

May 3, 2024

VIA ELECTRONIC FILING

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

Dear Ms. Dunston:

Re: Joint Reply Comments
Docket Nos. E-2, Sub 1314 and E-7, Sub 1289

Dear Ms. Dunston:

Enclosed for filing in the above-referenced proceedings are Joint Reply Comments pursuant to the Commission's *Order Requesting Comments on Agreement and Stipulation of Settlement Resolving Contested Issues and Recommending Approval of Modified Programs* issued on April 17, 2024.

If you have any questions, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,

/s/Nick A. Dantonio

NAD/sbc

Enclosure

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1314
DOCKET NO. E-7, SUB 1289

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Petition of Duke Energy Progress, LLC, and)	
Duke Energy Carolinas, LLC, Requesting)	JOINT REPLY COMMENTS
Approval of Green Source Advantage)	
Choice Program and Rider GSAC)	
)	

NOW COME Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (collectively, “Duke Energy” or the “Companies”), the Public Staff – North Carolina Utilities Commission (“Public Staff”), the Carolina Industrial Group for Fair Utility Rates II (“CIGFUR II”), and the Carolina Industrial Group for Fair Utility Rates III (“CIGFUR III” and, together with CIGFUR II, “CIGFUR”) pursuant to the North Carolina Utilities Commission’s (“Commission”) April 17, 2024 *Order Requesting Comments on Agreement and Stipulation of Settlement Resolving Contested Issues and Recommending Approval of Modified Programs* and hereby respectfully submit these reply comments in support of the Agreement and Stipulation of Settlement Resolving Contested Issues and Recommending Approval of Modified Program ¹ (the “Stipulation”) between the Companies, the Public Staff, and CIGFUR (the Companies, the Public Staff, and CIGFUR will together be referred to as the “Stipulating Parties”), and in response to comments on

¹ *Agreement and Stipulation of Settlement Resolving Contested Issues and Recommending Approval of Modified Programs*, Docket Nos. E-2, Sub 1314, and E-7, Sub 1289 (Apr. 12, 2024).

the Stipulation filed by the Carolina Utility Customers Association, Inc. (“CUCA”),² Carolinas Clean Energy Business Association (“CCEBA”),³ and the Joint Comments of the Southern Alliance for Clean Energy (“SACE”) and the North Carolina Sustainable Energy Association (“NCSEA”)⁴ (CUCA, CCEBA, SACE, and NCSEA will together be referred to as the “Non-Stipulating Parties”).

BACKGROUND

1. Pursuant to the Commission’s *Order Requesting Comments* issued on February 9, 2023, CIGFUR filed comments on the Companies’ Petition for approval of their proposed Green Source Advantage Choice (“GSA Choice”) program on June 23, 2023, and included a Request for Procedural Relief that requested the Commission stay the proceedings to allow the parties to continue working towards resolution of certain issues.⁵

2. Although the Commission did not issue an order on CIGFUR’s Request for Procedural Relief, the Companies worked diligently to develop an additional customer option under the GSA Choice program called the Resource Acceleration Option (“RAO”).

3. The Companies circulated their initial proposed RAO framework to all parties to these dockets in October 2023. The Companies then held several meetings with stakeholders to discuss the Companies’ proposed RAO framework⁶ and also held

² *Comments of CUCA*, Docket Nos. E-2, Sub 1314, and E-7, Sub 1289 (Apr. 26, 2024) (“CUCA Stipulation Comments”).

³ *Comments of CCEBA*, Docket Nos. E-2, Sub 1314, and E-7, Sub 1289 (Apr. 26, 2024) (“CCEBA Stipulation Comments”).

⁴ *Joint Response to Stipulation*, Docket Nos. E-2, Sub 1314, and E-7, Sub 1289 (Apr. 26, 2024) (“SACE & NCSEA Stipulation Comments”).

⁵ *Request for Procedural Relief and Reply Comments of CIGFUR II and III*, Docket Nos. E-2, Sub 1314, and E-7, Sub 1289 at 3 (June 23, 2023).

⁶ SACE & NCSEA expressed that they were unable to support the RAO and requested a meeting to discuss it. That meeting was held with a large group of stakeholders on January 11, 2024. Afterwards, CCEBA

individual meetings with parties that provided constructive feedback on the RAO. Over the course of these meetings, the Public Staff and CIGFUR in particular actively engaged with the Companies to discuss the RAO proposal and suggested modifications to the framework that were designed to address their concerns. Although parties other than the Public Staff and CIGFUR expressed concerns about parts of the RAO framework, no other parties proposed a workable, written framework to remedy their concerns and, moreover, no party provided an alternate framework until March 2024 when CCEBA circulated its proposed framework to parties.

