

ATTACHMENT 6 - Docket Nos. E-2, Sub 1314, E-7, Sub 1289, E-2, Sub 1315,
and E-7, Sub 1288

From: John Burns <counsel@carolinasceba.com>

Sent: Tuesday, January 2, 2024 11:41 PM

To: Jamey Goldin <jamey.goldin@nelsonmullins.com>; Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>; Christina Cress <ccress@bdixon.com>; Nick Jimenez <njimenez@selcnc.org>; Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>; Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>; ethan@energync.org <ethan@energync.org>; mtrathen@brookspierce.com <mtrathen@brookspierce.com>; Joe Eason <joe.eason@nelsonmullins.com>; mtynan@brookspierce.com <mtynan@brookspierce.com>; kyle.j.smith124.civ@army.mil <kyle.j.smith124.civ@army.mil>; Moore, Tirrill E <temoore@NCDOJ.GOV>; Conant, Douglas <dconant@bdixon.com>
Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.cummings@duke-energy.com>; Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>
Subject: RE: [External] RE: Duke Framework for Resource Acceleration Program

That time works for me, thanks.

John D. Burns

General Counsel, Carolinas Clean Energy Business Association



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From: Jamey Goldin <jamey.goldin@nelsonmullins.com>

Sent: Tuesday, January 2, 2024 10:10 PM

To: Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>; Christina Cress <ccress@bdixon.com>; Nick Jimenez <njimenez@selcnc.org>; Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>; John Burns <counsel@carolinasceba.com>; Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>; ethan@energync.org; mtrathen@brookspierce.com; Joe Eason <joe.eason@nelsonmullins.com>; mtynan@brookspierce.com; kyle.j.smith124.civ@army.mil; Moore,

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Mar 01 2024

Tirrill E <temoore@NCDOJ.GOV>; Conant, Douglas <dconant@bdixon.com>

Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.cummings@duke-energy.com>;

Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>

Subject: Re: [External] RE: Duke Framework for Resource Acceleration Program

Same here as to that time working. Are we anticipating counsel only or SMEs?

Jamey Goldin, Esq.

706.506.2125

From: Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>

Sent: Tuesday, January 2, 2024 12:33:01 PM

To: Christina Cress <ccress@bdixon.com>; Nick Jimenez <njimenez@selcnc.org>; Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>; John Burns <counsel@carolinasceba.com>; Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>; ethan@energync.org <ethan@energync.org>; mtrathen@brookspierce.com <mtrathen@brookspierce.com>; Joe Eason <joe.eason@nelsonmullins.com>; mtynan@brookspierce.com <mtynan@brookspierce.com>; kyle.j.smith124.civ@army.mil <kyle.j.smith124.civ@army.mil>; Moore, Tirrill E <temoore@NCDOJ.GOV>; Jamey Goldin <jamey.goldin@nelsonmullins.com>; Conant, Douglas <dconant@bdixon.com>

Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.cummings@duke-energy.com>; Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>

Subject: RE: [External] RE: Duke Framework for Resource Acceleration Program

Thanks, Nick. The Public Staff is interested in attending as well and can make that time work.

Nadia

--

Nadia L. Luhr

Staff Attorney

Public Staff - N.C. Utilities Commission

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From: Christina Cress <ccress@bdixon.com>

Sent: Tuesday, January 2, 2024 12:07 PM

To: Nick Jimenez <njimenez@selcnc.org>; Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>; John Burns <counsel@carolinasceba.com>; Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>; Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>; ethan@energync.org; mtrathen@brookspierce.com; Joe Eason <joe.eason@nelsonmullins.com>; mtynan@brookspierce.com; kyle.j.smith124.civ@army.mil; Moore, Tirrill E <temoore@NCDOJ.GOV>;

Jamey Goldin <jamey.goldin@nelsonmullins.com>; Conant, Douglas <dconant@bdixon.com>
Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.cummings@duke-energy.com>;
Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>
Subject: [External] RE: Duke Framework for Resource Acceleration Program

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Happy New Year, all. We would be interested in attending to hear what others have to say. We can make that date and time work.

