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October 12, 2022

VIA Electronic Filing

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
Dobbs Building
430 North Salisbury Street
Raleigh, North Carolina 27603

Re: Reply Comments of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC
Docket Nos. E-2, Subs 1159 & 1297 and E-7, Subs 1156 & 1268

Dear Ms. Dunston:

Enclosed for filing in the above-referenced proceedings is Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's *Reply Comments* pursuant to the North Carolina Utilities Commission's September 23, 2022 Order Requesting Comments.

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

Very truly yours,

/s/E. Brett Breitschwerdt

EBB:sjg

Enclosures

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-2, SUB 1159
DOCKET NO. E-2, SUB 1297
DOCKET NO. E-7, SUB 1156
DOCKET NO. E-7, SUB 1268

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Duke Energy Progress, LLC, and Duke Energy Carolinas, LLC, Joint Petition for Approval of Competitive Procurement of Renewable Energy Program In the Matter of Duke Energy Progress, LLC, and Duke Energy Carolinas, LLC, 2022 Solar Procurement Pursuant to Session Law 2021-165, Section 2(c)	)	REPLY COMMENTS OF DUKE ENERGY CAROLINAS, LLC AND DUKE ENERGY PROGRESS, LLC

NOW COMES Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") (collectively "Duke Energy" or the "Companies"), by and through counsel and pursuant to the North Carolina Utilities Commission's ("Commission") September 23, 2022 *Order Requesting Comments,* and hereby respectfully submit the following reply comments in response to initial comments of the Public Staff – North Carolina Utilities Commission ("Public Staff"), joint initial comments of the Southern Alliance for Clean Energy, the Sierra Club, and the Natural Resources Defense Council and the North Carolina Sustainable Energy Association (collectively, "SACE et al./NCSEA"), and joint initial comments of Clean Power Suppliers Association and Carolinas Clean Energy Business Association (collectively, "CPSA/CCEBA") filed on October 5, 2022.

As further addressed herein, the Companies request the Commission approve the following relief by November 1, 2022, in response to the issues presented in the *Order*

Requesting Comments and in response to the initial comments of Public Staff and other parties:

1) **<u>2022 Solar Procurement Target Volume</u>:** Approve aggregate 1,200 MW procurement target of standalone solar resources to be procured in the 2022 Solar Procurement Program ("2022 SP"), inclusive of up to 441 MW target of unawarded capacity under the CPRE Program ("CPRE Program Unwarded MW"), as supported by the Companies and the Public Staff;

2) **<u>2022 SP Volume Adjustment Mechanism</u>:** Approve a volume adjustment mechanism ("VAM") of up to 150 MW, as supported by the Companies and the Public Staff. The weighted average cost to determine the VAM should take into account all 1,200 MW of the targeted procurement including any power purchase agreement ("PPA") projects selected to meet the CPRE Program Unwarded MW;

3) **<u>2022 SP Allocated Minimum Target Procurement Volume by Utility</u>:** Accept Public Staff's recommendation to ensure some minimum procurement in each Balancing Authority Area ("BAA") by directing one-third (400 MW) of the 1,200 MW target volume to be located in DEC, one-third in DEP (400 MW), and the remaining one-third to be procured from the least cost remaining projects, whether located in DEP or DEC;

4) **<u>Authorize Final Additional CPRE Program Procurement in 2022 SP</u>:** Grant the Companies' September 1, 2022 Petition ("Petition") to conduct the final CPRE Program procurement as part of the 2022 SP, including extending the CPRE PPA term from twenty years to twenty-five years and authorizing a waiver of NCUC Rule R8-71(d), (e), and (f), subject to Public Staff's recommendation that subsections (d)(2) and (d)(9) continue to be applicable to Charles River Associates, Inc. ("CRA") as Independent Evaluator ("IE") of the 2022 SP; and

5) **<u>Provide Guidance on Red Zone Transmission Expansion Plan Projects ("RZEP") As Needed for Carbon Plan and Whether Commission Will Reconsider RZEP Cost Allocation for 2022 SP in the Step 2 Bid Evaluation Process</u>:** To the extent the Commission elects to reconsider its prior directives regarding treating the RZEP as assigned network upgrades for purposes of the 2022 SP bid evaluation process, time would be of the essence to develop an alternative approach. Accordingly, the Companies recommend that if the Commission is willing to consider alternative RZEP cost allocation approaches, the Commission should: (1) provide notice to the Companies and all market participants that the Commission plans to acknowledge the need for the RZEP as part of the Carbon Plan; and (2) direct Duke, CRA and the Public Staff to develop a proposal to modify the Commission's directive in its June 10, 2022, order regarding the upgrade evaluation and allocation portion of the 2022 SP RFP bid evaluation process (i.e., Step 2) after providing notice to all bidders.

