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Mar 29 2018

March 29, 2018

**VIA Electronic Filing**

Ms. M. Lynn Jarvis, Chief Clerk  
North Carolina Utilities Commission  
Dobbs Building  
430 North Salisbury Street  
Raleigh, North Carolina 27603

**RE: Docket No. E-100, Sub 150**

Dear Ms. Jarvis:

Enclosed for filing in the above-referenced docket is the Petition of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to Amend Commission Rule R8-71(f)(3).

Please feel free to contact me with any questions. Thank you for your assistance in this matter.

Very truly yours,

/s/E. Brett Breitschwerdt

EBB:kjg

Enclosure

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-100, SUB 150

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	PETITION OF DUKE ENERGY
Rulemaking Proceeding to Implement	)	CAROLINAS, LLC AND DUKE
G.S. 62-110.8	)	ENERGY PROGRESS, LLC TO
	)	AMEND COMMISSION RULE
	)	R8-71(f)(3)

NOW COME Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (collectively, the “Companies”), and respectfully petition the North Carolina Utilities Commission (“Commission” or “NCUC”) to amend subsection (f)(3) of NCUC Rule R8-71 (“CPRE Rule”), which governs the evaluation and selection of proposals received in response to a Competitive Procurement of Renewable Energy (“CPRE”) request for proposal solicitation (“RFP”). The Companies are seeking to amend the CPRE Rule in order to implement the direction recently provided in the Commission’s *CPRE Program Order*, further clarify the CPRE evaluation process, and incorporate certain additional changes recommended by the Commission-approved Independent Administrator, Accion Group, LLC (the “IA”).<sup>1</sup> In summary, the proposed modifications clarify that, as is contemplated in the *CPRE Program Order*, the IA will be solely responsible for ranking and cost-effectiveness determinations in step one of the evaluation process, while a subset of the Companies’ Evaluation Team—the “T&D Sub-Team”—will be responsible in step two for identifying system impacts and assessing upgrade costs to the proposals identified by the IA.

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<sup>1</sup> See *Order Modifying and Approving Joint CPRE Program*, Docket No. E-2, Sub 1159, Docket No. E-7, Sub 1156 (Feb. 21, 2018) (“CPRE Program Order”).

All of the proposed modifications are supported by the IA. In addition, the Public Staff-North Carolina Utilities Commission (“Public Staff”), North Carolina Clean Energy Business Alliance (“NCCEBA”), and North Carolina Sustainable Energy Association (“NCSEA”) support the modifications, though NCCEBA and NCSEA have requested that the Commission make clear that the modified CPRE Rule would control to the extent any conflicts exists between the Rule and the Commission’s *CPRE Program Order*.

The Companies also respectfully request the Commission establish an expedited 15 day period for interested parties to comment on the limited CPRE Rule amendments set forth in Attachment A (clean) and Attachment B (redline), and for the Commission to then take action on the petition on or before May 1, 2018, in order to allow the Companies to finalize their draft CPRE Tranche 1 RFP documents, as directed by the *CPRE Program Order*, and for the IA to finalize the Tranche 1 evaluation methodology.

In support of this Petition, the Companies show the Commission as follows:

### **Background**

1. On July 27, 2017, Session Law 2017-192 (“HB 589” or the “Act”) was signed into law, thereby enacting a number of amendments to the Public Utilities Act. Part II of the Act enacted N.C. Gen. Stat. § 62-110.8, which mandates that the Companies establish and separately or jointly implement a CPRE Program to procure 2,660 MW of additional renewable energy resource capacity in the aggregate over the next approximately four years.

2. On July 28, 2017, the Commission commenced a rulemaking proceeding in this docket to implement Part II of HB 589. On November 6, 2017, the Commission adopted Rule R8-71 – Competitive Procurement of Renewable Energy by its *Order*

*Adopting and Amending Rules.* Subsection (f) of the CPRE Rule addresses the CPRE RFP structure and solicitation process. Subsection (f)(3) establishes the CPRE RFP evaluation process and specifically approves a two-step process for evaluation and selection of proposals submitted through a CPRE RFP.

