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June 23, 2022

**VIA ELECTRONIC FILING**

Ms. A. Shonta Dunston  
Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4300

Re: **Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Reply in Opposition to Joint Motion for an Evidentiary Hearing (Docket No. E-100, Sub 180)**

Dear Ms. Dunston:

Enclosed please find Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Reply in Opposition to Joint Motion for an Evidentiary Hearing for filing in the above-referenced proceeding.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

  
J. Ashley Cooper

Enclosure

Cc: All parties of record (via email)

**CERTIFICATE OF SERVICE**

I certify that a copy of Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Reply in Opposition to Joint Motion for an Evidentiary Hearing, in Docket No. E-100, Sub 180, has been served on all parties of record either by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid.

This the 23th day of June, 2022.

/s/J. Ashley Cooper  
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STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-100, SUB 180

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

	)	<b>RESPONSE IN</b>
Investigation of Proposed Net Metering Policy	)	<b>OPPOSITION TO JOINT</b>
Changes	)	<b>MOTION FOR AN</b>
	)	<b>EVIDENTIARY HEARING</b>

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NOW COME Duke Energy Carolinas, LLC, and Duke Energy Progress, LLC (collectively, “Duke Energy” or the “Companies”), by and through counsel, and respectfully request that the North Carolina Utilities Commission (the “Commission”) deny the Joint Motion for an Evidentiary Hearing (the “Motion”) filed by 350 Triangle, 350 Charlotte, NC-APPPL, NC WARN, North Carolina Climate Solutions, and Sunrise Movement Durham Hub (collectively, the “Moving Parties”) in this docket on June 16, 2022.

For the reasons explained more fully below, the Moving Parties did not provide the Commission with sufficient grounds for a hearing. Although the Companies believe the Motion should be denied, if the Commission separately determines a hearing is necessary, the Companies will fully participate.<sup>1</sup> In support of this request, the Companies respectfully show the Commission the following:

**RESPONSE**

**The Motion is a Set of Comments Masquerading as a Hearing Request.**

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<sup>1</sup> In response to the Motion, the Attorney General’s Office seeks to clarify that it is not requesting the Commission hold an evidentiary proceeding. Rather, the AGO defers to the Commission as to whether the Commission would like to further explore any issues.

1. The primary purpose of the Motion is to request another investigation of customer-sited generation—not a hearing. Specifically, the Motion requests a hearing only after “a Value of Solar Study or similar investigation of costs and benefits of customer sited generation.”

2. This request mirrors the Moving Parties’ playbook throughout this proceeding—which has primarily focused upon delaying the Companies’ and this Commission’s achievement of the net energy metering (“NEM”) mandates within H.B. 589. The record is clear—the Companies’ marginal and embedded cost studies examined a wide range of costs and benefits of customer-sited generation. These studies fulfilled H.B. 589’s mandate to investigate the “costs and benefits of customer-sited generation.”

3. The Public Staff acknowledged this very point, stating that “the analysis contained within the embedded and marginal cost studies captures the majority, if not all, of the known and verifiable benefits of solar generation.” As such, ordering a second study would serve only one purpose—to delay these proceedings and permit the Moving Parties to further obstruct legislative NEM reform in North Carolina.

**The General Assembly of North Carolina Requires NEM Reform.**

4. The Companies’ Application in this proceeding was submitted in direct response to the requirements in H.B. 589 that “[e]ach public utility shall file for Commission approval revised net metering rates for electric customers . . .” H.B. 589 contains certain requirements with which those rates must comply, including ensuring “that the net metering retail customer pays its full fixed cost of service.” The primary focus of the NEM proposal in this docket is to achieve these mandates.

5. Yet, the Moving Parties have attacked the NEM proposal in this docket at every turn. It appears that the Moving Parties' true disagreement lies with the requirements of H.B. 589. Unfortunately for the Moving Parties, no amount of value of solar studies, evidentiary hearings, or procedural maneuvers will change those mandates. Ultimately, NEM reform will be instituted in North Carolina. The Companies' widely-supported proposal in this docket reflects the input of numerous parties and achieves the mandates handed down by the General Assembly of North Carolina through collaborative efforts of the Companies and various stakeholders. The Moving Parties' efforts to halt NEM reform in North Carolina are transparent, without merit, and may result in unwarranted administrative delays and costs.

