

**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)	INITIAL COMMENTS
Approval of Green Source Advantage Choice)	OF THE PUBLIC STAFF
Program and Rider GSAC)	

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, pursuant to the Commission’s Order Requesting Comments issued in the above-captioned dockets on February 9, 2023, and respectfully submits the following comments on the petition (Petition) of Duke Energy Carolinas, LLC (DEC) and Duke Energy Progress, LLC (DEP) (collectively, Duke or the Companies) for approval of the Green Source Advantage Choice (GSAC) Program and associated riders (Rider GSAC in DEC and Rider GSAC-1 in DEP).

BACKGROUND

1. On January 27, 2023, Duke filed its Petition for approval of the GSAC Program and associated riders. The Petition stated that the GSAC Program had

been developed to fulfill the directives of S.L. 2021-165 (HB 951).¹ The Petition also stated that the proposed GSAC Program incorporates stakeholder feedback gathered in a series of stakeholder meetings that began in June 2022.

2. On February 9, 2023, the Commission issued its Order Requesting Comments. The Order provided that parties may file initial comments on or before March 28, 2023, and that parties may file reply comments on or before April 11, 2023.

3. On March 24, 2023, the Public Staff filed a motion seeking to extend the time for filing initial comments to April 25, 2023, and seeking to extend the time for filing reply comments to May 16, 2023. The Commission granted the extension on March 28, 2023.

4. The Attorney General's Office, the North Carolina Sustainable Energy Association, the Carolina Industrial Group for Fair Utility Rates II and III, the Carolina Utility Customers Association, the Southern Alliance for Clean Energy, the Clean Energy Buyers Association, Google LLC, the Carolina Clean

¹ Section 5 of HB 951 requires the Commission to:

[E]stablish a rider for a voluntary program that will allow industrial, commercial, and residential customers who elect to purchase from the electric public utility renewable energy or renewable energy credits, including in any program in which the identified resources are owned by the utility in accordance with sub-subdivision b. of subdivision (2) of Section 1 of this act, to offset their energy consumption, which shall ensure that customers who voluntarily elect to purchase renewable energy or renewable energy credits through such programs bear the full direct and indirect cost of those purchases, and that customers that do not participate in such arrangements are held harmless, and neither advantaged nor disadvantaged, from the impacts of the renewable energy procured on behalf of the program customer, and no cross-subsidization occurs.

Energy Business Association, and the United States Department of Defense and all other Federal Executive Agencies have intervened in the above-captioned dockets.

PROGRAM DESCRIPTION

5. The GSAC Program would provide eligible commercial and industrial customers with the option to purchase locally-sourced Clean Energy Environmental Attributes (CEEAs), which would be comprised of both Renewable Energy Certificates (RECs), as defined by N.C. Gen. Stat. § 62-133.8(a)(6),² and carbon emission reduction attributes that are not included in the statutorily defined REC. Duke asserts that this offering is consistent with HB 951's intent to enable customers to support the use and development of renewable energy and to reduce their carbon footprint. The GSAC Program would supplant the current Green Source Advantage (GSA)³ and GSA Bridge⁴ programs.

6. Under the proposed GSAC Program, CEEAs would either be generated by Duke-owned assets or purchased by Duke from renewable energy facilities interconnected to the Companies' North Carolina and South Carolina systems. Duke explains that these renewable energy facilities are intended to be

² A REC is defined as a "tradable instrument that is equal to one megawatt hour of electricity or equivalent energy supplied by a renewable energy facility, new renewable energy facility, or reduced by implementation of an energy efficiency measure that is used to track and verify compliance with the requirements of this section as determined by the Commission" and "does not include the related emissions reduction, including, but not limited to, reductions of sulfur dioxide, mercury, or carbon dioxide." N.C.G.S. § 63-133.8(a)(6).

³ Approved in Docket Nos. E-2, Sub 1170, and E-7, Sub 1169.

⁴ Approved in Docket Nos. E-2, Sub 1306 and E-7, Sub 1277.

solar or wind facilities that must be registered as renewable energy facilities under Commission Rule R8-66 and with the North Carolina Renewable Energy Tracking System (NC-RETS) to facilitate the issuance and retirement of the REC portion of the CEEAs.

7. The Companies propose to make 4,000 MW of subscription capacity available for eligible subscribers. Pursuant to N.C.G.S. § 62-110.9(2)(b), 55% (2,200 MW) of this capacity must be utility owned, and 45% (1,800 MW) must be procured from third parties via a Power Purchase Agreement (PPA).⁵ Collectively, the 4,000 MW are referred to as “Available Renewable Energy Resources.” The Available Renewable Energy Resources would be sourced via competitive procurement to comply with the Carbon Plan, with the initial program capacity sourced from solar resources procured in the 2022 Solar Procurement (SP),⁶ the 2023 SP, and the 2024 SP.⁷ Future program capacity may include wind resources, if and when the Companies procure such resources.