3. Pursuant to the Act and the CPRE Rule, on November 27, 2017, DEC and DEP sought Commission approval of their CPRE Program Guidelines and pro forma CPRE power purchase agreement (“PPA”), acceptance of their initial CPRE Program Plan, and waiver of certain regulatory conditions and Code of Conduct requirements to permit the Companies’ participation in the upcoming CPRE Program solicitations. By order issued on February 21, 2018, the Commission issued the *CPRE Program Order*, approving the CPRE Program Guidelines, with some modifications.

4. In the *CPRE Program Order*, the Commission clarified its view of the two-step evaluation process set out in Rule R8-71(f)(3). Specifically, the Order stated that the IA should complete step one of the evaluation process without the utility’s involvement.<sup>2</sup> The Commission then clarified that evaluation and assignment of grid upgrade costs to individual proposals should be addressed as part of DEC’s and DEP’s consideration of system impact during step two of Rule R8-71(f)(3) evaluation process.<sup>3</sup> The Commission therefore directed the Companies to modify Section 4 of the CPRE Guidelines to remove utility involvement from step one of the evaluation process, and to incorporate consideration of grid upgrade costs within step two.<sup>4</sup>

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<sup>2</sup> CPRE Program Order at 23.

<sup>3</sup> *Id.*

<sup>4</sup> CPRE Program Order at 24.

### **Proposed Modifications to Rule R8-71(f)(3)**

5. With the benefit of the guidance provided in the *CPRE Program Order*, the Companies' Evaluation Team has collaborated with the IA to further develop the evaluation process and methodologies in conformance with the *CPRE Program Order* and to prepare for issuance of the Tranche 1 RFP. The Companies fully support the basic structure of the Rule R8-71(f)(3) evaluation process described in the *CPRE Program Order*, which recognizes the IA's exclusive responsibility for evaluating and ranking proposals in step one and the Evaluation Team's role to support the IA's evaluation process during step two, including by assessing the system impacts of competitively-ranked proposals through the evaluation and assignment of system upgrade costs (to be performed by the T&D Sub-Team) as discussed in more detail herein. However, upon further analysis of the two-step process presented in Rule R8-71(f)(3) and discussion with the IA, the Companies believe that revisions to this section of the CPRE Rule are needed in order to better align the rule with the evaluation process described in the *CPRE Program Order*. Specifically, the step two evaluation process contained in the current version of Rule R8-71(f)(3) does not contemplate either the assignment of upgrade costs or the T&D Sub-Team's consideration of system impact-related costs, as discussed in the *CPRE Program Order*. Indeed, as currently approved, the step two evaluation process makes no provision for any upgrade cost assignment, and the utility's only expressly identified right with respect to system impacts in step two is to eliminate a proposal that "would significantly undermine the utility's ability to provide adequate and reliable electric service to its customers." NCUC Rule R8-71(f)(3)(ii).

6. Modifications are needed to subsection (f)(3) of the CPRE Rule in order to implement the Commission's directives contained in the *CPRE Program Order* and to enhance the transparency of the evaluation process. The proposed modifications to the CPRE Rule are presented in clean and redline format in Attachment A and Attachment B, respectively, and, as discussed above, were developed in collaboration with the IA. These revisions provide additional clarity to the Companies' "system impact evaluation" role in step two and also bring Rule R8-71(f)(3) into conformance with the *CPRE Program Order*.

7. In addition to revising the CPRE Rule to more fully conform to the Commission's recent guidance in the *CPRE Program Order*, these modifications also provide additional benefits. First, the proposed modifications remove the Companies' ability to eliminate a proposal due to reliability concerns. The Companies do not believe that elimination of a proposal on this basis would ever be necessary and will not exercise such right even if the rule is not modified as requested herein. If a system constraint or reliability issue is identified in step two, the Companies' T&D Sub-Team will identify the system upgrades necessary to address such issue, and the resulting costs will be assessed to the applicable proposal. As noted in the CPRE Program Order<sup>5</sup>, such costs will render a project less cost-effective, but the Companies do not foresee a scenario where the Evaluation Team would need to "eliminate" a proposal because it would "jeopardiz[e] adequate and reliable service to customers" as is currently contemplated in the rule.<sup>6</sup> Second, as demonstrated in the revised rule, the proposed modifications clarify and strengthen the role of the IA in the evaluation process and more clearly describe the IA's