In support of these requests for relief, the Companies provide the following reply comments:

REPLY COMMENTS

I. Update on Status of 2022 SP and Request for Commission Decision by November 1, 2022

The 2022 SP Step 1 bid evaluation process is currently underway. Approximately 4,900 MW of Proposals (approximately 850 MW in DEC and 4,050 MW in DEP) are currently being evaluated in Step 1. The Utility Ownership Team has completed the initial bid evaluation and cost development for Asset Transfer-only Proposals. In accordance with the separation requirements, the Utility Bid Refresh Sub-Team is now separated from the Utility Ownership Team and does not have access to any Asset Transfer plus EPC or Build Own Transfer Proposals. Currently, the Utility Ownership Team is evaluating the Asset Transfer plus EPC and Build Own Transfer Proposals. The IE is performing non-economic evaluations for the PPA track Proposals and both the IE and Evaluation Team have evaluated Part B of the PPA Proposals (against utility payment of network upgrades).

To avoid conflicting with the Thanksgiving holiday, the 2022 DISIS Phase 1 Study completion date shifted slightly and is now expected to conclude on or about November 23, 2022. This change shifts the Customer Engagement Window end date forward to December 23, 2022. Accordingly, the 2022 SP is now also targeting a November 23, 2022 Step 1 completion date, at which point the Companies would invite Proposals to Step 2 and announce any Early Winners, if any. The 2022 SP request for proposal ("RFP") proposal security will still be due 10 business days later, which is December 9, 2022, and if any invited Proposals fail to post security by the due date, additional Proposals that would be invited to Step 2 would have to post their security before the close of business on December

22, 2022 to align with close of the Customer Engagement Window on December 23, 2022. Step 2 of the 2022 SP bid evaluation process will commence on December 27, 2022 and the Step 2 bid price refresh process is planned for early April 2023.

As identified in the Order Requesting Comments, Duke Energy renews its requests that the Commission issue an order, no later than November 1, 2022, that establishes the final procurement target for the 2022 SP. The Companies also renew their request that such order address the Companies' CPRE Program Unawarded MW Petition. This order is required before the Companies can determine how many projects will be invited to Step 2 and if (or how many) projects are announced as Early Winners,[1] as the Commission's decision will establish the procurement target and, if applicable, any allocation between the BAAs. Hence, it is imperative that the order be issued by November 1, 2022 in order for the Evaluation Team and IE to be able to adequately review and select the Proposals that will be invited to Step 2 (which is targeted for November 23, 2022, as discussed above).

II. 2022 SP Target Volume

a. Duke Energy Supports Procuring 1,200 MW in 2022 SP, as Recommended by Public Staff

The Companies support the Public Staff's recommendation that the 2022 SP target volume should be 1,200 MW, which includes the CPRE Program Unwarded MW (up to 441 MW).[2] The Public Staff's 1,200 MW recommendation for 2022 SP procurement volume is generally consistent with the Companies' recommended target volume of 1,200

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[1] Early Winners may be selected after Step 1 of the bid evaluation process. *See* 2022 Solar Procurement Program Final RFP and pro forma PPA Compliance Filing at 18-19 (filed June 17, 2022) ("2022 SP RFP").

[2] *See* Public Staff Comments, ¶ 10.

MW presented in the Carbon Plan proceeding—which includes 750 MW of economically selected solar plus the 441 CPRE Program Unawarded MW.[3]

Based upon further discussion with Public Staff, the Companies have confirmed that if less than 441 MW of capacity is available to meet the CPRE Program requirements, the Public Staff recommends adjusting the HB 951 MW upward such that the CPRE volume (if any) and HB 951 volume together equal 1,200 MW, all of which will be sourced through the 2022 SP Proposals.[4] The Companies agree with this approach and will seek to procure up to the full 441 CPRE Program Unawarded MW as part of this 1,200 MW. To the extent that DEC and DEP are unable to procure 441 MW under the CPRE Program framework in this final CPRE Program procurement, the Companies will nevertheless still procure the full 1,200 MW recommended by Public Staff.[5]

Under this approach, the Commission would not need to consider CPSA/CCEBA's recommendation to split the CPRE Program Unawarded MW target among multiple procurements.[6] CPSA/CCEBA's recommendation introduces unnecessary complexity since CPSA/CCEBA agree that the Companies should undertake only one "additional procurement" to satisfy its CPRE Program legal obligation under HB 589.[7]

[3] *See* Carbon Plan Direct Testimony of Snider, McMurray, Quinto, and Kalemba at 77 Docket No. E-100, Sub 179 (filed Aug. 19, 2022) ("Carbon Plan Modeling and Near-Term Actions Panel Direct").