4. Through the course of their engagement with stakeholders, the Companies modified the RAO to address feedback and, ultimately, the Stipulating Parties reached a reasonable compromise and resolved all disputes between them as set forth in the Stipulation.

REPLY COMMENTS

I. The Stipulation Represents an Appropriate Resolution of the Issues Raised in These Dockets.

5. The Stipulating Parties have reached a consensus on the RAO and support its addition to the GSA Choice program as an appropriate and comprehensive compromise.

6. There is, however, no consensus between the Non-Stipulating parties as to an alternative proposal. In its comments on the Stipulation, CCEBA presents a proposed alternative to the RAO with a duration of four years.⁷ SACE & NCSEA recommend the Commission adopt CCEBA's proposal for two years, "as an interim measure[.]" while the

initiated conversations with the Stipulating Parties in March 2024 regarding its proposal and on April 5, 2024 a larger stakeholder meeting was held to discuss the same.

⁷ CCEBA Stipulation Comments at 7.

Commission continues to spend an undefined amount of time working out the details of a “fully regulatory-surplus” program.⁸ CUCA does not oppose the RAO as described in the Stipulation, but states that its members have not expressed interest in the RAO and further notes that its members “might” be interested in CCEBA’s alternative.⁹

7. The Stipulating Parties respectfully submit that CUCA’s assertion regarding its members’ expressed interest in the RAO does not speak to the other components of the Stipulation (i.e., the originally proposed options included in the Companies’ application) and is not an appropriate basis upon which to reject or modify the RAO.

8. It is also notable that concerns similar to those now being raised by CCEBA about a potential lack of customer interest in the GSA Choice program have been made before and ultimately did not materialize. Similar arguments were made regarding the Companies’ original Green Source Advantage (“GSA”) program approved in 2018 pursuant to Session Law 2017-192.¹⁰ In particular, the North Carolina Clean Energy Business Alliance (CCEBA’s predecessor) argued that very few, if any, large customers would participate in the Companies’ proposed program because it was unworkable.¹¹ These concerns did not materialize, however, as the capacity in both the initial GSA program and the current GSA Bridge program is largely subscribed.¹² As a result, similar concerns by parties seeking an alternative program design more favorable to solar

⁸ SACE & NCSEA Stipulation Comments at 1.

⁹ CUCA Stipulation Comments at 2.

¹⁰ See *Order Modifying and Approving Green Source Advantage Program, Requiring Compliance Filing, and Allowing Comments*, Docket Nos. E-2, Sub 1170, and E-7, Sub 1169 at 17, 21, 23, 26, and 31 (Feb. 1, 2019).

¹¹ *Id.* at 26.

¹² See SACE & NCSEA Stipulation Comments at 1. Specifically, SACE & NCSEA’s comments refer to the Companies’ GSA Bridge program, which was approved subsequent to the original GSA program as the latter was near full subscription and customers expressed interest in a continuation of the GSA program.

developer interests should be considered in the context of the success of the initial GSA program and the GSA Bridge program.

II. CCEBA's Proposal is Not an Improvement over the Stipulation

9. The Stipulating Parties maintain that the RAO, as presented in the Stipulation, is a reasonable solution to the issues posed in this docket, creates additionality by bringing renewable resources online sooner than they would otherwise be developed, and holds non-participants harmless. In conjunction with the other two options presented in the GSA Choice program (the purchase of clean energy attributes at market rates and a “bring your own PPA” option), the RAO presents a reasonable compromise that the Stipulating Parties believe will be of interest to customers while also complying with HB 951.¹³

10. CCEBA's proposal results in an overall decrease in customer program capacity. The RAO offers an additional 150 megawatts (“MW”) per year for customers that are additional to the 4,000 MW of total program capacity originally offered in the Companies' GSA Choice Application. CCEBA argues that these 150 additional RAO MW are “simply inadequate.”¹⁴ CCEBA further argues that its proposal of taking 250 MW per year of negotiated PPAs out of the Companies' original proposal—meaning those contracted MW would not reduce the subsequent solar procurement targets—would provide the same “type of regulatory surplus [as] the RAO, but with none of the drawbacks.”¹⁵ As an initial drawback, CCEBA's proposal would only offer 100

¹³ More information on the RAO, along with a comparison between the RAO and the alternative CCEBA proposal, is attached as Attachment 1 to these reply comments. Attachment 1 is a presentation prepared by the Public Staff on April 16, 2024, for a meeting between the Public Staff and CEBA.

¹⁴ CCEBA Stipulation Comments at 4.

¹⁵ *Id.* at 5.