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<sup>5</sup> *CPRE Program Order* at 23.

sole decision-making authority regarding whether to eliminate a proposal for failure to adhere to any CPRE Solicitation evaluation factors. Third, the Companies' modifications to the CPRE Rule provide greater clarity regarding the mechanics of the system impact evaluation to be undertaken during the step two evaluation process and the iterative process that is necessary in order to ensure that the most cost-effective portfolio of proposal is selected. Fourth, the proposed modifications establish the T&D Sub-Team, a subset of the Evaluation Team, that will be responsible for assessing and assigning upgrade costs to proposals. The T&D Sub-Team will be prohibited from communication with the other members of the Evaluation Team concerning the CPRE RFP beginning on the date on which the draft CPRE RFP documents are issued by the IA and through the closure of the RFP. Collectively, the recommend revisions improve the transparency and impartiality of the evaluation process, which aligns with the Commission's intent in adopting the CPRE Rule and in its *CPRE Program Order*.

8. For ease of review, the following is an overview of the evaluation process as set forth in the Companies' proposed revised CRPE Rule. In step one, the IA performs the initial ranking of bids. If the IA determines that a proposal fails to satisfy the CPRE RFP Solicitation evaluation factors, the IA may either (1) eliminate the proposal where such non-conformance cannot be remedied through step two, and document the reasons for the rejection, or (2) allow the proposal to remain in the RFP in step two to allow for consultation with Evaluation Team or potential clarification from the market participant regarding such non-conformance. As under the original rule, the IA delivers ranked proposals to the Evaluation Team with market participant-identifying information and cost information redacted for each proposal.

9. Proposed Rule R8-71(f)(3)(ii)(A) establishes a clear process for the IA, in its discretion, to consult with the Evaluation Team and/or a market participant in order to make any further assessment regarding a proposal's compliance with the CPRE RFP proposal eligibility and evaluation factors. The IA retains authority to make the final determination regarding whether a proposal fails to satisfy CPRE RFP requirements, and the IA must document its reason for eliminating a proposal from further consideration.

10. Proposed Rule R8-71(f)(3)(ii)(B) addresses how the T&D Sub-Team will assess the system impact of proposals in the order ranked by the IA and assign any system upgrade costs attributable to each proposal. Once the T&D Sub-Team provides this assessment to the IA, the IA determines whether system upgrade costs have been properly assigned and then whether re-ranking of proposals is needed after recognizing the system upgrade cost assignments. If no re-ranking is needed, the electric public utility would then select winning proposals in the order ranked by the IA consistent with proposed Rule R8-71-(f)(3)(iii), discussed below. If the IA determines that the combination of proposals initially determined to be most cost-effective needs to be re-ranked to factor in assigned system upgrade costs, then the IA will complete the re-ranking and deliver an updated ranked list back to the T&D Sub-Team. The T&D Sub-Team would then review the updated combination of proposals to determine whether any new proposals included in the combination would result in additional upgrade costs that could adversely impact the cost-effectiveness such combination of proposals. This process would continue in an iterative fashion until the IA determines that the total



generating capacity sought in the CPRE RFP Solicitation is achieved in the most cost-effective manner.<sup>7</sup>

11. After completion of step one and step two, proposed Rule R8-71(f)(3)(iii) provides that the IA will deliver the final rankings to the Evaluation Team to be selected by DEC or DEP in the order ranked by the IA until the target solicitation amount is achieved. The IA would then also publicize the list of proposals selected and declare the CPRE RFP closed.

12. Finally, in the event that a market participant whose proposal is selected does not execute a contract during the contracting period identified in the CPRE RFP Solicitation, the IA, in consultation with the Evaluation Team, shall determine whether the next-ranked proposal or proposals should be selected or whether the capacity associated with the proposal of the market participant that failed to execute a contract should instead be included in a subsequent CPRE RFP. The Evaluation Team would then provide a short and plain statement regarding the circumstances giving rise to the failure to execute a contract during the required time period.