[4] Part I (pages 5-7) of the Companies' Petition address the differences between the CPRE Program requirements under N.C. Gen. Stat. § 62-110.8(b)(1)-(4) and HB 951's new framework for utility ownership and procurement of controllable solar PPAs under N.C. Gen. Stat. § 62-110.9(2)b. Any solar resources not procured as CPRE MW up to approximately 440 MW will be procured pursuant to the 55%/45% procurement allocation for utility ownership and controllable solar PPA resources.

[5] As identified in the 2022 SP RFP (footnote 1), the RFP Target Volume is a target and limited deviations may also be acceptable to achieve the least cost portfolio of differently sized resources that are bid into the RFP. *See* 2022 SP RFP at 1.

[6] *See* CPSA/CCEBA Comments at 2, 4.

[7] *See id.*, at 4.

The Companies have also confirmed with the Public Staff that the VAM should be limited to 150 MW and shall not be impacted by the CPRE Program Unawarded MW quantity.[8] As further addressed in Section III.b below, this means the Companies could procure up to 1,350 MW of new solar from the 2022 SP if 2022 SP Proposal pricing (inclusive of any CPRE-designated PPAs) is at least 10% below the Carbon Plan Solar Reference Cost.

b. CPSA/CCEBA's and SACE et al./NCSEA's Recommendations for Significantly Higher Procurement Volumes are Not Reasonable and Should be Rejected

CPSA/CCEBA recommend a procurement volume of 1,647 MW.[9] Their recommended procurement volume results from adding 147 MW (one-third of the 441 CPRE Program Unawarded MW)[10] to 1,500 MW (the increased 2022 SP volume that CPSA supports).[11] SACE et al./NCSEA take an even more aggressive position, recommending the Commission direct the Companies to procure 1,800 MW of new HB 951 solar *plus* the 441 CPRE Program Unawarded MW for a total of 2,241 MW.[12] For all of the reasons extensively discussed in the Companies' Carbon Plan and its direct and rebuttal testimony, Duke Energy does not support these significantly higher 2022 procurement volumes.

Beginning with CPSA/CCEBA, the Companies and the Public Staff have a fundamental disagreement with CPSA/CCEBA about the reasonable level of solar that the

[8] Early Winners that potentially may be procured after Step 1 of the bid evaluation process will similarly be limited to 225 MW.

[9] *See* CPSA/CCEBA Comments, at 2.

[10] *See id*.

[11] *See id*.

[12] *See* SACE et al./NCSEA Comments at 2-5.

Companies should procure (and then interconnect) in the near term.[13] CPSA/CCEBA's recommendation ignores real-world constraints on the amount of solar interconnections that Duke Energy's transmission planning and forecasting experts have determined can reasonably be achieved by 2026. Contrary to CPSA/CCEBA's claim that the solar interconnection modeling constraint imposes "an arbitrary cap" on the volume of solar to be procured in the 2022 SP,[14] the detailed testimony by Duke Energy witnesses Matthew Kalemba and Sammy Roberts in the Carbon Plan proceeding extensively explains why this modeling constraint is reasonable for planning purposes and reflects the Companies' best estimate of the volume of new solar interconnections that can be achieved under real-world conditions.[15] Public Staff witness Thomas agrees that the Companies' near-term modeling constraint is reasonable[16] and that there is significant execution risk associated with more aggressive assumptions for new solar interconnections before 2030.[17] The Companies note, however, that expanding the target to 1,200 MW will likely result in a portion of the 2022 SP winners achieving interconnection beyond 2026.[18]

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[13] *Compare* Petition; Public Staff Comments, ¶ 10; *with* CPSA/CCEBA Comments at 2.

[14] CPSA/CCEBA Comments, at 3.

[15] *See* Carbon Plan Modeling and Near-Term Actions Panel Direct at 155-157; Carbon Plan Modeling and Near-Term Actions Panel Rebuttal, at 26-34; Carbon Plan Rebuttal Testimony of Roberts and Farver at 23-27 Docket No. E-100, Sub 179 (filed Sept. 9, 2022) ("Carbon Plan Transmission and Solar Panel Rebuttal").