**The Motion's Request for Further Analysis and Discussion is Unwarranted.**

6. Despite the extensive Rate Design Study and voluminous comments submitted in this docket, the Moving Parties suggest that additional time and discussion is needed via an evidentiary hearing. To be clear, from the very beginning of the Rate Design Study, the Companies engaged other parties with a level of transparency that is rarely, if ever, seen from utilities on these complex topics.

7. It is uncontested in this proceeding that the Rate Design Study accounted for a number of different interests. It is uncontested that the Companies provided such participants with an opportunity to submit feedback and review the Companies' data. The Companies provided data and responded to feedback on NEM topics until there were no questions or requests left—including from the Moving Parties.<sup>2</sup>

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<sup>2</sup> SACE and NCSEA noted that this process “accommodated different points of view” and that participants were invited to “bring forward alternative rate design ideas for consideration by participants.” However, NC WARN never “suggested an alternative NEM rate design for discussion or consideration.” *Joint Reply Response to Third Quarter Rate Design Study Status Report, Docket Nos. E-2, Sub 1219 and E-7, Sub 1214.*

8. Once the Companies filed the Application, parties were afforded additional time and opportunity to request information, discuss options, and address any concerns with the Companies. This is evidenced by the Stipulation filed in this docket, which represents the compromise that can be achieved when parties enter negotiations with a willingness to achieve middle-ground.<sup>3</sup> This stands in stark contrast to the position taken by the Moving Parties, which apparently has not changed at all since the very beginning of the Rate Design Study.

9. The Companies' level of transparency and openness is further evidenced by the volumes of informed comments submitted in this docket that analyze the studies, their inputs, and the information presented during the Rate Design Study and through discovery.

10. Given the Rate Design Study and this fully-developed record, it is unclear what additional discussion and analysis the Moving Parties seek to achieve through a hearing. There are no outstanding discovery requests and the parties had the opportunity to present all relevant arguments to the Commission across three sets of comments. As such, the motives of the Moving Parties in suggesting that further analysis and discussion is needed must be carefully scrutinized.

### **The Motion Mischaracterizes the Record.**

11. The Motion states that “a critical mass of intervenors” dispute that the Rate Design Study constitutes an investigation under H.B. 589.<sup>4</sup> However, that critical mass appears to be primarily composed of the Moving Parties and the Environmental

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<sup>3</sup> Although the Moving Parties complain that they had no time to conduct discovery on the proposed Bridge Rate, the Companies have not received any outreach from the Moving Parties since the Stipulation was filed over a month ago.

<sup>4</sup> The Motion curiously includes Sundance Power Systems, Inc., Southern Energy Management, Inc., and Yes Solar Solutions within that critical mass, despite the fact that the Companies entered into a Stipulation with these parties in support of the NEM proposal. Likewise, the AGO re-iterated that it is not seeking any evidentiary hearing from the Commission.

Working Group—parties who have not changed their position from the very beginning. In reality, the “critical mass” lies in favor of the NEM proposal, which maintains a broad level of support in this docket.

12. The Motion goes on to list a number of “material issues of fact” that the Moving Parties suggest should be examined during a hearing. However, it seems that the list largely re-iterates questions posed by the Moving Parties in prior comments and does not represent bona fide disputes among various parties. Although the Moving Parties may desire to unilaterally create “material issues of fact” by simply voicing their disagreement, the record is clear that the Companies and other parties have reached a broad consensus on a number of these “issues.” Contrary to the Moving Parties, other parties in the docket worked to solve substantive disagreements, not create recommendations in search of problems.

### **CONCLUSION**

13. The Companies remain proud of the innovative NEM proposal presented to the Commission. That proposal represents the work of parties that are determined to advance the directives within H.B. 589 through compromise and continued cooperation. Through those efforts, these parties achieved a broad level of support that is exceedingly rare in this context. On the other hand, the Moving Parties’ position remains unchanged since the Rate Design Study kicked off almost a year ago. There is no indication that the objections held by the Moving Parties will be resolved through a hearing, but there is every indication that if the Commission grants the Motion, it will result in unnecessary delay and potentially lead North Carolina down the same road of acrimony and gridlock that has been experienced in other jurisdictions.

14. Therefore, the record is fully-developed and ripe for Commission decision. However, if the Commission separately determines that a hearing is warranted, the Companies would fully participate.

WHEREFORE, the Companies respectfully request that the Commission deny the Motion, and such other relief as the Commission deems just and proper.

Respectfully submitted this the 23<sup>rd</sup> day of June, 2022.

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