13. The Companies believe that the CPRE Rule modifications proposed herein are reasonable and appropriate, as they more precisely implement the Commission's determinations in the *CPRE Program Order* that the IA should be solely responsible for ranking and cost-effectiveness determinations, while the Companies' Evaluation Teams should be responsible for identifying system impacts and assessing upgrade costs to each

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<sup>7</sup> Consistent with the Commission's recognition in the *CPRE Program Order* that a grouping study process would be an appropriate approach to evaluate grid upgrade costs, the Companies have proposed amendments to the North Carolina Interconnection Procedures to clarify how this process will proceed. See *In the Matter of Petition for Approval of Revisions to Generator Interconnection Standards*, Additional Reply Comments of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, at 21-31 Docket No. E-100, Sub 101 (filed March 12, 2018).

proposal ranked by the IA. Revised subsection (f)(3) also provides greater transparency to market participants regarding the distinct roles of the IA and Companies' Evaluation Team (including the T&D Sub-Team) during the evaluation process and, importantly, eliminates ambiguity and potential concerns over the Companies' ability to eliminate proposals during step two based upon a determination that a proposal would significantly undermine the utility's ability to provide adequate and reliable electric service to its customers. The Companies therefore request that the Commission expeditiously approve these revisions to the rule to facilitate implementation of the Tranche 1 evaluation process.

14. Other parties to this proceeding have also expressed support for the proposed amendments to the CPRE Rule. The Companies informally shared a draft of the proposed subsection (f)(3) modifications with various stakeholders on March 12, 2018, and thereafter have continued to work collaboratively to share additional iterations of the rule and engage in stakeholder discussions. The Public Staff, NCCEBA, and NCSEA all have authorized the Companies to state that each supports these proposed modifications to the CPRE Rule. As discussed above, NCCEBA and NCSEA have also requested that the Commission's approval of these proposed CPRE Rule modifications expressly provide that compliance with the evaluation process identified in the modified CPRE Rule would control to the extent any conflicts exist between the Rule and the Commission's *CPRE Program Order*. The Companies do not object to this approach.

### **Request for Expedited Commission Review**

15. As discussed herein, the Companies respectfully request the Commission approve the proposed amendments to the CPRE Rule in order to allow the Companies to both fully comply with the CPRE Rule and meet the Commission's more recent direction in the *CPRE Program Order* to modify the CPRE Tranche 1 Guidelines to address evaluation of system upgrades during step two of the evaluation process. A Commission decision on the proposed CPRE Rule amendments is also necessary to facilitate the IA's finalization of the Tranche 1 evaluation methodology and the RFP documents. Therefore, in order to proceed with the Tranche 1 RFP process as expeditiously as possible, the Companies request the Commission establish an expedited 15 day period for comment. This time period is reasonable in light of the fact that the Companies previously informally shared drafts of the proposed CPRE Rule amendments with various stakeholders and that a number of parties have expressed support. The Companies also respectfully request the Commission take action on the Petition on or before May 1, 2018, in order to allow the Companies to expeditiously finalize the CPRE Tranche 1 Guidelines.

## Conclusion

WHEREFORE, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC respectfully request that the Commission issue an order amending Rule R8-71(f)(3) as discussed herein and shown at Attachments A and B.

Respectfully submitted this 29<sup>th</sup> day of March, 2018.

/s/E. Brett Breitschwerdt

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**Rule R8-71(f)(3)**

**(3) Evaluation and Selection of Proposals.** The evaluation and selection of proposals received in response to a CPRE RFP Solicitation shall proceed in two steps as set forth in this subdivision, and shall be subject to the Commission's oversight as provided in G.S. 62-110.8 and this rule.