Thanks,

Christina

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From: Nick Jimenez <njimenez@selcnc.org>
Sent: Tuesday, January 2, 2024 11:48 AM
To: Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>; John Burns <counsel@carolinasceba.com>; Christina Cress <ccress@bdixon.com>; Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>; Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>; ethan@energync.org; mtrathen@brookspierce.com; Joe Eason <joe.eason@nelsonmullins.com>; mtynan@brookspierce.com; kyle.j.smith124.civ@army.mil; temoore@ncdoj.gov; Jamey Goldin <jamey.goldin@nelsonmullins.com>; Conant, Douglas <dconant@bdixon.com>
Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.Cummings@duke-energy.com>; Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>
Subject: Re: Duke Framework for Resource Acceleration Program

All,

We have started scheduling this offline but I believe others would like to join, too. Please chime in if so. And please mention any topics you'd like to discuss if they're outside the corners of this email thread. SACE would like to explore whether the RAO proposal could generate Green-e certifiable RECs, either as is or with modifications.

The best time appears to be January 11 from 12-1pm. Will that work for everyone interested? If not, I'd be happy to circulate a Doodle poll or let the Duke team circulate some additional times.

Best,
Nick

Nick Jimenez
Sr. Attorney

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Please pardon any dictation errors.

From: Nick Jimenez <njimenez@selcnc.org>

Sent: Wednesday, December 20, 2023 5:13 PM

To: Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>; John Burns <counsel@carolinasceba.com>; Christina Cress <ccress@bdixon.com>; Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>; Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>; ethan@energync.org <ethan@energync.org>; mtrathen@brookspierce.com <mtrathen@brookspierce.com>; Joe Eason <joe.eason@nelsonmullins.com>; mtynan@brookspierce.com <mtynan@brookspierce.com>; kyle.j.smith124.civ@army.mil <kyle.j.smith124.civ@army.mil>; temoore@ncdoj.gov <temoore@ncdoj.gov>; Jamey Goldin <jamey.goldin@nelsonmullins.com>; Conant, Douglas <dconant@bdixon.com>

Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.Cummings@duke-energy.com>;

Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>

Subject: Re: Duke Framework for Resource Acceleration Program

Hi, Nick,

Following up on this, SACE would like to take you up on the offer to discuss the proposed RAO and your response below, and I can represent that NCSEA would like to as well. When would be a good time? I realize it might not be until after the holidays.

Best,
Nick

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Please pardon any dictation errors.

From: Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>

Sent: Friday, November 17, 2023 11:09 AM

To: John Burns <counsel@carolinasceba.com>; Nick Jimenez <njimenez@selcnc.org>; Christina Cress <ccress@bdixon.com>; Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>; Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>; ethan@energync.org <ethan@energync.org>; mtrathen@brookspierce.com <mtrathen@brookspierce.com>; Joe Eason <joe.eason@nelsonmullins.com>; mtynan@brookspierce.com <mtynan@brookspierce.com>; kyle.j.smith124.civ@army.mil <kyle.j.smith124.civ@army.mil>; temoore@ncdoj.gov <temoore@ncdoj.gov>; Jamey Goldin <jamey.goldin@nelsonmullins.com>; Conant, Douglas <dconant@bdixon.com>

Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.Cummings@duke-energy.com>;

Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>

Subject: RE: Duke Framework for Resource Acceleration Program

All –

Following up on my note from earlier this week, Duke Energy appreciates SACE & NCSEA's feedback on the Companies' RAO proposal which was designed in an attempt to address eligible GSAC customers and other stakeholders' concerns regarding regulatory surplus. The Companies are open to a call with SACE & NCSEA if requested to discuss the issues noted, but for the benefit of the full group on this e-mail chain I've reproduced the bullets SACE & NCSEA provided and added a few short replies below.

