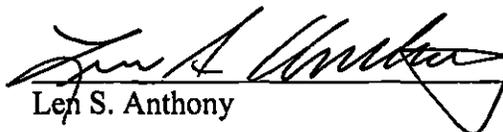
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PROGRESS ENERGY CAROLINAS, INC.

  
Len S. Anthony

Carolina Power & Light Company  
d/b/a Progress Energy Carolinas, Inc.  
(North Carolina Only)

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COGENERATION AND SMALL POWER PRODUCER  
SCHEDULE CSP- ~~2527~~

AVAILABILITY

Upon Seller's completion and Company's acceptance of an Application for Standard Contract, this Schedule is available for electrical energy and capacity supplied by Eligible Qualifying Facilities (as defined below) to Company, provided Seller is a Qualifying Facility as defined by the Federal Energy Regulatory Commission's (FERC) Order No. 70 under Docket No. RM79-54. This Schedule is not available for electric service supplied by Company to Seller or to Seller who has negotiated rate credits or conditions with Company which are different from those below. If Seller requires supplemental, standby, or interruptible services, Seller shall enter into a separate service agreement with Company in accordance with Company's applicable electric rates, riders, and Service Regulations on file with and authorized by the state regulatory agency having jurisdiction.

Qualifying Facilities Eligible for Capacity and/or Energy Credits

In order to be an Eligible Qualifying Facility and receive Energy Credits under this Schedule, the Qualifying Facility must be a hydroelectric or a generator fueled by trash or methane derived from landfills, solar, wind, hog or poultry waste-fueled or non-animal biomass-fueled Qualifying Facility with a Contract Capacity of 5 MW or less, or other Qualifying Facility with a Contract Capacity of 3 MW or less:

Capacity Credits are limited to Eligible Qualifying Facilities located within Company's service area that are classified as New Capacity in accordance with FERC Order No. 69 under Docket No. RM79-55 and interconnected to Company's transmission or distribution facilities, or to those Eligible Qualifying Facilities who were selling electricity to Company and receiving Capacity Credits under an existing Purchase Power Agreement on April 1, 2005. The availability of Fixed Long-Term and Variable Capacity Credits is subject to the following conditions:

The 5-Year, 10-Year, and 15-Year Fixed Long-Term and Variable Capacity Credits below are available to hydroelectric qualifying facilities owned or operated by small power producers as defined in G.S. 62-3(27a), non-hydroelectric qualifying facilities fueled by trash or methane derived from landfills, solar, wind, hog or poultry waste-fueled or non-animal biomass-fueled Eligible Qualifying Facilities with Contract Capacities of 5 MW or less. Other Eligible Qualifying Facilities with Contract Capacities of 3 MW or less are eligible for 5-Year Fixed Long-Term and Variable Capacity Credits below.

Eligible Qualifying Facilities receiving Capacity Credits under this Schedule shall also receive corresponding Energy Credits of like term. The Variable Energy Credit shall constitute an "as available" avoided cost credit for Eligible Qualifying Facilities.

Standard 10-year and 15-year rate options as specified in this Schedule, for Eligible Qualifying Facilities may be renewable for subsequent terms, at the Company's option, based on substantially the same terms and provisions contained herein and at a rate either (1) mutually agreed upon by the parties negotiating in good faith and taking into consideration Company's then avoided cost rate and other relevant factors or (2) set by arbitration.