[16] *See* Carbon Plan Direct Testimony of Jeff Thomas at 27, 69, Docket No. E-100, Sub 179 (filed Sept. 2, 2022) ("Carbon Plan Public Staff Thomas Direct") (finding that "annual solar interconnection limits used in P2 through P4 were more likely to be achievable than those used in P1, based on historical interconnections and the scope of transmission network upgrades required to interconnect large quantities of new solar" and testifying that "Public Staff is skeptical that high levels of annual solar interconnections are achievable in the short term").

[17] *See* Carbon Plan Public Staff Thomas Direct, at 13 ("Public Staff has serious concerns about Duke's ability to interconnect the amount of renewable generation that must be installed by 2030 to meet the targets, particularly given the challenges associated with the required major transmission network upgrades . . .").

[18] *See* Carbon Plan Modeling and Near-Term Actions Panel Direct at 78.

Duke Energy also disputes CPSA/CCEBA's claim that the Companies are "against ambitious near-term procurement targets."[19] The Companies' proposed 2022 SP 1,200 MW solar procurement target significantly increases the target volume as compared to the level of solar projects procured in past CPRE procurements. Moreover, the 1,200 MW solar procurement target will materially exceed the modeled 750 MW solar interconnection constraint for 2026 by 450 MW and potentially by up to 600 MW if the upward VAM is fully used. Targeting 1,200 MW (which will likely translate to 13 or 14 transmission interconnections) is extremely ambitious and likely not fully achievable by 2026. Correspondingly, targeting 1,647 to 2,241 MW as recommended by CPSA/CCEBA and SACE et al./NCSEA (which will likely translate to 18 to 24 transmission interconnections) is highly unrealistic to be executable.

Moreover, as explained by witness Kalemba, setting the 2022 SP target even higher above the Companies' forecasted solar interconnection constraint increases execution risk and could result in customers missing out on potential future cost declines and gains from technology maturation over time. The Companies do not believe there is any benefit to the early over-procurement of solar in the 2022 SP, as recommended by CPSA/CCEBA. Instead, Duke Energy, like the Public Staff, supports a 1,200 MW procurement target volume, as an initial reasonable step on the least cost path towards achieving HB 951's goals and in furtherance of the Companies' system-wide energy transition.

SACE et al./NCSEA recommend an even more aggressive and unsupported procurement volume than CPSA/CCEBA.[20] These entities argue that the Commission

[19] *See* CPSA/CCEBA Comments, at 3.

[20] *See* SACE et al./NCSEA Comments at 2-5.

should use "[s]imple arithmetic [to] generate a 2022 SP target of 1,800 MW" and that "setting a procurement target of 1,800 MW entails little interconnection risk."[21] Accepting their recommendation would require the Commission to determine that Synapse Energy Economics, Inc.'s ("Synapse") modeling analysis and solar interconnection assumptions are superior to Duke Energy's forecasting and transmission planning experts (as corroborated by Public Staff). However, Synapse's modeling is not reasonable and was not supported by any meaningful evidence or credible analysis about the Companies' capability to interconnect new solar.

SACE et al./NCSEA's recommendation that the Commission apply "simple arithmetic" to equally allocate Synapse's forecasted solar between years 2025-2029 is also unreasonable. In contrast to SACE et al./NCSEA's recommendation, Duke Energy and the Public Staff recommend incrementally increasing the solar procurement volumes as solar interconnection constraints decrease over time. Moreover, Public Staff witness Thomas expressly stated that the target solar procurement volume "should not be evenly spread over four years to account for the likelihood of a higher interconnection rate in later years."[22]

Finally, SACE et al./NCSEA's suggestion that there is "little interconnection risk" to over-procuring in the near-term is without any legitimate basis.[23] SACE et al./NCSEA do not offer any actual analysis but blithely suggest that "capacity that was not connected in 2026 could simply be connected in later years."[24] In sum, SACE et al./NCSEA, like

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[21] *Id*. at 2.

[22] Carbon Plan Public Staff Thomas Direct Testimony, at 68.

[23] *See* NCSEA/SACE et al. at 7-8.

[24] *See id*.