- The proposal to make the bill credit variable introduces too much uncertainty for potential participants. Recall UNC struggled with uncertainty and did not use its GSA allocation. [The Companies disagree that the hourly bill credit option introduces too much uncertainty for GSA Customers and potential developers. To date, over half of the MWs subscribed in the Companies' GSA and GSA Bridge programs have selected the hourly bill credit \(325MWs out of the total 463MWs subscribed\). Ultimately, the Companies' RAO program is designed to minimize the risk for non-participating customers of incurring costs in excess of the resources needed to achieve the regulatory obligations of the Carbon Plan requirements and the hourly bill credit best ensures this is accomplished.](#)
- The proposal to curtail RAO resources first seems to confuse being surplus to regulatory requirements with being surplus to system resources and does not seem justified. [RAO curtailments are reliability curtailments and the proposal to curtail RAO resources first is consistent with HB951's requirements to maintain or improve reliability. As the Companies add more solar resources to their system, more curtailments will be necessary to maintain reliability during real time operations. Because the RAO resources would be surplus to those solar resources in the execution plan approved by the Commission in its most recent Carbon Plan order, they are the direct cause of increased curtailments and thus should be curtailed for reliability purposes first.](#)
- Regulatory surplus should not be limited to 1,000MW out of a 4,000MW program; as we have stated in comments, under H951 all voluntary customer programs should be surplus to regulation. We realize Duke takes a different view. [The size of the RAO program was designed in response to the Public Staff's recommendation. See Public Staff Reply Comments at 9-10. If the RAO option is becomes fully subscribed, the Companies will work toward designing new programs to meet customer demands.](#)
- Counting resources procured through voluntary customer programs in the following CPRIP baseline means that the maximum acceleration period would be two years. While we think resource acceleration could potentially provide a path to a meaningful form of regulatory surplus, two years is insufficient. [The Companies appreciate SACE and NCSEA acknowledging that resource acceleration could provide a meaningful form of regulatory surplus. The chart below shows that depending on the timing of when RAO contracts are executed, and subject to interconnection limits, the RAO option can provide 3 to 5 years of resource acceleration. The Companies can walk through this timing chart during a meeting if requested.](#)

			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

- The proposed programs are not eligible for independent certification by Green-e, but Green-e certification will be important to the programs' success. [The Companies have engaged with the Center for Resource Solutions, the entity that administers Green-e, but we do not believe we have a path forward to obtain Green-e certification for the RAO option given the comprehensive Carbon Plan framework established under HB951. We look forward to discussing any engagement you have had with CRS on Green-e certifiable programs.](#)

If SACE/NCSEA, or any other party, would like to discuss these issues please let me know and we can work on scheduling time to discuss.

Thank you,

Nick

Nick A. Dantonio

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ndantonio@mcguirewoods.com

From: John Burns <counsel@carolinasceba.com>

Sent: Monday, November 13, 2023 9:53 AM

To: Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>; Nick Jimenez <njimenez@selcnc.org>; Christina Cress <ccress@bdixon.com>; Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>; Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>; ethan@energync.org; mtrathen@brookspierce.com; Joe Eason <joe.eason@nelsonmullins.com>; mtynan@brookspierce.com; kyle.j.smith124.civ@army.mil; temoore@ncdoj.gov; Jamey Goldin <jamey.goldin@nelsonmullins.com>; Conant, Douglas <dconant@bdixon.com>
Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.Cummings@duke-energy.com>; Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>
Subject: RE: Duke Framework for Resource Acceleration Program

****EXTERNAL EMAIL; use caution with links and attachments****

Thank you Nick, CCEBA will have some feedback after a meeting we have scheduled in 8 minutes, so this was timely.

-John Burns

From: Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>
Sent: Monday, November 13, 2023 9:52 AM
To: Nick Jimenez <njimenez@selcnc.org>; Christina Cress <ccress@bdixon.com>; Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>; Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>; ethan@energync.org; John Burns <counsel@carolinasceba.com>; mtrathen@brookspierce.com; Joe Eason <joe.eason@nelsonmullins.com>; mtynan@brookspierce.com; kyle.j.smith124.civ@army.mil; temoore@ncdoj.gov; Jamey Goldin <jamey.goldin@nelsonmullins.com>; Conant, Douglas <dconant@bdixon.com>
Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.Cummings@duke-energy.com>; Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>
Subject: RE: Duke Framework for Resource Acceleration Program

Counsel –

As an update to the October 23rd e-mail below, the Companies are not planning to file an update with the Commission on November 15th. Given the number of pending filings in the GSA Choice dockets—including comments and motions—that the Commission has not decided on, the Companies have decided to wait for further Commission direction before making an update filing.