“additional” MW compared to the Companies’ original GSA Choice Application, but that comes at the expense of 150 MW per year of total program capacity compared to the Stipulation. Further, for any customers who are interested in the originally proposed GSA Choice program options, CCEBA’s proposed overall reduction in the total program capacity would be viewed as a drawback.

11. CCEBA also argues that the variable bill credit in the RAO and the requirement that eligible projects must have lost in the most recent annual solar procurement are not attractive.¹⁶ In addition to the fact that similar arguments in the HB 589 GSA proceeding ultimately proved to be over-stated, these requirements were specifically designed by the Stipulating Parties to hold non-participating customers harmless and to facilitate development of RAO projects that would not have been built in the same time frame (or potentially at all) *but for* the RAO customers accelerating their development—a feature that stakeholders specifically wanted to achieve with an acceleration or additionality option. It is also notable that approximately half of the Companies’ current GSA customers elect the variable bill credit option.

12. CCEBA also claims, without evidence, that its proposal would “provide 250 MW of an attractive product offering *with* regulatory surplus.”¹⁷ The Stipulating Parties dispute this claim. On June 21, 2023, the Center for Resource Solutions (“CRS”), which among other things certifies Renewable Energy Certificates (“RECs”) through its Green-e® program, filed a statement of position. It noted that due to the structure of HB 951’s carbon reduction goals, CRS “would not be able to certify Duke’s Customer Programs.”

¹⁶ CCEBA Stipulation Comments at 4.

¹⁷ See CCEBA Stipulation Comments at 5.

During the development of the RAO, the Stipulating Parties had several conversations with CRS to determine if, and how, the GSA Choice program could result in regulatory surplus and certifiable RECs.¹⁸ Ultimately, CRS identified one clear pathway to certification: for the emission reductions associated with GSA Choice projects to be added back to Duke's North Carolina carbon emissions when evaluating compliance with HB 951's goals.¹⁹ CRS did not indicate that it was able to certify the GSA Choice program for accelerating renewable resources. At the stakeholder meeting on April 5, 2024, CCEBA indicated that it had not had any discussions with CRS regarding whether its proposal would result in certifiable regulatory surplus.

13. The Stipulating Parties also note that CCEBA's proposal is essentially identical to a proposal by the Public Staff in its Initial Comments, which recommended that Duke not deduct the 250 MW of "bring your own PPA" capacity from future annual procurements, while also increasing future procurements to maintain regulatory surplus for some period of time.²⁰ In its meetings with CRS, the Public Staff explained its proposal in detail to CRS staff and explored whether it was possible for CRS to certify the RECs produced under this structure. CRS indicated that the concept of resource acceleration was not yet contemplated in the Green-e® standards, and that it could not certify claims of accelerating statutory requirements for decarbonization even under the Public Staff's proposal.

¹⁸ The Public Staff met with CRS on October 4, 2023 and December 11, 2023. The Companies met with CRS on December 2, 2022, May 26, 2023, January 19, 2024, and February 26, 2024.

¹⁹ See CRS Letter Filing, Docket No. E-100, Sub 179 (Nov. 14, 2022) <https://resource-solutions.org/wp-content/uploads/2023/01/CRS-Comments-Duke-Carbon-Plan-DOCKET-NO.-E-100-SUB-179.pdf>.

²⁰ See *Initial Comments of the Public Staff*, Docket Nos. E-2, Sub 1314, and E-7, Sub 1289 at 16-17 (Apr. 25, 2023).

14. While CRS is likely unable to certify RECs from either the RAO or CCEBA's proposal, the RAO provides participating customers with a *clear and demonstrable* claim to resource acceleration. Because the RAO requires contracting with a project not selected in the most recent annual procurement, participating customers can confidently state that *but for* their participation, the renewable project would have been delayed. CCEBA's proposal allows a participating customer to contract with any project, without regard to whether the project would have been selected in the next annual procurement; the participating customer therefore cannot claim acceleration with certainty. While the structure of HB 951 appears to have precluded RECs certifiable by CRS, customers desiring a clear and demonstrable claim of resource acceleration would likely prefer the RAO over CCEBA's proposal.

15. SACE & NCSEA reiterate several of the arguments made by CCEBA, but they also point to a settlement between Georgia Power and the Clean Energy Buyers Association ("CEBA") that requires Georgia Power's customer program to allow large customers to identify their carbon-free energy resources, pay the incremental costs of those resources, claim all associated environmental attributes, and receive hourly credits based on Georgia Power's marginal cost of incremental generation.²¹ The Stipulating Parties have designed the RAO to be consistent with the requirements of HB 951, and are not aware of any Georgia legislation or regulations that are similar to HB 951 that would be relevant to the issues in this proceeding.