CPSA/CCEBA, want the Companies to significantly over-procure the volume of solar MW that can be reasonably interconnected in the near term in a manner that increases execution risk and is not least cost for customers. These alternative recommendations should be rejected.

c. Duke Energy Accepts Public Staff's Recommended 400 MW Allocated Minimum Target Procurement Volumes in DEC and DEP

The Companies accept the Public Staff's recommendation for the Commission to "require approximately one third of the total volume to be located in DEC, one third of the total volume in DEP, and one third of the total volume to be procured in either DEP or DEC."[25] The Public Staff makes clear that it is not recommending that 400 MW of CPRE projects be targeted for DEC.[26] Rather, they recommend that at least 400 MW of the total solar capacity procured in the 2022 SP—inclusive of CPRE designated projects and HB 951 projects—be procured in DEC.[27] Such an allocation is allowable under the 2022 SP RFP,[28] and the Companies agree that the Public Staff's recommended minimum allocation is reasonable to promote least cost geographic diversification in this expanded resource procurement and to spread the cost of the 2022 SP procurement between the Companies.[29]

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[25] Public Staff Comments, ¶ 10.

[26] *See id*.

[27] *See id*.

[28] *See* 2022 SP RFP ("In approving the RFP Target Volume, the NCUC may also order allocation targets or minimums between DEC and DEP.").

[29] As explained by Witness Laura Bateman in the Carbon Plan proceeding, the merger of DEP and DEC is the most straightforward method to resolve current and future rate differences. As further explained by Witness Bateman, the Carbon Plan will have little to no impact on preexisting rate differences prior to the targeted completion of a merger. Nevertheless, requiring a minimum MW located in each utility is intended to mitigate potential increase in rate differences between DEP and DEC in the event that a merger is not ultimately achieved. To the extent that the Companies determine that greater geographic concentration of projects in one utility service territory or the other might result in materially lower costs either through lower proposal costs or avoiding or sharing in the funding of System Upgrade costs, then the Companies will engage with the Public Staff regarding potential options.

The remaining 400 MW would be procured from the least cost remaining project proposals, whether located in DEP or DEC.

The Companies have, however, identified for the Public Staff that with only approximately 850 MW of bids in DEC versus 4,050 MW in DEP, this minimum allocation by utility approach could result in relatively higher priced projects being selected in DEC to fulfill a minimum 400 MW DEC requirement due to the relatively fewer projects located in DEC and the still-unknown potential for significant assigned upgrade cost.

III. The Commission Should Approve the Companies' Petition to Procure CPRE Unawarded MW in 2022 SP, Subject to Accepting Certain Reasonable Conditions Recommended by Public Staff and Other Parties

In the Petition, Duke Energy seeks authorization to conduct a final CPRE Program additional procurement as required by N.C. Gen. Stat. § 62-110.8(a) as part of the 2022 SP. This approach allows the Commission and Duke Energy to efficiently and expediently solicit the remaining unawarded MW under the CPRE Program and then to fully complete the transition from CPRE under HB 589 to HB 951's new competitive framework for procuring renewable energy to serve the needs of the Companies' customers throughout the Carolinas. To most efficiently accomplish its remaining CPRE Program obligations, the Companies requested Commission approval to (i) seek to procure the 441 CPRE Program Unawarded MW though the 2022 SP; (ii) extend the CPRE power purchase agreement term from twenty years to twenty-five years; and (iii) authorize waiver of NCUC Rule R8-71(d), (e), and (f).[30]

[30] *See* Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Petition for Authorization of 2022 Solar Procurement Program, at 1 Docket Nos. E-2, Sub 1297, E-7, Sub 1268 (filed March 14, 2022) ("2022 SP Petition").

In general, the Public Staff and the other parties support the Companies' proposal to incorporate a final additional CPRE Program procurement into the 2022 SP, and no party presented any alternative proposals or solutions. All parties also support the Companies' proposal to extend the CPRE PPA term to 25 years as being in the public interest.[31] However, the Public Staff and other commentors do recommend that the Commission impose certain conditions on approval of the Companies' request. As further addressed below, some of the proposed conditions recommended by Public Staff and CPSA/CCEBA are reasonable and should be approved by Commission, while others should be rejected.

a. Duke Energy Agrees with Public Staff's Recommendation that the Independent Evaluator Should Conform to Rule R8-71(d)(2) and (d)(9)

The Petition establishes that a waiver of NCUC Rule R8-71(d), (e), and (f) is necessary and in the public interest to allow the Companies to proceed with procuring the CPRE Program Unawarded MW through the 2022 SP. The Public Staff generally concurs that a Commission-authorized waiver of Rule R8-71(d), (e), and (f) are in the public interest, but recommends that the IE should still be required to conform to the requirements of Commission Rule R8-71(d)(2) and (d)(9).[32]

Commission Rule R8-71(d)(2) requires the CPRE Program independent administrator ("IA") to disclose any financial interest involving the electric public utilities or any market participants. Commission Rule R8-71(d)(9) requires the IA to immediately report any violation of procurement program rules, together with any recommended remedy, to the Commission. As an initial matter, the Companies point out that the initial IE Scope of Work issued to CRA to set its scope of requested services contains provisions

[31] Public Staff comments, ¶ 11; CPSA/CCEBA comments, at 8; SACE et al./NCSEA, at 11.