The Companies plan to provide a short response to SACE/NCSEA's key concerns to this group later this week, and continue to welcome further discussion from other parties regarding the Companies' RAO proposal.

Thank you,

Nick

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ndantonio@mcguirewoods.com**From:** Nick Jimenez <njimenez@selcnc.org>**Sent:** Wednesday, November 8, 2023 4:44 PM**To:** Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>; Christina Cress <ccress@bdixon.com>;Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>;Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>; ethan@energync.org; John Burns<counsel@carolinasceba.com>; mtrathen@brookspierce.com; Joe Eason<joe.eason@nelsonmullins.com>; mtynan@brookspierce.com; kyle.j.smith124.civ@army.mil;temoore@ncdoj.gov; Jamey Goldin <jamey.goldin@nelsonmullins.com>; Conant, Douglas<dconant@bdixon.com>**Cc:** Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.Cummings@duke-energy.com>;Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>**Subject:** Re: Duke Framework for Resource Acceleration Program****EXTERNAL EMAIL; use caution with links and attachments****

Dear Nick,

Thank you for sharing the draft acceleration proposal. I'm sharing a brief response on behalf of SACE, which I can represent that NCSEA joins.

We appreciate the thought and effort Duke put into developing the proposed "Resource Acceleration Option" (RAO) in response to the Public Staff and CIGFUR's interest. It will take continued effort and creative thinking to develop successful customer programs that comply with H951 and reduce emissions.

However, we cannot support the RAO in its present form. Briefly, our key concerns are the following:

- The proposal to make the bill credit variable introduces too much uncertainty for potential participants. Recall UNC struggled with uncertainty and did not use its GSA allocation.
- The proposal to curtail RAO resources first seems to confuse being surplus to regulatory requirements with being surplus to system resources and does not seem justified.
- Regulatory surplus should not be limited to 1,000MW out of a 4,000MW program; as we have stated in comments, under H951 all voluntary customer programs should be surplus to regulation. We realize Duke takes a different view.
- Counting resources procured through voluntary customer programs in the following CPRIP baseline means that the maximum acceleration period would be two years. While we think resource acceleration could potentially provide a path to a meaningful form of regulatory surplus, two years is insufficient.
- The proposed programs are not eligible for independent certification by Green-e, but Green-e certification will be important to the programs' success.

We would be happy to discuss these concerns in more detail and resume discussions of a potential consensus path forward for voluntary customer programs.

Best regards,

Nick

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Please pardon any dictation errors.

From: Dantonio, Nicholas A. <NDantonio@mcguirewoods.com>

Sent: Monday, October 23, 2023 5:30 PM

To: Christina Cress <ccress@bdixon.com>; Edmondson, Lucy <lucy.edmondson@psncuc.nc.gov>; Josey, Robert <Robert.Josey@psncuc.nc.gov>; Luhr, Nadia <Nadia.Luhr@psncuc.nc.gov>; Nick Jimenez <njimenez@selcnc.org>; ethan@energync.org <ethan@energync.org>; John Burns <counsel@carolinasceba.com>; mtrathen@brookspierce.com <mtrathen@brookspierce.com>; Joe Eason <joe.eason@nelsonmullins.com>; mtynan@brookspierce.com <mtynan@brookspierce.com>; kyle.j.smith124.civ@army.mil <kyle.j.smith124.civ@army.mil>; temoore@ncdoj.gov <temoore@ncdoj.gov>; Jamey Goldin <jamey.goldin@nelsonmullins.com>; Conant, Douglas <dconant@bdixon.com>

Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.Cummings@duke-energy.com>; Breitschwerdt, E. Brett <bbreitschwerdt@mcguirewoods.com>

Subject: Duke Framework for Resource Acceleration Program

Counsel –

On behalf of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (together, the “Companies”) I am writing to update parties in the Green Source Advantage Choice (“GSAC”) dockets (Docket Nos. E-2,