## Non-Eligible Qualifying Facilities

All Qualifying Facilities not eligible for the standard long-term levelized rates have the following three options if the Company has a Commission-recognized active solicitation underway: (1) participating in the Company's competitive bidding process, (2) negotiating a contract and rates with the Company, or (3) selling energy at the Company's Commission-established variable energy rate. If the Company does not have a Commission-recognized active solicitation underway, it shall offer Qualifying Facilities not eligible for the standard long-term levelized rates the options of (1) contracting with the Company to sell power at the variable energy rate established by the Commission in these biennial proceedings or (2) contracting with the Company to sell power at negotiated rates. If the Company does not have a solicitation underway, any unresolved issues arising from such negotiations will be subject to arbitration by the Commission at the request of either the Company or Qualifying Facility to determine the Company's actual avoided cost, including both capacity and energy components, as appropriate; however, the Commission will only arbitrate disputed issues if the QF is prepared to commit its capacity to the utility for a period of at least two years. The exact points at which an active solicitation should be regarded as beginning and ending for these purposes should be determined by motion to, and order of, the Commission. Unless there is such a Commission order, it will be assumed that there is no solicitation underway. If the variable energy rate option is chosen, such rate may not be locked in by a contract term, but shall instead change as determined by the Commission in the next biennial proceeding.

The Variable Energy Credit shall constitute the "as available" avoided cost credit for Non-Eligible Qualifying Facilities.

## APPLICABILITY

This Schedule is applicable to all electric energy and capacity supplied by Eligible Qualifying Facility to Company at one point of delivery through Company's metering facilities.

## CONTRACT CAPACITY

The Contract Capacity shall be as specified in the Application For Standard Contract between Company and Seller. Only one such Standard Contract shall be permitted for any Qualifying Facility. Capacity in excess of the contract capacity of a standard rate Qualifying Facility's generators must be consumed internally by the Qualifying Facility.

## MONTHLY RATE

### Payment

Company shall pay Eligible Qualifying Facilities for energy and/or capacity furnished to Company the Credits set forth below as applicable. Such payments shall be reduced by both the Seller Charge and any applicable Interconnection Cost. Payments to Qualifying Facilities with Contract Capacities of 10kW or less shall only be made on a calendar year basis.

### Energy Credits

Those Eligible Qualifying Facilities eligible for Company's Fixed Long-Term and/or Variable Energy Credits shall be paid an Energy Credit for all energy delivered to Company's System as registered or computed from Company's metering facilities. This Energy Credit will be in accordance with the length of rate term for energy sales so established in the Purchase Agreement.

For facilities whose deliveries do not enter Company's transmission system:

|                      | Variable<br>Credit        | Fixed Long-Term Credits   |                           |                           |
|----------------------|---------------------------|---------------------------|---------------------------|---------------------------|
|                      |                           | 5-Year                    | 10-Year                   | 15-Year                   |
| On-Peak kWh (¢/kWh)  | <u>5.50</u> <u>5.108</u>  | <u>5.63</u> <u>75.753</u> | <u>5.87</u> <u>26.788</u> | <u>5.88</u> <u>07.455</u> |
| Off-Peak kWh (¢/kWh) | <u>4.28</u> <u>74.530</u> | <u>4.35</u> <u>64.747</u> | <u>4.47</u> <u>65.085</u> | <u>4.46</u> <u>85.382</u> |

For facilities whose deliveries enter Company's transmission system:

|                      | Variable<br>Credit        | Fixed Long-Term Credits   |                           |                           |
|----------------------|---------------------------|---------------------------|---------------------------|---------------------------|
|                      |                           | 5-Year                    | 10-Year                   | 15-Year                   |
| On-Peak kWh (¢/kWh)  | <u>5.36</u> <u>84.986</u> | <u>5.50</u> <u>15.615</u> | <u>5.73</u> <u>06.626</u> | <u>5.73</u> <u>77.277</u> |
| Off-Peak kWh (¢/kWh) | <u>4.22</u> <u>44.462</u> | <u>4.29</u> <u>14.676</u> | <u>4.41</u> <u>05.009</u> | <u>4.40</u> <u>25.302</u> |

### Capacity Credits

Those Eligible Qualifying Facilities eligible for Company's Fixed Long Term and/or Variable Capacity Credits shall be paid a Capacity Credit for all capacity delivered to Company's System as registered or computed from Company's metering facilities. This Capacity Credit will be in accordance with the length of rate term for capacity sales so established in the Purchase Agreement. Company shall pay a Capacity Credit based on the on-peak kWh supplied by the Eligible Qualifying Facility.