[32] Public Staff Comments, ¶ 13.

requiring CRA to (1) disclose any prior work or ownership interests in the Duke Energy entities or market participants; and (2) notify the Public Staff of any issue "that might reasonably be construed to affect the integrity of the solicitation process …." This Scope of Work along with CRA's proposal were previously filed with the Commission in support of the Companies' Petition for Authorization of 2022 Solar Procurement Program.[33] Moreover, to more fully address Public Staff's recommendation, CRA has provided the attached letter included as Attachment A to these reply comments confirming that CRA holds no financial interest in the Companies or any market participant in the 2022 SP and committing to alert the Public Staff and the Commission of any violation of the 2022 SP requirements that would damage the fairness and transparency of the 2022 SP evaluation process, as well as any violations of the separation requirements. Accordingly, the Commission should issue the requested waiver of NCUC Rule R8-71(d), (e), and (f), subject to accepting the Public Staff's recommendation that subsections (d)(2) and (d)(9) continue to be applicable to CRA as IE of the 2022 SP.

b. Duke Energy Agrees that PPA Projects Selected as CPRE Program Unawarded MW Should be Included in Calculating the Volume Adjustment Mechanism

The 2022 SP RFP contains a customer protection mechanism, the VAM, to adjust the volume of procured MW if costs are either above or below the Companies' Carbon Plan Solar Reference Cost. The VAM works as follows:

> If the weighted average cost is less than or equal to 90% of the Carbon Plan Solar Reference Cost, the target volume may be increased by up to 20% above the RFP Target Volume thereby capturing more competitively priced,

[33] 2022 SP Petition at Attachment 2, § 1.a. and 4.f.

> low cost solar resources for customers through the 2022 SP because they are less expensive than assumed in the Carolinas Carbon Plan.[34]

The Public Staff, CPSA/CCEBA, and SACE et al./NCSEA all recommend that low cost PPA projects selected as CPRE Program Unawarded MW projects should be included in calculating the VAM.[35] Based upon further discussions with Public Staff, the Companies agree that this adjustment is reasonable and that all 1,200 MW targeted for procurement—including any CPRE Program-designated PPA projects—should be included in calculating VAM. However, as addressed above, the VAM should be limited to 150 MW and not expanded to include the target CPRE Program procurement volume.[36] Accordingly, Duke Energy and the Public Staff support a VAM that could increase or decrease the 2022 SP target volume by up to approximately 150 MW.

c. Duke Energy Plans to Provide Transparency of Avoided Cost and Bid Evaluation Methodology Against the Avoided Cost Cap

CPSA/CCEBA argue that "Duke [Energy] should be required to file its proposed 25-year avoided cost rates, as well as its proposed methodology for comparing levelized PPA bids to avoided cost rates with multiple pricing periods, as far in advance of the bid refresh as possible."[37] The Companies' Petition explains that Duke Energy plans to file the updated 25 year avoided costs with the Commission and will request the IE to publish the applicable avoided cost cap for all bidders before the Step 2 bid refresh planned for April 2023.[38] The Companies also plan to provide reasonable transparency to bidders regarding its proposed methodology for comparing levelized PPA bids to avoided cost rates with

[34] 2022 SP RFP, at 2.

[35] *See* Public Staff comments, ¶ 9; CPSA/CCEBA comments at 5; SACE et al./NCSEA at 12.

[36] *See id*.

[37] CPSA/CCEBA Comments, at 6.