- (i) In step one, the Independent Administrator shall evaluate all proposals based upon the CPRE RFP Solicitation evaluation factors using the CPRE Program Methodology. The Independent Administrator shall conduct this evaluation in an appropriate manner designed to ensure equitable review of all proposals based on the economic and noneconomic factors contained in the CPRE RFP Solicitation evaluation factors. As a result of the Independent Administrator's evaluation, the Independent Administrator shall eliminate proposals that fail to meet the CPRE RFP Solicitation evaluation factors (where the Independent Administrator determines that no modification or clarification under (f)(3)(ii) could cure such non-conformance) and document the reasons for such rejection. The Independent Administrator shall then develop and deliver to the T&D Sub-Team of the electric public utility a list of proposals ranked in order from most competitive to least competitive. The Independent Administrator shall redact from the proposals any information that identifies the market participant that submitted the proposal and any information in the proposal that is not reasonably necessary for the T&D Sub-Team of the electric public utility to complete step two of the evaluation process, including economic factors such as cost and pricing information.
- (ii) In step two, the following shall occur:
  - (A) If the Independent Administrator has determined pursuant to step one that any proposal potentially fails to meet the CPRE RFP Solicitation evaluation factors, then the Independent Administrator may, at its discretion, (1) seek modification or clarification from the applicable market participant or (2) consult with the Evaluation Team of the electric public utility pursuant to Rule R8-71(f)(2)(ii) (with identifying information redacted) for purposes of determining adherence to the CPRE RFP Solicitation evaluation factors. If after any such consultation with the applicable market participant or the Evaluation Team of the electric public utility (in each case, at the discretion of the Independent Administrator), the Independent Administrator concludes that a proposal fails to meet the CPRE RFP solicitation evaluation factors, the Independent Administrator shall eliminate such proposal and document the reasons for such rejection.
  - (B) The T&D Sub-Team of the electric public utility shall in a reasonable manner and with the oversight of the Independent Administrator and in parallel with

the process described in (f)(3)(ii)(A), assess the system impact of the proposals in the order ranked by the Independent Administrator and assign any system upgrade costs attributable to each proposal included in the list provided by the Independent Administrator. The T&D Sub-Team of the electric public utility shall provide its assessment of system upgrade costs to the Independent Administrator, which shall first determine whether such system upgrade costs have been appropriately assigned and then whether the original ranking of proposals needs to be modified to recognize the system upgrade costs assigned to each proposal. The Independent Administrator shall also eliminate any proposal where necessary in order to comply with G.S. 62-110.8(b)(4). If no re-ranking is needed and the Independent Administrator has concluded any necessary evaluation under (f)(3)(ii)(A) (to the extent applicable), the electric public utility shall select the winning proposals in accordance with subsection (iii) below. If the Independent Administrator modifies the original ranking as result of the assignment of system upgrade costs or the elimination of a proposal pursuant to (f)(3)(ii)(A), it shall deliver to the T&D Sub-Team of the electric public utility such revised list of proposals ranked in order from most competitive to least competitive (with market participant information redacted as described in step one) and the assignment of system upgrade costs described in this subsection (B) shall be performed again by the T&D Sub-Team and provided to the Independent Administrator, who will re-rank the proposals. This process shall continue on an iterative basis, as directed by the Independent Administrator, until the Independent Administrator determines that the total generating capacity sought in the CPRE RFP Solicitation is satisfied in the most cost-effective manner (taking into account the assignment of system upgrade costs through this step two).

- (iii) Upon completion of step two and determination by the Independent Administrator of the final ranking of the proposals, the Independent Administrator shall deliver to the Evaluation Team of the electric public utility the final ranked list of proposals. The electric public utility shall select proposals in the order ranked by the Independent Administrator until the total generating capacity sought in the CPRE RFP Solicitation is satisfied, and the Independent Administrator shall provide the electric public utility with the identity of the market participants that were so selected. Upon publication of the list of proposals selected, the Independent Administrator shall declare the CPRE RFP Solicitation closed.
- (iv) The electric public utility shall proceed to execute contracts (where applicable) with each of the market participants who submitted a proposal that was selected. If a market participant selected pursuant to subsection (iii) fails to execute a

contract during the contracting period identified in the CPRE RFP Solicitation, the electric public utility shall provide to the Independent Administrator a short and plain explanation regarding such failure and the Independent Administrator, after consultation with the Evaluation Team, shall determine whether the next-ranked proposal or proposals should be selected in order to procure the total generating capacity sought in the CPRE RFP Solicitation. For the avoidance of doubt, the Evaluation Team shall not have access to the identifying information of any such proposals prior to the Independent Administrator's determination. If no additional proposals are selected, the capacity amount associated with the proposal of the market participant that failed to execute a contract shall be included in a subsequent CPRE RFP Solicitation; provided that if, no further CPRE RFP Solicitations are scheduled, the electric public utility shall take such action as is directed by the Commission.

