

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-100, SUB 179

|                                    |   |                                |
|------------------------------------|---|--------------------------------|
| In the Matter of                   | ) |                                |
| Duke Energy Progress, LLC, and     | ) | <b>LIMITED BRIEF OF</b>        |
| Duke Energy Carolinas, LLC, 2022   | ) | <b>ELECTRICITIES REGARDING</b> |
| Biennial Integrated Resource Plans | ) | <b>SELECT CARBON PLAN</b>      |
| And Carbon Plan                    | ) | <b>ISSUE</b>                   |

Pursuant to the Notice of Due Date for Proposed Orders And/Or Briefs, intervenors ElectriCities of North Carolina, Inc. (“ElectriCities”), North Carolina Eastern Municipal Power Agency (“NCEMPA”), and North Carolina Municipal Power Agency Number 1 (“NCMPA1,” together with ElectriCities and NCEMPA “ElectriCities”) provide this limited brief addressing one issue arising from the proposed carbon reduction plan (“Proposed Plan”) filed by Duke Energy Progress, LLC (“DEP”), and Duke Energy Carolinas, LLC (“DEC,” together with DEP collectively “Duke”) in this docket.

**BECAUSE DUKE’S PROPOSED CARBON PLAN FAILED TO PROVIDE FOR IMPLEMENTATION OF COST-EFFECTIVE LOAD REDUCTION AND MANAGEMENT EFFORTS AND PROGRAMS BY WHOLESALE CUSTOMERS, IT IS INCONSISTENT WITH HB 951’S LEAST COST MANDATE.**

House Bill 951 (“HB 951”)<sup>1</sup> requires the Commission to develop a plan to achieve specific reductions in carbon dioxide emissions in this State from Duke’s electric generating facilities. HB 951 requires that the Commission “at a minimum, consider power generation, transmission and distribution, grid modernization, storage, energy efficiency measures, demand-side management, and the latest technological breakthroughs to achieve the least cost path consistent with this section to achieve compliance with the authorized

<sup>1</sup> Enacted as Session Law 2021-165.

carbon reduction goals (the ‘Carbon Plan’).”<sup>2</sup> In developing a Carbon Plan “storage, energy efficiency measures, [and] demand-side management” must be considered.

Tables 2-2 and 2-4 of Duke’s Proposed Plan filing<sup>3</sup> show that DEP’s wholesale customers represent approximately 25-30% of DEP’s system load. Given the extent of its wholesale load, DEP’s wholesale requirements customers such as NCEMPA present a significant opportunity for least cost “reduction and management of load” programs enabling investments and offers that facilitate such – **as to at least a quarter of DEP’s total load**. Because the Proposed Plan would not incentivize or enable cost-effective load reduction and demand-side management efforts and programs by Duke’s wholesale requirements customers, it cannot comply with HB 951’s requirement that the approved carbon emission reduction plan achieve “the least cost path” to compliance.<sup>4</sup>

Despite Duke’s recognition that load management and reduction achieved by energy efficiency and demand side management measures offer the least cost method of reducing carbon emissions associated with generation,<sup>5</sup> and stating that it would “prioritiz[e] these valuable resources by considering them prior to evaluating the supply-side resources,” Duke proceeded to ignore the cost saving opportunities presented by DEP’s extensive wholesale load.

Duke’s wholesale requirements customers could play a material role in helping it achieve the emissions reduction targets in HB 951, while reducing the cost of doing so. The Proposed Plan’s failure to take advantage of this opportunity to utilize EE, DSM, and other measures, including battery energy storage systems, as to at least a quarter of DEP’s

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<sup>2</sup> Session Law 2021-165, Part I, Section 1(1).

<sup>3</sup> Proposed Plan, Chapter 2, pp. 11 and 14.

<sup>4</sup> Session Law 2021-165, Part I, Section 1(1).

<sup>5</sup> Proposed Plan, Appendix G, p. 1.

load is a material flaw, ensuring that the emission reduction goals won't be achieved in a least cost manner.

The Proposed Plan does not provide incentives for, much less permit additional peak load reduction or implementation of load management measures by wholesale requirements customers. Duke's wholesale contracts, such as the Full Requirements Power Purchase Agreement ("FRPPA") between NCEMPA and DEP, limit or disincentivize such measures. Recent changes to the FRPPA filed by DEP with FERC (Docket No. ER22-682) effectively impose a firm cap on the quantity of load management for which NCEMPA can receive any financial credit. This cap effectively forecloses additional load management and reduction efforts by NCEMPA's members.

Such provisions foreclose the opportunity for DEP's wholesale requirements customers to bring meaningful load management and reduction to the table that they could provide through DSM, EE and/or DER measures – the very measures that Duke recognizes in its Proposed Plan as being “[a]t the forefront of...developing comprehensive decarbonization plans to achieve the targets of [HB 951] in a least-cost manner.”<sup>6</sup>

Lower cost investments in such programs in the near term will enable Duke to offset higher future costs in more expensive non-emitting generation resources in the long term. Because the Proposed Plan fails to take advantage of the potential cost savings that would result from wholesale requirements customers' load reduction and management efforts in DEP's service area, the Proposed Plan fails to comply with HB 951's least cost mandate.

Given the relatively low cost of demand reduction measures, as compared to Duke's projected future costs for resources such as offshore wind and small modular reactor

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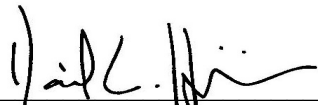
<sup>6</sup> Session Law 2021-165, Part I, Section 1(1).

generation, the Commission should include the following finding in its Order approving a carbon plan for Duke in this docket:

Because Duke has significant wholesale load, the Carbon Plan should adequately and reasonably incentivize and enable cost-effective load reduction and demand-side management efforts and programs by Duke’s wholesale requirements customers. Investments in new generation capacity that could have been avoided through cost-effective wholesale demand response and demand-side management will not be deemed used and useful and shall not be eligible for recovery in retail rates.

Respectfully submitted, this the 24<sup>th</sup> day of October, 2022.

BURNS, DAY & PRESNELL, P.A.



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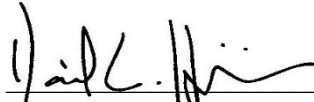
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing document was duly served upon counsel of record for the Public Staff and all parties to these dockets by either depositing same in a depository of the United States Postal Service, first-class postage prepaid, addressed as shown below, or by electronic delivery.

This the 24<sup>th</sup> day of October, 2022.

BURNS, DAY & PRESNELL, P.A.



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