

operation” (6.5.2), to perform periodic inspections on the “medium voltage AC side” of the facilities (6.2.3), and inspect the facilities if the utilities “become aware of any condition that (1) has the potential to either cause disruption or deterioration of service...(2) or is imminently likely to endanger life or property or cause a material adverse effect on the security of, or damage to” the utilities’ systems or equipment (6.5.4). These sections also state that the Interconnection Customer¹ will be responsible for the cost of these inspections. In DEC’s and DEP’s Interconnection Fee-Related Work and Post Commercial Operation Inspection Report filed on March 1, 2021, Duke noted that during 2020, it had been collaborating with stakeholders in the Technical Standards Review Group on developing a pilot program for the self-inspection of several hundred Uninspected Facilities.² Duke also stated that the stakeholders had raised concerns and questions as to whether Duke has the right to require inspection of the Uninspected Facilities pursuant to the 2019 North Carolina Interconnection Procedures (NCIP) and the Commission’s 2019 NCIP Order.

CCEBA and Strata filed joint initial comments on March 29, 2021, stating that Sections 6.5.2 and 6.5.3 should not retroactively apply to the Uninspected Facilities because Section 1.1.3 expressly provides that the revisions to the 2019 NCIP do not apply to facilities that signed an Interconnection Agreement (IA) prior to the date of the 2019 NCIP Order. Duke’s comments, filed on the same day,

¹ Interconnection Customer is defined by the NCIP as “Any valid legal entity, including the Utility, that propose to interconnect its Generating Facility with the Utility’s System.”

² Uninspected Facility for the purposes of these comments is defined as a facility that had an executed Interconnection Agreement (IA) before the Commission the date the issued its 2019 NCIP Order.

stressed the importance of inspecting these Uninspected Facilities to ensure the safety and reliability of the grid and requested that the Commission clarify that utilities have the ability to inspect these facilities. The Public Staff also filed a Letter in Lieu of Comments stating the importance of performing these inspection and asking the parties to work together to find a solution.

Subsequent to the filing of initial comments, Strata and Duke entered into settlement negotiations, asking for several extensions of time to file reply comments, which the Commission granted. On July 22, 2021, Duke and Strata shared their draft MOA with the Public Staff and CCEBA. CCEBA requested a ten-day extension of time to review the MOA and file reply comments, which the Commission granted.

II. Sections 6.5.2, 6.5.3, and 6.5.4 Apply to the Uninspected Facilities

The Public Staff requests that the Commission clarify that Duke has the ability to inspect the Uninspected Facilities in accordance with the intent of the 2019 NCIP Order and Sections 6.5.2, 6.5.3, and 6.5.4 of the NCIP. As stated in Duke's initial comments and the Public Staff's Letter in Lieu of Comments, Advanced Energy preformed pilot inspections of these facilities and found many issues that could affect the safety and reliability of the grid. If the Commission finds that Duke cannot inspect the Uninspected Facilities in accordance with Sections 6.5.2, 6.5.3, and 6.5.4, there will be no incentive for Interconnection Customers to inspect these facilities and they will continue to create an unquantifiable risk to the

safety and reliability of the grid at a time when Duke is becoming more dependent on distributed energy to meet its summer peak demands.

It is clear that the intent of Section 6.5.2 is to ensure that facilities that were not inspected prior to “parallel” or commercial operation are inspected. If Section 6.5.2 does not apply to uninspected facilities with signed IAs prior the 2019 NCIP Order, then it would not apply to any facilities. Facilities that did not have executed IAs before the Commission’s 2019 NCIP Order could not have been in commercial operation at the time the sections went into effect. While CCEBA is correct that Section 1.1.3 states “[t]he 2019 revisions to this interconnection Standard shall not apply to Generating Facilities having a fully executed Interconnection Agreement as of the effective date of the 2019 revisions to this Standard,” the intent of the Commission in regard to Sections 6.5.2, 6.5.3 and 6.5.4 appears to conflict with Section 1.1.3. In its 2019 NCIP Order, the Commission found that the “[m]odifications to Section 6.5 to specifically allow the Utilities to conduct post-commissioning inspections are reasonable.”³ In making this finding, the Commission was persuaded by Duke witness John Gajda’s testimony in favor of revisions to Section 6.5.⁴ Witness Gajda stated that while these inspections were permitted under the previous versions of the NCIP, Sections 6.5.2, 6.5.3, and 6.5.4 expressly identify Duke’s right to inspect the medium voltage AC side of each interconnected facilities.⁵ The Commission also concluded that it supported the periodic inspections because “it is critical that the Utilities be in a position to ensure

³ 2019 NCIP Order at 7.