**Rule R8-71(b)**

"T&D Sub-Team" shall mean those members of the Evaluation Team responsible for assessing the impacts of proposals on the electric public utility's transmission and distribution system and assigning any system upgrade costs attributable to each proposal pursuant to R8-71(f)(3)(ii)(B). The T&D Sub-Team shall be designated in writing to the Independent Administrator and shall have no communication, either directly or indirectly, with the other members of the Evaluation Team or a market participant concerning any proposal, except through the Independent Administrator, from the date on which the draft CPRE RFP Solicitation documents are issued by the Independent Administrator until the CPRE RFP Solicitation is deemed closed.

**Rule R8-71(f)(3)**

**(3) Evaluation and Selection of Proposals.** The evaluation and selection of proposals received in response to a CPRE RFP Solicitation shall proceed in two steps as set forth in this subdivision, and shall be subject to the Commission's oversight as provided in G.S. 62-110.8 and this rule.

- (i) In step one, the Independent Administrator shall evaluate all proposals based upon the CPRE RFP Solicitation evaluation factors using the CPRE Program Methodology. The Independent Administrator shall conduct this evaluation in an appropriate manner designed to ensure equitable review of all proposals based on the economic and noneconomic factors contained in the CPRE RFP Solicitation evaluation factors. As a result of the Independent Administrator's evaluation, the Independent Administrator shall eliminate proposals that fail to meet the CPRE RFP Solicitation evaluation factors ~~and shall develop and deliver to~~(where the Independent Administrator determines that no modification or clarification under (f)(3)(ii) could cure such non-conformance) and document the reasons for such rejection. The Independent Administrator shall then develop and deliver to the T&D Sub-Team of the electric public utility a list of proposals ranked in order from most competitive to least competitive. The Independent Administrator shall redact from the proposals any information that identifies the market participant that submitted the proposal and any information in the proposal that is not reasonably necessary for the T&D Sub-Team of the electric public utility to complete step two of the evaluation process, including economic factors such as cost and pricing information.
- (ii) In step two, the ~~electric public utility shall select the following shall occur:~~
  - (A) If the Independent Administrator has determined pursuant to step one that any proposal potentially fails to meet the CPRE RFP Solicitation evaluation factors, then the Independent Administrator may, at its discretion, (1) seek modification or clarification from the applicable market participant or (2) consult with the Evaluation Team of the electric public utility pursuant to Rule R8-71(f)(2)(ii) (with identifying information redacted) for purposes of determining adherence to the CPRE RFP Solicitation evaluation factors. If after any such consultation with the applicable market participant or the Evaluation Team of the electric public utility (in each case, at the discretion of the Independent Administrator), the Independent Administrator concludes that a proposal fails to meet the CPRE RFP solicitation evaluation factors, the Independent Administrator shall eliminate such proposal and document the reasons for such rejection.