8. There are two primary options for participation – the “CEEA Purchase Track” and the “GSAC PPA Track.” In the CEEA Purchase Track, the Companies will designate the amounts and type of renewable capacity that will be

⁵ N.C.G.S. § 62-110.9(2)(b) provides that “these ownership requirements shall be applicable to solar energy facilities . . . procured in connection with any voluntary customer program.”

⁶ Approved by the Commission’s November 1, 2022 Order Permitting Additional CPRE Program Procurement and Establishing Target Procurement Volume for the 2022 Solar Procurement in Docket Nos. E-2, Sub 1297 and E-7, Sub 1268.

⁷ Approved by the Commission’s December 30, 2022 Order Adopting Initial Carbon Plan and Providing Direction for Future Planning in Docket No. E-100, Sub 179, at 87.

made available to GSAC Customers as Available Renewable Energy Resources at the time each procurement process is completed.⁸ GSAC Customers can opt to participate in this option on a first-come, first-served basis, until the Available Renewable Energy Resources are consumed. Duke will procure CEEAs from these Available Renewable Energy Resources, and the CEEA charge applied to the customer's bill will be based on market rates.⁹ No bill credit is linked to the renewable energy production of selected facilities, and as such, this program more closely resembles a REC purchase program than a renewable energy purchase program.¹⁰

9. In the GSAC PPA Track, customers can independently negotiate with a renewable energy developer and enter into a GSAC Facility PPA, similar to the legacy GSA Program. GSAC Facility PPA capacity will not be selected through the competitive procurement processes and will not be part of the Available Renewable Energy Resources allotment. Such a facility could include energy storage or some other clean energy technology,¹¹ and the dispatch of the energy storage asset would be part of the negotiations between the GSAC Customer and

⁸ To the extent possible, some available capacity will also be designated for other voluntary customer renewable programs.

⁹ Duke states that the typical definition of a REC nationwide is comparable to a CEEA, and that it will utilize a third-party REC service and the Companies' expertise to calculate the market rate.

¹⁰ The CEEA Purchase Track does not fall short of the requirements of HB 951. HB 951 requires that the Commission shall also "establish a rider for a voluntary program that will allow industrial, commercial, and residential customers who elect to purchase from the electric public utility renewable energy or renewable energy credits..."

¹¹ While the GSAC Program allows contracting with other clean energy technology in addition to energy storage, for brevity the Public Staff refers throughout these comments to energy storage.

the GSAC Facility. The rate negotiated between the GSAC Customer and the GSAC Facility is the GSAC Product Charge. The GSAC PPA Track also offers a GSAC Bill Credit, which would be based upon an hourly marginal avoided cost or the administratively established avoided cost (calculated over a period of 2, 5, or 10 years, based upon the chosen GSAC contract length), similar to the legacy GSA Program.

10. In both the CEEA Purchase Track and the GSAC PPA Track, the Petition provides two additional options: (1) a non-energy storage track, which procures renewable energy only; and (2) an energy storage track, which procures renewable energy coupled with energy storage. These four tracks (the CEEA Purchase Track with and without energy storage, and the GSAC PPA Track with and without energy storage) are presented in Public Staff Exhibit 1.

11. For the CEEA Purchase Track, the energy storage resource would be utility-owned and dispatched to time-align GSAC Customers' consumption with GSAC Facility production, to the extent that such time-alignment also results in energy storage dispatch patterns that benefit the system.¹² The GSAC Customer would also be required to pay for a portion of the energy storage asset, either as an upfront Contribution in Aid of Construction or as a levelized demand payment over the contract term. The portion of the energy storage asset for which the

¹² This concept is described in more detail in Appendix A to the Petition.

customer would be required to pay would be proportional to the use of that asset that is attributable to meeting the GSAC Customer's needs.¹³

12. For GSAC Customers in the GSAC PPA Track, the energy storage resource would be owned by a third party (the GSAC Facility) with no Contribution in Aid of Construction because the GSAC Product Charge would include the energy storage costs. The energy storage would be dispatched according to the terms negotiated by the GSAC Customer and GSAC Facility.

13. The Companies state that "[a]ny GSA[C] Facility PPAs will reduce the size of future procurements to ensure ultimate alignment with resources selected in the most recent Carbon Plan Order and subsequent biennial combined Carbon Plan and Integrated Resource Plans ("CPIRP") approved by the Commission."¹⁴ In other words, if a GSAC Customer independently negotiates with a GSAC Facility under the GSAC PPA Track, the capacity of that facility would reduce future procurements of renewable energy.