[38] Petition, ¶ 30.

multiple pricing periods. No Commission action is needed in response to CPSA/CCEBA's recommendation.

d. Duke Energy does not Support CPSA/CCEBA's Request for a "Very Large Reserve List" to Advance to Step 2

CPSA/CCEBA are "concerned that many bids that would be competitive with IRA-adjusted pricing will be eliminated prior to Step 2, because those bidders will not have had the opportunity to refresh their bids by then. The premature elimination of such competitive bids is likely to reduce the pool of potential projects that are below avoided cost (after the bid refresh), and as a result will reduce the likelihood that Duke will be able to fulfill its CPRE obligation."[39] CPSA/CCEBA then states that "Duke can mitigate this problem by creating a very large 'reserve list' of projects that are advanced to Step 2, which may be moved onto the short list after the April 2023 bid refresh."[40]

CPSA/CCEBA's request ignores the risks of overly inflating the DISIS Phase 2 studies, which could result in inaccurate network upgrades being identified in Phase 2 and inaccurate cost allocations of those upgrades. This, in turn, could lead not only to less accuracy in the Step 2 rankings but could create the need for a Phase 3 DISIS study. Adding a Phase 3 study would impact both DISIS timelines and 2022 SP RFP timelines. There is good reason why the RFP was designed to eliminate some Proposals from Step 1 to Step 2. Moreover, projects that are not selected to proceed forward to Step 2 will have the opportunity to participate in a 2023 procurement where the project's IRA-informed tax equity strategy can be more fully considered.[41] Accordingly, the Companies do not believe

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[39] CPSA/CCEBA comments, at 7.
[40] *Id*.
[41] *See id*.

the Commission needs to provide any further direction in response to CPSA/CCEBA's proposal.

e. <u>Commission Acknowledgment of the RZEP as Needed for the Carbon Plan as well as Further Commission Direction That It Will Reconsider RZEP Cost Allocation for 2022 SP Would be Necessary to Consider CPSA/CCEBA's Alternative Proposals</u>

The Commission has previously provided guidance regarding the required approach to evaluating RZEP as assigned network upgrades in the 2022 SP bid evaluation process, agreeing with Public Staff that it was "premature to include these projects in the 2022 DISIS baseline."[42] The 2022 SP RFP is designed to implement the Commission's RZEP 2022 SP guidance as directed.[43] The Commission's June 10, 2022 Order approving the 2022 SP also noted that the Commission would require "substantial evidence supporting the necessity of the RZEP projects to achieve the goals of the Carbon Plan."[44] Throughout the Carbon Plan proceeding, the Companies and other parties have responded to the Commission's direction and provided substantial evidence demonstrating the need for the RZEP.

CPSA/CCEBA revisit those topics in their initial comments and, in effect, ask the Commission to reconsider its June 10 Order. Specifically, CPSA/CCEBA support Commission acknowledgement of the RZEP in the context of this docket (along with North Carolina Transmission Planning Collaborative ("NCTCP") approval). CPSA/CCEBA further request that the Commission direct the Companies to modify the 2022 SP bid

[42] *See Order Approving Request for Proposals and Pro Forma Power Purchase Agreement Subject to Amendments* at 8 Docket No. E-2 Sub 1297, E-7, Sub 1268 (June 10, 2022) ("June 10 Order")(directing the Companies in the 2022 SP to "evaluate bids in a manner that takes into account all costs for the proposed facilities, including Network Upgrades").

[43] 2022 SP RFP, at 21-22.

[44] June 10 Order, at 7.

evaluation process to exclude the RZEP, if approved by NCTPC, from the scope of interconnection customer-assigned System Upgrade costs. Specifically, CPSA/CCEBA recommend that the RZEP should not be considered in evaluating whether projects are below the CPRE avoided cost cap, should not be factored into the ranking and evaluation of bids in 2022 SP more generally, and should not be considered for purposes of determining whether the VAM is triggered.[45] CPSA/CCEBA do, however, clarify that "the cost of any Upgrades that are not approved by the NCTPC should be considered in evaluating compliance with the avoided cost cap" and presumably also be treated as System Upgrades assigned to generators in the DISIS for evaluating the most cost-effective projects to be selected in 2022 SP.[46]

Duke Energy generally agrees with CPSA/CCEBA that RZEP (as well as any other transmission projects) approved by NCTPC and included in the 2022 Local Transmission Plan will be considered "contingent facilities" and, ultimately, the costs of such transmission projects will not be assigned under future IAs as Network Upgrades to winning bidders. But whether the cost of future NCTPC-approved RZEP transmission projects should be assigned to bidders in the 2022 SP bid evaluation process has many complex implications that would require timely guidance from the Commission (as well as NCTPC approval) to modify the currently-established approach.

First, from a timing perspective, RZEP will not be approved by NCTPC as part of 2022 Local Transmission Plan by the end of the Step 1 bid evaluation process in late November. In other words, a change to how RZEP transmission costs are incorporated

[45] CPSA/CCEBA comments, at 9.