For hydroelectric facilities with no storage capability and no other type of generation whose deliveries do not enter Company's transmission system:

|                                | Variable<br>Credit        | Fixed Long-Term Credits   |                           |                           |
|--------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
|                                |                           | 5-Year                    | 10-Year                   | 15-Year                   |
| On-Peak kWh (¢/kWh)-Summer     | <u>5.14</u> <u>35.555</u> | <u>5.35</u> <u>65.708</u> | <u>5.69</u> <u>25.949</u> | <u>6.00</u> <u>26.166</u> |
| On-Peak kWh (¢/kWh)-Non-summer | <u>4.24</u> <u>04.584</u> | <u>4.41</u> <u>64.710</u> | <u>4.69</u> <u>34.909</u> | <u>4.94</u> <u>95.088</u> |

For all other facilities whose deliveries do not enter Company's transmission system:

|                                | Variable<br>Credit        | Fixed Long-Term Credits   |                           |                           |
|--------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
|                                |                           | 5-Year                    | 10-Year                   | 15-Year                   |
| On-Peak kWh (¢/kWh)-Summer     | <u>3.08</u> <u>63.333</u> | <u>3.21</u> <u>33.425</u> | <u>3.41</u> <u>53.569</u> | <u>3.60</u> <u>13.700</u> |
| On-Peak kWh (¢/kWh)-Non-summer | <u>2.54</u> <u>42.751</u> | <u>2.64</u> <u>92.826</u> | <u>2.81</u> <u>52.945</u> | <u>2.96</u> <u>93.053</u> |

For hydroelectric facilities with no storage capability and no other type of generation whose deliveries enter Company's transmission system:

|                                | Variable<br>Credit        | Fixed Long-Term Credits   |                           |                           |
|--------------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
|                                |                           | 5-Year                    | 10-Year                   | 15-Year                   |
| On-Peak kWh (¢/kWh)-Summer     | <u>5.01</u> <u>95.423</u> | <u>5.22</u> <u>65.572</u> | <u>5.55</u> <u>45.807</u> | <u>5.85</u> <u>76.019</u> |
| On-Peak kWh (¢/kWh)-Non-summer | <u>4.13</u> <u>84.475</u> | <u>4.30</u> <u>94.598</u> | <u>4.57</u> <u>94.792</u> | <u>4.82</u> <u>94.967</u> |

For all other facilities whose deliveries enter Company's transmission system:

|                                | Variable<br>Credit | Fixed Long-Term Credits |            |            |
|--------------------------------|--------------------|-------------------------|------------|------------|
|                                |                    | 5-Year                  | 10-Year    | 15-Year    |
| On-Peak kWh (¢/kWh)-Summer     | 3.0113.253         | 3.1363.343              | 3.3323.484 | 3.5143.612 |
| On-Peak kWh (¢/kWh)-Non-summer | 2.4832.685         | 2.5852.759              | 2.7472.875 | 2.8972.980 |

Summer months are defined as the calendar months of June through September. Non-summer months are defined as all other months.

Renewable Energy Credits

The sale of power by QFs at avoided cost rates does not convey the right to renewable energy credits (RECs) or green tags.

Seller Charge

An Eligible Qualifying Facility shall pay to Company a Seller Charge outlined below in accordance with the Contract Capacity specified in the Application For Standard Contract between Company and Seller:

|                       | Contract Capacity |                 |                  |                      |
|-----------------------|-------------------|-----------------|------------------|----------------------|
|                       | 0 to<br>10 kW     | 11 to<br>100 kW | 101 to<br>999 kW | 1000 kW<br>and above |
| Monthly Seller Charge | \$4               | \$7             | \$93             | \$278                |