14. GSAC customers who select the Available Renewable Energy Resources option will pay their normal utility bill, plus the sum of: (1) the CEEA charge (based on market rates); and (2) the GSAC administrative fee, which will not exceed 20% of the CEEA charge. The administrative fee will be reviewed

¹³ The Companies state that they will make available any agreements executed under this provision to the Public Staff to ensure non-participants are held harmless.

¹⁴ Petition, at 6.

annually to ensure that fees collected match administrative expenses; any gap will require adjustment in the following year.

15. GSAC customers who select the GSA Facility PPA option will pay their normal utility bill, plus the sum of: (1) the GSAC product charge that is based on the PPA price negotiated between the GSAC Customer and the GSAC Facility; (2) the GSAC Bill Credit; and (3) the GSAC administrative charge. The GSAC administrative charge is \$375 per customer account, plus an additional \$50 per additional account billed (in the case of aggregated facilities). This is the same amount used in the legacy GSA Program.

16. For the non-energy storage track, nonresidential customers with a maximum annual peak demand of at least 1 MW, or with an aggregated peak demand of at least 5 MW at multiple service locations within DEC's or DEP's service territory, are eligible to participate. For the energy storage track, nonresidential customers with a maximum annual peak demand of at least 15 MW, or with an aggregated peak demand of at least 30 MW at multiple service locations within DEC's or DEP's service territory, are eligible to participate.

17. These customers may subscribe up to 100% of their energy consumption, subject to capacity availability, for term lengths of 5, 10, 15, or 20 years. An additional term of two years is available for GSAC Facility PPAs that select the Administratively Established Avoided Cost Bill Credit, and any term length up to 20 years is available for GSAC Facility PPAs that select the Hourly

Marginal Avoided Cost Bill Credit. The GSAC Customer must be in the same service territory as the GSAC Facility.

18. The Companies propose to track, record, and retire the CEEAs on behalf of customers and state that, under the GSAC Program, the RECs would be retired on behalf of customers with NC-RETS but would not be used toward Duke's Renewable Energy and Energy Efficiency Portfolio Standard (REPS) compliance or compliance with HB 951. Documentation would be provided to the customer to authenticate the retired carbon emission reduction attribute. The Companies state that they are implementing an enterprise-wide internal tracking system for CEEAs that would be used to facilitate tracking and authentication of the carbon reduction attributes. The Companies further state they have not worked with NC-RETS to integrate CEEA tracking into that platform.

19. With respect to cost recovery, the Companies state that they will not include program costs in future cost-of-service studies, as these costs will be recovered through the administrative fee (for the CEEA Purchase Track) and the administrative charge (for the GSAC PPA Track). The Companies further state that the revenue from the CEEA sale would be booked to FERC account 456 (Other Electric Revenue). These revenues would then flow back to all ratepayers through base rates or an annual rider, partially offsetting the cost of the facility.

PUBLIC STAFF REVIEW

20. The Public Staff participated in multiple stakeholder meetings that occurred prior to the filing of this program from roughly June 2022 through February 2023. The Public Staff's role in those meetings was largely to determine what characteristics potential customers and developers were looking for in renewable energy purchase programs. At a high level, the Public Staff was left with the impression that large commercial and industrial customers voluntarily paying a premium price for renewable energy generally want that renewable energy to be additional to what the Companies are already planning to procure.

21. The United States Environmental Protection Agency (EPA) defines "regulatory surplus" in the following way:

Buyers of green power want their purchases to make a difference and demonstrate exclusive use of renewable electricity. To do so, the renewable electricity that they purchase or generate must go beyond what otherwise would have been available through the standard electricity mix or what the law requires or mandates to meet a compliance obligation. This is referred to as regulatory surplus because the additional renewable electricity being purchased is surplus to regulatory requirements.¹⁵

¹⁵ EPA, Green Power Markets, Regulatory Surplus (last accessed Apr. 22, 2023) <https://www.epa.gov/green-power-markets/regulatory-surplus>. The EPA further explains that:

One key motivation for buying green power is the ability of a buyer to demonstrate to its customers, employees, and other stakeholders that its renewable electricity purchases are making a difference. To do this, buyers must be able to show that they contributed to demand for renewables beyond what is already required by policies.

Id.

The concept of regulatory surplus is also discussed in terms of “additionality.”

22. The Public Staff is concerned about the attractiveness of the GSAC Program to potential customers, which will determine whether the program succeeds. As filed, the GSAC Program appears designed to prevent the procurement of additional renewable energy above and beyond what Duke is already planning to procure to comply with HB 951’s carbon reduction mandates.

