

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 Approval of Green Source  
Advantage Choice Program and  
Rider GSAC

REQUEST FOR PROCEDURAL RELIEF  
AND REPLY COMMENTS OF  
CIGFUR II AND III

NOW COME the Carolina Industrial Group for Fair Utility Rates II (CIGFUR II) and the Carolina Industrial Group for Fair Utility Rates III (CIGFUR III) (together with CIGFUR II, CIGFUR), pursuant to the Commission's February 9, 2023 *Order Requesting Comments*, March 28, 2023 *Order Granting Extension*, and June 14, 2023 *Order Granting Second Extension*, and respectfully submit reply comments in the above-captioned dockets.

**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 among all parties regarding how to resolve certain outstanding issues that could have a potentially significant impact on certain

fundamental elements of GSA-C Program design, like (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 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-participating customers.

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 among all parties.

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 would 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.

CIGFUR is authorized to represent that the Public Staff, the Clean Energy Buyers Association (CEBA), the Department of Defense / All Other Federal Executive Agencies (DoD/FEA), the Southern Alliance for Clean Energy (SACE), and the Carolinas Clean Energy Business Association (CCEBA) support CIGFUR's request for procedural relief. Upon information and belief, the Companies do not support CIGFUR's request for procedural relief. All other parties to these dockets either indicated that they take no position on CIGFUR's requested relief or they had not responded as of the time these reply comments were electronically filed with the Commission.

#### **RECOMMENDATIONS CONTAINED IN CIGFUR'S INITIAL COMMENTS**

In addition to its request for procedural relief, CIGFUR emphasizes and reiterates the recommendations contained in its initial comments. First, with respect to the Green Source Advantage-Bridge (GSA-B) Program, CIGFUR recommends that the Commission require the Companies to:

- (1) Allow any otherwise-eligible customer who submits a GSA-B Program application on or before the effective date of any new customer renewable program tariffs approved in these dockets to continue pursuing its application under the terms of the GSA-B Program rather than be subject to the terms of

the new customer renewable program(s) approved by the Commission in these dockets.

- (2) To the extent there remains any unreserved and unsubscribed GSA-B Program capacity as of the date when the GSA-B Program expires, CIGFUR recommends that such unsubscribed GSA-B Program capacity be automatically added to the total program capacity for the new GSA-C Program.

Additionally, with respect to the Companies' proposed GSA-C Program, CIGFUR also emphasizes and reiterates the recommendations contained in its initial comments.

More specifically, CIGFUR recommends that the Commission require the Companies to:

- (1) Increase GSA-C Program capacity, including additional capacity earmarked specifically for economic development projects.
- (2) Provide for a program expansion mechanism in the event customer interest in the GSA-C Program exceeds available program capacity. Alternatively, provide clear guidance for how program capacity will be allocated in the event the GSA-C Program is oversubscribed.
- (3) Remove the proposed 80-MW cap for each GSA-C Facility.
- (4) Increase the 250-MW annual allocation GSA-C Facility PPA capacity limit. Alternatively, allow any rejected bids in the annual solar procurement processes to be evaluated by prospective GSA-C Program participants and considered as a possible GSA-C Facility PPA.
- (5) Add two additional contract term options, one for 25 years and another for 30 years.
- (6) Adopt the recommendations provided by Google with respect to the need to incentivize optimal dispatch of battery storage to the benefit of the system.
- (7) Engage constructively with customers on how to leverage rapid prototyping to pursue new and innovative customer renewable program design ideas.
- (8) Ensure decisions about GSA-C Program design are being made with customers and their needs as the central focus, within the customer renewable program parameters set forth by HB 951.
- (9) Reduce or eliminate the \$2,000 GSA-C Program application fee, unless such fee is required to comply with the customer renewable program parameters set forth by HB 951.

- (10) Change the GSA-C Program application opening date and time to 12 p.m. EST on the first business day in January each calendar year.

### **ADDITIONAL RECOMMENDATIONS**

In addition to reiterating the recommendations contained in CIGFUR’s initial comments, and based on information CIGFUR has gleaned both through ongoing discovery and/or in response to initial comments filed by other parties to these dockets, CIGFUR also offers the following new recommendations:

- (1) The 350 MWs of unused capacity in the legacy GSA Program prescribed to a specific economic development customer through January 1, 2028, pursuant to Section 11.19.(f1) of S.L. 2021-180, should be made available for subscription under either the legacy GSA Program or the GSA-C Program, at the election of the specific economic development customer.
- (2) CIGFUR recommends that the Commission order the Companies to provide estimated Carbon Plan impacts—including resource mix, affordability, reliability, and executability—if the Commission were to require adherence to a strict additionality standard, as well as a comparison of those same factors if the Commission were to approve the GSA-C Program as currently proposed.
- (3) CIGFUR supports the recommendation of CEBA and CUCA to combine, for purposes of the GSA-C Program, the Companies’ balancing authority areas with regard to project eligibility and facility siting.
- (4) CIGFUR supports the DoD/FEA’s recommendation that all program participation costs should be transparent and made available to potentially eligible customers as soon as practicable. Similar to CIGFUR’s second recommendation above, CIGFUR requests that the Companies provide a cost

comparison under their proposed program design vs. the program designs, as tweaked consistent with the recommendations of other parties to this docket.

- (5) Finally, if CIGFUR's request for procedural relief is not granted, CIGFUR requests in the alternative that any GSA-C Program and corresponding rate tariffs approved by the Commission be subject to, for the first year after the program takes effect, quarterly reporting and checkpoint requirements, wherein the Companies, the Public Staff, and all parties to this docket would have an opportunity to provide feedback to the Commission regarding the relative success (or lack of success) 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.

### **CONCLUSION**

The member companies of CIGFUR II and III appreciate the opportunity to submit these reply comments, including its request for procedural relief in the above-captioned dockets.

WHEREFORE, CIGFUR respectfully prays that:

- I. The Commission consider both CIGFUR's initial and reply comments in its decision making in these dockets;
- II. The Commission grant CIGFUR's request for procedural relief by temporarily staying 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;

- III. Following any temporary stay the Commission may permit, the Commission grant CIGFUR's request to allow all parties to file sur-reply comments, only if and to the extent that consensus has not been achieved among all parties; and
- IV. For such other and further relief as the Commission deems just and appropriate.

Respectfully submitted, this the 23<sup>rd</sup> day of June, 2023.

**BAILEY & DIXON, LLP**

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**CERTIFICATE OF SERVICE**

The undersigned attorney for CIGFUR hereby certifies that she caused to be served by electronic mail the foregoing *Reply Comments of CIGFUR II & III* upon the parties of record to this proceeding, as set forth in the service list for the above-captioned dockets maintained by the Chief Clerk of the North Carolina Utilities Commission.

This the 23<sup>rd</sup> day of June, 2023.

/s/ Christina D. Cress  
Christina D. Cress