Sub 1314 & E-7, Sub 1289) of the Companies continued efforts to address intervenor comments. Please find attached a proposed framework for a "Resource Acceleration Option" ("RAO") within the GSAC customer program. The proposed framework was developed by the Companies in response to CIGFUR II & III's Request for Procedural Relief filed on June 23rd in the GSAC dockets. Among other items, CIGFUR's Request asked for additional time for the parties to the GSAC dockets to further investigate the "'regulatory surplus' issue raised by environmental advocates and the Public Staff." Many parties to the GSAC dockets supported the Request. Although the NCUC has not yet issued an order on it, the Companies are operating under the assumption that the NCUC will grant the Request to provide an update regarding discussions on regulatory surplus on November 15th, 2023. *See Response to CIGFUR's Request for Procedural Relief* at 6 (Aug. 1, 2023).

The Companies plan to file the attached with the Commission on November 15th as its update to the NCUC. To the extent other parties would like to discuss their additional investigation and findings related to regulatory surplus, the Companies would appreciate the opportunity to discuss while also addressing questions other parties may have related to the RAO proposal. If consensus can be achieved with some or all parties on a customer program that would allow customers to accelerate the addition of clean resources, the Companies are open to a joint update filing.

Thank you and please let me know if a call with any party to discuss, as described above, would be helpful.

Nick

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ndantonio@mcguirewoods.com

From: Dantonio, Nicholas A.

Sent: Monday, July 24, 2023 6:06 PM

To: 'Christina Cress' <ccress@bdixon.com>; 'Edmondson, Lucy' <lucy.edmondson@psncuc.nc.gov>; 'Josey, Robert' <Robert.Josey@psncuc.nc.gov>; 'Luhr, Nadia' <Nadia.Luhr@psncuc.nc.gov>; 'Nick Jimenez' <njimenez@selcnc.org>; 'ethan@energync.org' <ethan@energync.org>; 'John Burns' <counsel@carolinasceba.com>; 'mtrathen@brookspierce.com' <mtrathen@brookspierce.com>; 'cschauer@brookspierce.com' <cschauer@brookspierce.com>; 'Joe Eason' <joe.eason@nelsonmullins.com>; 'mtynan@brookspierce.com' <mtynan@brookspierce.com>; 'kyle.j.smith124.civ@army.mil' <kyle.j.smith124.civ@army.mil>; 'temoore@ncdoj.gov' <temoore@ncdoj.gov>; 'Jamey Goldin' <jamey.goldin@nelsonmullins.com>; Conant, Douglas <dconant@bdixon.com>

Cc: Jirak, Jack <Jack.Jirak@duke-energy.com>; Cummings, Layla <Layla.Cummings@duke-energy.com>; E. Brett Breitschwerdt (bbreitschwerdt@mcguirewoods.com) <bbreitschwerdt@mcguirewoods.com>; Maney, Mason E. <MManey@mcguirewoods.com>

Subject: RE: [EXTERNAL] FW: CIGFUR II & III's Anticipated Request for Procedural Relief (GSA-C Dockets)

Counsel –

Attached is Duke Energy's draft Response to CIGFUR's Request for Procedural Relief in the Green Source Advantage Choice ("GSAC") docket as extended by Public Staff to the Clean Energy Impact ("CEI") docket.

After conferring with the Public Staff and CIGFUR, the Response requests that the Commission (1) approve the GSAC CEEA Purchase Track with a total program capacity of 4,000 MW, (2) issue an Order on the Companies' Petition for Approval of the CEI Program without stay, and (3) grant CIGFUR's requested stay in part to allow interested parties additional time to engage in discussions between now and November 15, 2023 on resolving controverted issues around the proposed "Regulatory Surplus Tracks" as further described in the attached Response. On or before November 15, 2023, interested parties may file an update with the Commission addressing whether issues related to the Regulatory Surplus Tracks have been resolved and proposing additional procedural steps.

Please let us know by noon this Thursday (July 27th) if your client would be interested in supporting the Response or has any objection to it. Thank you and feel free to reach out with any questions.