[46] *Id.*, at 9, n.19 (emphasis in original).

into the bid evaluation process would need to be implemented after Step 1 and during Step 2. To the extent the Commission has determined that it plans to acknowledge the need for the RZEP as part of the Carbon Plan, the Companies request that this guidance be issued as part of the November 1 Order finalizing the 2022 SP target volume to inform future discussions in the NCTPC as well as to allow time for Duke Energy and other parties to consider any changes to the 2022 SP bid evaluation process that may ultimately be acceptable to the Commission.

Second, as recognized by CPSA/CCEBA and noted above, changing the approach to RZEP for 2022 SP bid evaluation would require the Commission to modify its prior directive issued in the June 10 Order in the 2022 SP dockets.[47] Consistent with this prior directive, the 2022 SP RFP identified that the Companies would not include RZEP projects in the 2022 DISIS baseline and would assign RZEP costs to bidders for purposes of bid evaluation.[48] Therefore, modifying the Commission's prior directive would require limited updates to the 2022 SP RFP and notice to all bidders. CPSA/CCEBA also fairly recognize that certain bidders may have relied on the grid locational guidance that identifies red zones and the 2022 SP RFP states that assigned network upgrade costs would be considered in the bid evaluation process; however, CSPA/CCEBA is also correct that bidders will have an opportunity to adjust their bids in the April 2023 price refresh.[49] If any changes are to be made, sufficient time is needed to assess how the Companies would modify the bid

[47] *Order Approving Request for Proposals and Pro Forma Power Purchase Agreement Subject to Amendments* at 8 Docket No. E-2 Sub 1297, E-7, Sub 1268 (June 10, 2022).

[48] See 2022 SP RFP, at 22, n.20.

[49] *See* CPSA/CCEBA Comments, at 11.

evaluation approach to RZEP and to then present such changes to the Commission in advance of concluding Step 2.

To the extent the Commission elects to reconsider its prior directive regarding the approach to RZEP as assigned network upgrades in the 2022 SP bid evaluation process, the Companies recommend that, as part of the November 1 Order approving the 2022 SP Target, the Commission should: (1) provide notice to the Companies and all market participants that the Commission plans to acknowledge the need for the RZEP as part of its final Carbon Plan decision; and (2) direct Duke Energy, CRA and the Public Staff to develop a proposal to modify the Commission's directive in its June 10 order regarding the upgrade evaluation and allocation portion of the 2022 SP RFP bid evaluation process (i.e., Step 2) after providing notice to all bidders.

CONCLUSION

WHEREFORE, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC respectfully request that the Commission accept these reply comments, grant the requests for relief presented herein, and grant such other relief as the Commission deems reasonable and proper.

Respectfully submitted, this the 12th day of October, 2022.

By: */s/E. Brett Breitschwerdt*

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CRA No. D36766

October 7, 2022

Ms. Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
430 North Salisbury Street
Raleigh, NC 27603

Re: Disclosure of any financial interest involving the electric public utilities or any market participants per Commission Rule R8-71(d)(2) and (d)(9)

Dear Ms. Dunston:

Pursuant to Commission Rule R8-71(d)(2), the Independent Evaluator, Charles River Associates, must disclose any financial interest involvement the electric public utilities or any market participants.

By way of background, CRA International, Inc. (dba Charles River Associates) ("CRA") is a publicly traded company (Nasdaq:CRAI). Financial disclosures regarding CRA's investments are filed with the Securities and Exchange Commission via annual Form 10-K statement filings and quarterly Form 10-Q statement filings. These filings are available for public inspection at the following link: SEC Filings | CRA International Inc.

CRA does not have any ownership or similar interest in Duke Energy Corporation or in any of the market participants that have submitted a bid. Should this change, CRA will make appropriate disclosures pursuant to the aforementioned Commission Rule.

Consistent with Commission Rule R8-71(d)(9), CRA as IE will report to the Public Staff and the Commission regarding any violations of the 2022 Solar Procurement Program RFP that it becomes aware of which would damage the fairness and transparency of the 2022 Solar Procurement evaluation process, as well as any known violations of the Utility Ownership Team and Bid Refresh Sub-Team Separation Protocols described in Section D of the 2022 Solar Procurement RFP.

Sincerely,

Robert Lee
Vice President

Charles River Associates

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing *Reply Comments*, as filed in Docket Nos. E-2, Sub 1159, E-7, Sub 1156, E-2, Sub 1297, and E-7, Sub 1268 was served electronically or via U.S. mail, first-class, postage prepaid, upon all parties of record.

This, the 12th day of October, 2022.

/s/E. Brett Breitschwerdt

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