⁴ Id. at 21.

⁵ Gajda Direct Testimony at 42, filed November 19, 2018, in Docket E-100 Sub 101.

the safety and integrity of the grid.”⁶ If the Commission found that the post-commissioning inspections within Sections 6.5.2 and 6.5.3 were reasonable and those sections could only apply to facilities with executed IAs before the issuance of the 2019 NCIP Order, one can logically conclude that the Commission’s intent was for the Uninspected Facilities in commercial operation to be inspected. Accordingly, the Public Staff recommends the Commission clarify its intent to require inspections of the Uninspected Facilities when it approved the revisions to Section 6.5.

III. The Public Staff Supports the MOA

After Strata and Duke drafted and produced the MOA, the Public Staff met with each company individually to understand the terms and timelines of the MOA for the initial and reoccurring inspections of the Strata-owned Uninspected Facilities. The MOA states that Strata will “perform Initial Inspections of applicable inverter and interconnection device settings as soon as practical with a target completion timeframe of 3 years,” “perform Outside-The-Fence Facility inspections as soon as practicable, with a target completion timeframe of 5 years after the date the Parties execute this MOA,” and “[p]eriodic Inspections shall be completed after the Initial Inspections for the Outside-The-Fence Facilities at least once every 5 years.”⁷ The MOA also states that the parties “agree that the terms of the MOA will satisfy compliance with NCIP Sections 6.5.2 and 6.5.3.”⁸ The Public Staff commends Strata and Duke on coming to an agreement that will help ensure the

⁶ 2019 NCIP Order at 21.

⁷ MOA at 4 and 5.

⁸ MOA at 2.

safety and reliability of the grid with respect to these facilities and therefore supports the MOA and believes that the self-inspections within the MOA meet the intent of Sections 6.5.2 and 6.5.3. While the Public Staff understands that the initial inspection timelines are products of negotiation, the Public Staff encourages Strata to complete the initial inspections as quickly as possible, because many of these facilities have been interconnected to the grid for several years without inspection. The Public Staff recommends that all other Interconnection Customers with Uninspected Facilities work with Duke to execute similar MOAs to perform self-inspections as soon as possible. Any future MOAs between an Interconnection Customer and Duke should be tailored, with regard to the initial inspection timelines, to the particular circumstances of the Interconnection Customer, taking into account the number of facilities that Interconnection Customer is required to inspect. It is the Public Staff's understanding that there are approximately 300 of these facilities and that Strata owns a significant portion of them. Given that Strata has agreed to complete the initial inspections within three and five year timeframes, the Public Staff believes that all other parties should have shorter timelines set out in their MOAs.

The Public Staff, therefore, requests that the Commission set a deadline of January 1, 2022 for the remaining Interconnection Customers with Uninspected Facilities to use the Strata/Duke MOA as a template to develop and execute their own MOAs with Duke containing self-inspection programs and timelines to perform the programs on their Uninspected Facilities. If these Interconnection Customers cannot come to an agreement with Duke by January 1, 2022, the Commission

should direct Duke to begin inspecting these Uninspected Facilities and pass on the cost of the inspections to the Interconnection Customer pursuant to Sections 6.5.2, 6.5.3, and 6.5.4.

IV. Conclusion

The Public Staff believes that the Commission's intent in approving Sections 6.5.2, 6.5.3 and 6.5.4 was to require inspections of the Uninspected Facilities and that the MOA between Strata and Duke satisfies that intent. Therefore, the Public Staff requests that the Commission clarify that the 2019 revisions to Section 6.5 of the NCIP require the Uninspected Facilities to be inspected. Further, the Public Staff recommends that the Commission set a deadline of January 1, 2022 for other Interconnection Customers with Uninspected Facilities to execute MOAs to perform self-inspections in a timely manner with Duke. If no MOA is executed by the deadline, the Commission should require Duke to begin inspections on any Uninspected Facilities not subject to an MOA at that time and pass on the costs of the inspections to the Interconnection Customer.

Respectfully submitted this the 5th day of August, 2021.

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CERTIFICATE OF SERVICE

I certify that a copy of the Public Staff Comments has been served on all parties of record or their attorneys, or both, in accordance with Commission Rule R1-39, by United States Mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 5th day August, 2021.

Electronically submitted
/s/ Robert B. Josey