²¹ SACE & NCSEA Stipulation Comments at 2.

CONCLUSION

The Stipulating Parties respectfully request that the Commission consider these reply comments and approve the Stipulation. The Companies have worked diligently with stakeholders for nearly two years, including over a year after filing their GSA Choice program application, to carefully craft it as an attractive option for customers that complies with HB 951. Although the Stipulating Parties were not able to resolve all disputes between all parties that have arisen in these dockets, they were able to make significant progress either resolving or narrowing the disputes. The Stipulating Parties continue to acknowledge the difficulty of creating a regulatory surplus program under Section V of HB 951 as envisioned by some parties to this proceeding, but the Companies will continue to engage with stakeholders on future program designs to meet customer needs.

This the 3rd day of May, 2024.

/s/ Nick A. Dantonio

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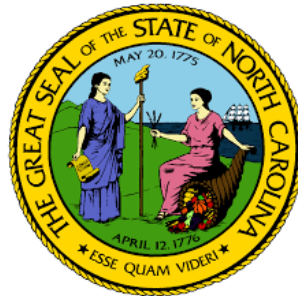
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North Carolina Utilities Commission Public Staff

Green Source Advantage Choice April 16, 2024



Resource Acceleration Option

- Result of negotiations primarily between Duke, CIGFUR, and the Public Staff
- Spurred on by concerns about additionality expressed in the GSAC docket from CEBA, Google, DoD, NCSEA, SELC, CCEBA, AGO, Public Staff
 - GSAC needs to hold non-participants harmless, “neither advantaged or disadvantaged”
 - Also needs to consider the ability to interconnect new resources, and the costs associated with interconnection delays
- Multiple conversations were held with Center for Resource Solutions (CRS), which certifies RECs through its Green-e® program. Duke, CIGFUR, and SELC have also met with CRS.
 - Conversations explored how to certify additionality / regulatory surplus in the context of HB 951
 - The lack of any sort of certificate required for HB 951 compliance, and the carbon neutral goal, led CRS to conclude it likely could not certify RECs from North Carolina, or this program.

RAO Framework

- RAO offered in addition to two other options:
 - Participants can purchase clean energy attributes at market rates.
 - Participants can negotiate with a renewable developer, bring term sheet to Duke and enter into a sleeved PPA (“bring your own PPA”). This capacity reduces future procurements related to the Carbon Plan.
- RAO designed to accelerate additional solar capacity within the confines of the Carbon Plan.
 - Projects must have entered into a competitive procurement without being selected. GSAC customers can opt to contract with these projects, depending on price, size, and other characteristics.
 - Hourly bill credit only to ensure non-participants held harmless.
 - GSAC facilities treated as any other solar facility with respect to curtailment

RAO Additionality

		Scenario#1		Scenario#2
2023	Q1 Q2 Q3 Q4	Inputs for 2023 CP File 2023NTAP	GSA Contract Executed In Forecast Model	GSA Contract Executed
2024	Q1 Q2 Q3 Q4	RFP initiated based on NTAP2022 Order Approving 2023 NTAP		
2025	Q1 Q2 Q3 Q4	RFP initiated based on NTAP2023 Inputs for 2025 CP File 2025NTAP	2025 RFP Bid	In Forecast Model
2026	Q1 Q2 Q3 Q4	RFP initiated based on NTAP2023 Order Approving 2025 NTAP	2025 Contract Executed	
2027	Q1 Q2 Q3 Q4	RFP initiated based on NTAP2025		2027 RFP Bid
2028	Q1 Q2 Q3 Q4	RFP initiated based on NTAP2025		2027 Contract executed

*NTAP acceleration is between 3-5 years

RAO vs. CCEBA Proposal

Resource Acceleration Option

- Incremental 300 MW every two years (aligned with CPIRP)
- Participants can claim a direct and demonstrable link to acceleration (losing bid enters contract enabled by RAO)
- Resource acceleration for 3-5 years, depending on cycle
- Hourly bill credit only
- Customers pay for upgrades
- Potential higher cost reflects value of acceleration
- Not certifiable by CRS

CCEBA Proposal

- Replaces the existing 250 MW BYOPPA option
- Participants cannot claim a direct and demonstrable link to acceleration (contracted projects may have been selected in an RFP w/o GSAC)
- Unclear how long resource would be accelerated
- Hourly or fixed bill credit
- Customers pay for upgrades
- Program costs do not reflect value of acceleration
- Not certifiable by CRS

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Joint Reply Comments as filed in Docket Nos. E-2, Sub 1314, and E-7, Sub 1289 were served electronically upon all parties of record.

This, the 3rd day of May, 2024.

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