For Small Power Producers, as the term is defined in N.C. General Statute §62-3 (27a), with no storage capacity and no other type of generation whose deliveries do not enter Company's transmission system, the sum of: (1) the Seller Charge and (2) the Monthly Facilities Charge for those Interconnection Facilities installed before January 1, 2000 or replaced thereafter with equipment of equal capacity and kind, shall be \$100.00 per month; except that any Interconnection Facilities installed after January 1, 2000, other than replacement of existing equipment with equipment of equal capacity and kind, shall be subject to additional Monthly Facilities Charges. This provision applies only to a Small Power Producer who has completed an initial 15-year contract term under a Purchase Power Agreement with Company prior to January 1, 2000 or was selling electricity to Company on January 1, 2000.

RATE UPDATES

The Credits and Seller Charge of this Schedule will be updated every two years. Sellers who have contracted for the Fixed Long-Term Credits will not be affected by updates in the Energy and Capacity Credits until their rate term expires. For all Qualifying Facilities selling to Company pursuant to the Variable Credit provisions of this schedule, such credits shall be updated and changed in accordance with the Commission's revisions to such credits in Company's biennial avoided cost proceedings.

DETERMINATION OF ON-PEAK AND OFF-PEAK HOURS

I. On-Peak Hours:

- A. Service used beginning at 12:00 midnight March 31 and ending at 12:00 midnight September 30:

The on-peak hours are defined as the hours between 10:00 a.m. and 10:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

- B. Service used beginning at 12:00 midnight September 30 and ending at 12:00 midnight March 31:

The on-peak hours are defined as those hours between 6:00 a.m. and 1:00 p.m., plus 4:00 p.m. through 9:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

II. Off-Peak Hours:

The off-peak hours in any month are defined as all hours not specified above as on-peak hours. All hours for the following holidays will be considered as off-peak: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day after, and Christmas Day. When one of the above holidays falls on a Saturday, the Friday before the holiday will be considered off-peak; when the holiday falls on a Sunday, the following Monday will be considered off-peak.

INTERCONNECTION COSTS

For Eligible Qualifying Facilities, the installed costs for all facilities constructed or installed by Company to interconnect and safely operate in parallel with Seller's equipment shall be determined in accordance with Company's Terms and Conditions for the Purchase of Electric Power. Interconnection of Customer's generation to Company's system shall be in accordance with the North Carolina Interconnection Procedures, Forms, and Agreements for State-Jurisdictional Generation Interconnections.

Supersedes Schedule CSP-~~23C25~~

Effective for energy and capacity rendered on and after ~~May 23, 2009~~\_\_\_\_\_

NCUC Docket No. E-100, Sub ~~117127~~

Carolina Power & Light Company  
d/b/a Progress Energy Carolinas, Inc.  
(North Carolina Only)

60

COGENERATION AND SMALL POWER PRODUCER  
SCHEDULE CSP- 27

AVAILABILITY

Upon Seller's completion and Company's acceptance of an Application for Standard Contract, this Schedule is available for electrical energy and capacity supplied by Eligible Qualifying Facilities (as defined below) to Company, provided Seller is a Qualifying Facility as defined by the Federal Energy Regulatory Commission's (FERC) Order No. 70 under Docket No. RM79-54. This Schedule is not available for electric service supplied by Company to Seller or to Seller who has negotiated rate credits or conditions with Company which are different from those below. If Seller requires supplemental, standby, or interruptible services, Seller shall enter into a separate service agreement with Company in accordance with Company's applicable electric rates, riders, and Service Regulations on file with and authorized by the state regulatory agency having jurisdiction.