~~(A)~~(B) The T&D Sub-Team of the electric public utility shall in a reasonable manner and with the oversight of the Independent Administrator and in parallel with the process described in (f)(3)(ii)(A), assess the system impact of the proposals in the order ranked by the Independent Administrator and assign any system upgrade costs attributable to each proposal included in the list provided by the Independent Administrator. The T&D Sub-Team of the electric public utility shall provide its assessment of system upgrade costs to the Independent Administrator, which shall first determine whether such system upgrade costs have been appropriately assigned and then whether the original ranking of proposals needs to be modified to recognize the system upgrade costs assigned to each proposal. The Independent Administrator shall also eliminate any proposal where necessary in order to comply with G.S. 62-110.8(b)(4). If no re-ranking is needed and the Independent Administrator has concluded any necessary evaluation under (f)(3)(ii)(A) (to the extent applicable), the electric public utility shall select the winning proposals in accordance with subsection (iii) below. If the Independent Administrator modifies the original ranking as result of the assignment of system upgrade costs or the elimination of a proposal pursuant to (f)(3)(ii)(A), it shall deliver to the T&D Sub-Team of the electric public utility such revised list of proposals ranked in order from most competitive to least competitive (with market participant information redacted as described in step one) and the assignment of system upgrade costs described in this subsection (B) shall be performed again by the T&D Sub-Team and provided to the Independent Administrator, who will re-rank the proposals. This process shall continue on an iterative basis, as directed by the Independent Administrator, until the Independent Administrator determines that the total generating capacity sought in the CPRE RFP Solicitation is satisfied, ~~provided, however, that if the electric public utility determines that the interconnection and operation of a proposed facility, together with a facility or multiple facilities that were the subject of proposal(s) already selected by the utility, would significantly undermine the utility's ability to provide adequate and reliable electric service to its customers, then the electric public utility may eliminate such proposal(s) from further consideration. The electric public utility shall notify the Independent Administrator of the proposals it has selected and those it has eliminated, if any. If the electric public utility eliminates proposal(s), it shall provide to the Independent Administrator a short and plain explanation of why each proposal was eliminated at the same time that the utility notifies the Independent Administrator of the proposals it has selected. in the most cost-effective manner (taking into account the assignment of system upgrade costs through this step two).~~

- ~~(iii) Upon receipt of notification of proposals selected by the electric public utility;~~  
Upon completion of step two and determination by the Independent Administrator of the final ranking of the proposals, the Independent Administrator shall deliver to the Evaluation Team of the electric public utility the final ranked list of proposals. The electric public utility shall select proposals in the order ranked by the Independent Administrator until the total generating capacity sought in the CPRE RFP Solicitation is satisfied, and the Independent Administrator shall provide the electric public utility with the identity of the market participants that submitted proposals were so selected and shall publish the list of proposals selected and the utility's explanation(s) for eliminating proposal(s), if any.  
 Upon publication of the list of proposals selected ~~and the utility's explanation(s), if any,~~ the Independent Administrator shall declare the CPRE RFP Solicitation closed.
- ~~(iv) The electric public utility shall proceed to execute contracts with each of the market participants who submitted a proposal that was selected.~~
- (iv) The electric public utility shall proceed to execute contracts (where applicable) with each of the market participants who submitted a proposal that was selected. If a market participant selected pursuant to subsection (iii) fails to execute a contract during the contracting period identified in the CPRE RFP Solicitation, the electric public utility shall provide to the Independent Administrator a short and plain explanation regarding such failure and the Independent Administrator, after consultation with the Evaluation Team, shall determine whether the next-ranked proposal or proposals should be selected in order to procure the total generating capacity sought in the CPRE RFP Solicitation. For the avoidance of doubt, the Evaluation Team shall not have access to the identifying information of any such proposals prior to the Independent Administrator's determination. If no additional proposals are selected, the capacity amount associated with the proposal of the market participant that failed to execute a contract shall be included in a subsequent CPRE RFP Solicitation; provided that if, no further CPRE RFP Solicitations are scheduled, the electric public utility shall take such action as is directed by the Commission.

#### **Rule R8-71(b)**

"T&D Sub-Team" shall mean those members of the Evaluation Team responsible for assessing the impacts of proposals on the electric public utility's transmission and distribution system and assigning any system upgrade costs attributable to each proposal pursuant to R8-71(f)(3)(ii)(B). The T&D Sub-Team shall be designated in writing to the Independent Administrator and shall have no communication, either directly or indirectly, with the other members of the Evaluation

## ATTACHMENT B

Team or a market participant concerning any proposal, except through the Independent Administrator, from the date on which the draft CPRE RFP Solicitation documents are issued by the Independent Administrator until the CPRE RFP Solicitation is deemed closed.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Petition of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC to Amend Commission Rule R8-71(f)(3), filed in Docket No. E-100, Sub 150, was served electronically or via U.S. mail, first-class postage prepaid, upon all parties of record.

This the 29<sup>th</sup> day of March, 2018.

/s/Andrea R. Kells

Andrea R. Kells

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