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Cc: Conant, Douglas <dconant@bdixon.com>

Subject: CIGFUR II & III's Anticipated Request for Procedural Relief (GSA-C Dockets)

****EXTERNAL EMAIL; use caution with links and attachments****

Counsel,

Depending on the responses to this email and subject to final approval from my clients, I expect CIGFUR II and III's Reply Comments in the GSA-C Program dockets tomorrow will include the below request for procedural relief. While I recognize many parties may disagree with the *reasoning* underlying CIGFUR's

request, I am hoping everyone can agree there is value in the requested procedural relief itself. To that end, I would greatly appreciate it if you could let me know whether your client supports, opposes, or takes no position on CIGFUR's request and whether I am authorized to indicate same.

Thanks!

CIGFUR'S REQUEST FOR PROCEDURAL RELIEF

CIGFUR appreciates the continued dialogue and ongoing discovery that have taken place since initial comments were filed by intervenors in these dockets. CIGFUR further appreciates the complexity of the issues with which the Companies and parties have had to grapple in these dockets, particularly in light of time constraints and many competing demands on bandwidth and resources (i.e., multiple electric rate cases in which most or all of the parties to this proceeding are involved one way or another). Despite good faith efforts, however, consensus has not yet been reached regarding how to resolve certain outstanding issues with potentially significant impacts on fundamental elements of GSA-C Program design, including (1) program costs (both to participants and non-participants), (2) bill credits, and (3) the ability for participating customers to obtain third-party certification of any renewable energy attributes which, when considered together, are essentially the entire value proposition to customers contemplating whether to voluntarily participate in the GSA-C Program. In particular, one significant outstanding issue is the additionality or "regulatory surplus" issue raised by environmental advocates and the Public Staff.

One reason for consensus not yet having been reached on this issue is that standards governing renewable energy and carbon offset products for consumers and businesses are fluid and continuously evolving. To further complicate matters, there are multiple third-party organizations applying multiple different certification standards for green power products in the United States. One such organization, the Center for Resource Solutions (CRS), has issued a market advisory and policy update in response to the Companies' proposed GSA-C Program, even

though such program has not yet obtained regulatory approval or taken effect. Upon information and belief, however, the policy is subject to change and there may exist a basis for requesting reconsideration by CRS. In addition, CIGFUR believes that several non-residential customers would very likely remain interested in participating in the GSA-C Program even if it does not ultimately qualify for certification by one of many third-party certification organizations. However, more information is needed for CIGFUR member companies to fully assess this issue before CIGFUR is able to take a position one way or the other, particularly considering the significant potential ramifications on the overall attractiveness of the GSA-C Program and whether it complies with House Bill 951's prohibition against cross-subsidization by non-participants.

It cannot be overstated how important it is that any new customer renewable program be designed in a way that (1) works for customers interested in participating; (2) results in a successful, fully-subscribed GSA-C Program; and (3) ensures non-participating customers are held harmless, consistent with governing law. For this reason, CIGFUR stresses that we must make every effort on the front end to ensure that the GSA-C Program is designed in a way that will be successful and fully subscribed, even if it takes a bit more time to finalize a program and resolve the current dockets. CIGFUR believes that additional time for the parties to work toward a potential consensus solution on some of the more material recommendations of great import to the overall program design and value proposition would serve the interests of judicial economy and hopefully help to resolve concerns raised by certain parties in this docket.

For these reasons, and because there are no statutory deadlines looming for program approval, CIGFUR respectfully requests the following procedural relief:

1. The Commission temporarily stay these dockets for a limited time-certain period to allow the parties to continue working in good faith in hopes of resolving certain

outstanding issues that could have significant impacts on both participating and non-participating customers; and

2. Following any temporary stay period the Commission may permit, the Commission allow sur-reply comments only if and to the extent that consensus has not been achieved.

In the alternative, CIGFUR requests that any GSA-C Program and corresponding rate tariffs approved by the Commission be subject to quarterly reporting and checkpoint requirements for the first year after the program takes effect, wherein the Companies, the Public Staff, and all parties to this docket will have an opportunity to provide feedback to the Commission regarding the relative success (or lack thereof) of the GSA-C Program as designed and if the Program is un- or under-subscribed, or if there is new information or a change in circumstances that so justifies, any party may recommend tariff revisions.

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