Qualifying Facilities Eligible for Capacity and/or Energy Credits

In order to be an Eligible Qualifying Facility and receive Energy Credits under this Schedule, the Qualifying Facility must be a hydroelectric or a generator fueled by trash or methane derived from landfills, solar, wind, hog or poultry waste-fueled or non-animal biomass-fueled Qualifying Facility with a Contract Capacity of 5 MW or less, or other Qualifying Facility with a Contract Capacity of 3 MW or less:

Capacity Credits are limited to Eligible Qualifying Facilities located within Company's service area that are classified as New Capacity in accordance with FERC Order No. 69 under Docket No. RM79-55 and interconnected to Company's transmission or distribution facilities, or to those Eligible Qualifying Facilities who were selling electricity to Company and receiving Capacity Credits under an existing Purchase Power Agreement on April 1, 2005. The availability of Fixed Long-Term and Variable Capacity Credits is subject to the following conditions:

The 5-Year, 10-Year, and 15-Year Fixed Long-Term and Variable Capacity Credits below are available to hydroelectric qualifying facilities owned or operated by small power producers as defined in G.S. 62-3(27a), non-hydroelectric qualifying facilities fueled by trash or methane derived from landfills, solar, wind, hog or poultry waste-fueled or non-animal biomass-fueled Eligible Qualifying Facilities with Contract Capacities of 5 MW or less. Other Eligible Qualifying Facilities with Contract Capacities of 3 MW or less are eligible for 5-Year Fixed Long-Term and Variable Capacity Credits below.

Eligible Qualifying Facilities receiving Capacity Credits under this Schedule shall also receive corresponding Energy Credits of like term. The Variable Energy Credit shall constitute an "as available" avoided cost credit for Eligible Qualifying Facilities.

Standard 10-year and 15-year rate options as specified in this Schedule, for Eligible Qualifying Facilities may be renewable for subsequent terms, at the Company's option, based on substantially the same terms and provisions contained herein and at a rate either (1) mutually agreed upon by the parties negotiating in good faith and taking into consideration Company's then avoided cost rate and other relevant factors or (2) set by arbitration.

### Non-Eligible Qualifying Facilities

All Qualifying Facilities not eligible for the standard long-term levelized rates have the following three options if the Company has a Commission-recognized active solicitation underway: (1) participating in the Company's competitive bidding process, (2) negotiating a contract and rates with the Company, or (3) selling energy at the Company's Commission-established variable energy rate. If the Company does not have a Commission-recognized active solicitation underway, it shall offer Qualifying Facilities not eligible for the standard long-term levelized rates the options of (1) contracting with the Company to sell power at the variable energy rate established by the Commission in these biennial proceedings or (2) contracting with the Company to sell power at negotiated rates. If the Company does not have a solicitation underway, any unresolved issues arising from such negotiations will be subject to arbitration by the Commission at the request of either the Company or Qualifying Facility to determine the Company's actual avoided cost, including both capacity and energy components, as appropriate; however, the Commission will only arbitrate disputed issues if the QF is prepared to commit its capacity to the utility for a period of at least two years. The exact points at which an active solicitation should be regarded as beginning and ending for these purposes should be determined by motion to, and order of, the Commission. Unless there is such a Commission order, it will be assumed that there is no solicitation underway. If the variable energy rate option is chosen, such rate may not be locked in by a contract term, but shall instead change as determined by the Commission in the next biennial proceeding.

The Variable Energy Credit shall constitute the "as available" avoided cost credit for Non-Eligible Qualifying Facilities.

### APPLICABILITY

This Schedule is applicable to all electric energy and capacity supplied by Eligible Qualifying Facility to Company at one point of delivery through Company's metering facilities.

### CONTRACT CAPACITY

The Contract Capacity shall be as specified in the Application For Standard Contract between Company and Seller. Only one such Standard Contract shall be permitted for any Qualifying Facility. Capacity in excess of the contract capacity of a standard rate Qualifying Facility's generators must be consumed internally by the Qualifying Facility.

### MONTHLY RATE

#### Payment

Company shall pay Eligible Qualifying Facilities for energy and/or capacity furnished to Company the Credits set forth below as applicable. Such payments shall be reduced by both the Seller Charge and any applicable Interconnection Cost. Payments to Qualifying Facilities with Contract Capacities of 10kW or less shall only be made on a calendar year basis.

#### Energy Credits

Those Eligible Qualifying Facilities eligible for Company's Fixed Long-Term and/or Variable Energy Credits shall be paid an Energy Credit for all energy delivered to Company's System as registered or computed from Company's metering facilities. This Energy Credit will be in accordance with the length of rate term for energy sales so established in the Purchase Agreement.

For facilities whose deliveries do not enter Company's transmission system:

|                      | <u>Variable<br/>Credit</u> | <u>Fixed Long-Term Credits</u> |                |                |
|----------------------|----------------------------|--------------------------------|----------------|----------------|
|                      |                            | <u>5-Year</u>                  | <u>10-Year</u> | <u>15-Year</u> |
| On-Peak kWh (¢/kWh)  | 5.108                      | 5.753                          | 6.788          | 7.455          |
| Off-Peak kWh (¢/kWh) | 4.530                      | 4.747                          | 5.085          | 5.382          |

For facilities whose deliveries enter Company's transmission system:

|                      | <u>Variable<br/>Credit</u> | <u>Fixed Long-Term Credits</u> |                |                |
|----------------------|----------------------------|--------------------------------|----------------|----------------|
|                      |                            | <u>5-Year</u>                  | <u>10-Year</u> | <u>15-Year</u> |
| On-Peak kWh (¢/kWh)  | 4.986                      | 5.615                          | 6.626          | 7.277          |
| Off-Peak kWh (¢/kWh) | 4.462                      | 4.676                          | 5.009          | 5.302          |

### Capacity Credits

Those Eligible Qualifying Facilities eligible for Company's Fixed Long Term and/or Variable Capacity Credits shall be paid a Capacity Credit for all capacity delivered to Company's System as registered or computed from Company's metering facilities. This Capacity Credit will be in accordance with the length of rate term for capacity sales so established in the Purchase Agreement. Company shall pay a Capacity Credit based on the on-peak kWh supplied by the Eligible Qualifying Facility.

For hydroelectric facilities with no storage capability and no other type of generation whose deliveries do not enter Company's transmission system:

|                                | <u>Variable<br/>Credit</u> | <u>Fixed Long-Term Credits</u> |                |                |
|--------------------------------|----------------------------|--------------------------------|----------------|----------------|
|                                |                            | <u>5-Year</u>                  | <u>10-Year</u> | <u>15-Year</u> |
| On-Peak kWh (¢/kWh)-Summer     | 5.555                      | 5.708                          | 5.949          | 6.166          |
| On-Peak kWh (¢/kWh)-Non-summer | 4.584                      | 4.710                          | 4.909          | 5.088          |

For all other facilities whose deliveries do not enter Company's transmission system:

|                                | <u>Variable<br/>Credit</u> | <u>Fixed Long-Term Credits</u> |                |                |
|--------------------------------|----------------------------|--------------------------------|----------------|----------------|
|                                |                            | <u>5-Year</u>                  | <u>10-Year</u> | <u>15-Year</u> |
| On-Peak kWh (¢/kWh)-Summer     | 3.333                      | 3.425                          | 3.569          | 3.700          |
| On-Peak kWh (¢/kWh)-Non-summer | 2.751                      | 2.826                          | 2.945          | 3.053          |

For hydroelectric facilities with no storage capability and no other type of generation whose deliveries enter Company's transmission system:

|                                | <u>Variable<br/>Credit</u> | <u>Fixed Long-Term Credits</u> |                |                |
|--------------------------------|----------------------------|--------------------------------|----------------|----------------|
|                                |                            | <u>5-Year</u>                  | <u>10-Year</u> | <u>15-Year</u> |
| On-Peak kWh (¢/kWh)-Summer     | 5.423                      | 5.572                          | 5.807          | 6.019          |
| On-Peak kWh (¢/kWh)-Non-summer | 4.475                      | 4.598                          | 4.792          | 4.967          |

For all other facilities whose deliveries enter Company's transmission system:

|                                | Variable<br>Credit | Fixed Long-Term Credits |         |         |
|--------------------------------|--------------------|-------------------------|---------|---------|
|                                |                    | 5-Year                  | 10-Year | 15-Year |
| On-Peak kWh (¢/kWh)-Summer     | 3.253              | 3.343                   | 3.484   | 3.612   |
| On-Peak kWh (¢/kWh)-Non-summer | 2.685              | 2.759                   | 2.875   | 2.980   |

Summer months are defined as the calendar months of June through September. Non-summer months are defined as all other months.

Renewable Energy Credits

The sale of power by QFs at avoided cost rates does not convey the right to renewable energy credits (RECs) or green tags.

Seller Charge

An Eligible Qualifying Facility shall pay to Company a Seller Charge outlined below in accordance with the Contract Capacity specified in the Application For Standard Contract between Company and Seller:

|                       | Contract Capacity |                 |                  |                      |
|-----------------------|-------------------|-----------------|------------------|----------------------|
|                       | 0 to<br>10 kW     | 11 to<br>100 kW | 101 to<br>999 kW | 1000 kW<br>and above |
| Monthly Seller Charge | \$4               | \$7             | \$93             | \$278                |

For Small Power Producers, as the term is defined in N.C. General Statute §62-3 (27a), with no storage capacity and no other type of generation whose deliveries do not enter Company's transmission system, the sum of: (1) the Seller Charge and (2) the Monthly Facilities Charge for those Interconnection Facilities installed before January 1, 2000 or replaced thereafter with equipment of equal capacity and kind, shall be \$100.00 per month; except that any Interconnection Facilities installed after January 1, 2000, other than replacement of existing equipment with equipment of equal capacity and kind, shall be subject to additional Monthly Facilities Charges. This provision applies only to a Small Power Producer who has completed an initial 15-year contract term under a Purchase Power Agreement with Company prior to January 1, 2000 or was selling electricity to Company on January 1, 2000.

RATE UPDATES

The Credits and Seller Charge of this Schedule will be updated every two years. Sellers who have contracted for the Fixed Long-Term Credits will not be affected by updates in the Energy and Capacity Credits until their rate term expires. For all Qualifying Facilities selling to Company pursuant to the Variable Credit provisions of this schedule, such credits shall be updated and changed in accordance with the Commission's revisions to such credits in Company's biennial avoided cost proceedings.

DETERMINATION OF ON-PEAK AND OFF-PEAK HOURS

I. On-Peak Hours:

- A. Service used beginning at 12:00 midnight March 31 and ending at 12:00 midnight September 30:

The on-peak hours are defined as the hours between 10:00 a.m. and 10:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

B. Service used beginning at 12:00 midnight September 30 and ending at 12:00 midnight March 31:

The on-peak hours are defined as those hours between 6:00 a.m. and 1:00 p.m., plus 4:00 p.m. through 9:00 p.m., Monday through Friday, excluding holidays considered as off-peak.

II. *Off-Peak Hours:*

The off-peak hours in any month are defined as all hours not specified above as on-peak hours. All hours for the following holidays will be considered as off-peak: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day after, and Christmas Day. When one of the above holidays falls on a Saturday, the Friday before the holiday will be considered off-peak; when the holiday falls on a Sunday, the following Monday will be considered off-peak.

INTERCONNECTION COSTS

For Eligible Qualifying Facilities, the installed costs for all facilities constructed or installed by Company to interconnect and safely operate in parallel with Seller's equipment shall be determined in accordance with Company's Terms and Conditions for the Purchase of Electric Power. Interconnection of Customer's generation to Company's system shall be in accordance with the North Carolina Interconnection Procedures, Forms, and Agreements for State-Jurisdictional Generation Interconnections.

Supersedes Schedule CSP-25

Effective for energy and capacity rendered on and after \_\_\_\_\_  
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