23. For example, the CEEA Purchase Track essentially sells to GSAC Customers the REC and the carbon reduction attribute (together, the CEEA) created by resources that Duke will procure to comply with the Carbon Plan. The CEEA Purchase Track does not add renewable energy to the system, nor does it offer any type of incentive for developers or the Companies to accelerate the addition of renewable resources. It therefore does not result in a regulatory surplus.

24. Likewise, while the GSA PPA Track offers customers an option to initially procure additional renewable energy resources outside of the annual Carbon Plan procurements, Duke proposes to reduce future procurements by the amount of GSA PPA Track capacity. Thus, even if an interested customer makes the effort to negotiate and agree to terms with a renewable developer on its own accord, that effort would result in lower future procurement volumes by Duke and no net addition to the renewable resources that Duke would have otherwise procured. While Duke claims that the intent behind its proposal is to “ensure ultimate alignment with resources selected” in the 2022 Carbon Plan and future

CPIRPs approved by the Commission, the entire objective behind regulatory surplus is that resources are procured beyond what is required by law, which necessitates a divergence between total resources procured and those called for by the Carbon Plan.

25. After Duke filed its Petition, the Public Staff contacted multiple intervenors and large customers that have participated in the GSA Program to discuss their thoughts on the proposal. A common criticism is that the program does not provide for additionality; GSAC Customers who subscribe to this program will not cause additional renewable resources to be added to the system above and beyond what Duke would have otherwise added absent their participation. Some opined that, because of this lack of regulatory surplus, their corporate policies would prevent them from participating in the program as filed.

26. Green-e is an independent organization that certifies RECs and REC tracking systems, including NC-RETS, nationwide. In its published standards for renewable energy tracking, it states:

Green-e ® Energy certified products must be comprised of eligible renewable generation over and above anything required by state or federal RPS requirements, legislation, or settlement agreements (regulatory surplus). Green-e ® Energy does not certify renewable electricity or REC sales that result in double counting, including double counting between compliance and voluntary markets. . . .

Renewable energy or RECs may not be used in a Green-e ® Energy certified product under the following circumstances:

1. The REC or the electricity from which the RECs are derived is being used simultaneously to meet a local, state, or federal energy mandate or other legal requirement; or

2. The RECs or renewable electricity are derived from a renewable facility that has been mandated by a local, state, or federal government agency or was required under any legal requirement; or

3. Capacity (MW) and/or generation facilities associated with the renewable electricity or RECs are used for compliance, even when RECs are not required to determine compliance with an RPS or similar policy.¹⁶

27. The Green-e standards for RECs would apply to CEEAs if Duke chose to seek third-party certification,¹⁷ and according to those standards, the CEEAs that Duke proposes to sell to customers would not be certifiable by Green-e nor likely any similar organization because the GSAC Program would not produce CEEAs that are over and above anything required by state legislation. The above-cited standards also explicitly note that Green-e cannot certify renewable energy or RECs if the generation facilities associated with the RECs are used for statutory compliance, “even when RECs are not required to determine compliance” with state legislation.¹⁸ Furthermore, Duke has stated that it does not intend to have a third party certify the CEEAs.

28. While the Companies state that the CEEA concept was developed after receiving feedback from multiple stakeholders indicating that customers

¹⁶ See Green-e ® Renewable Energy Standard for Canada and the United States, Version 4.1, at 14 (last accessed Apr. 14, 2023), <https://www.green-e.org/docs/energy/Green-e%20Standard%20US.pdf>.

¹⁷ Duke has acknowledged that a CEEA, which is the sum of a REC as defined in North Carolina and its associated carbon reduction attributes, would be recognized as a REC in most other jurisdictions.

¹⁸ HB 951 does not require the retirement of CEEAs, RECs, or any other certificate to determine compliance.

wanted to be able to obtain the carbon emission reduction attribute, the inability to certify CEEAs by an independent third party could potentially deter customers that might otherwise desire the CEEA Purchase Track. Similarly, the lack of additionality or regulatory surplus could potentially deter customers who would otherwise be interested in the GSAC PPA Track. In general, the Public Staff believes that the lack of regulatory surplus inherent to this proposed program could open the program and its participants up to claims of “greenwashing,” whereby entities claim they are supporting renewable energy without meaningfully contributing to the incremental procurement of renewable energy.

29. The Companies defend the program’s lack of regulatory surplus by referencing the physical limit to annual interconnection of new generation resources, reiterating arguments made during the Carbon Plan proceedings. The Companies stated in discovery that procuring additional solar that cannot be interconnected in a timely fashion will result in excess solar PPAs that could have been procured at a later date, and possibly at lower prices. The Public Staff disagrees for two reasons.

30. First, GSAC PPA Track participants would negotiate a price that would be recovered from GSAC Customers through the GSAC Product Charge, along with the offsetting bill credit linked to avoided cost rates. If a GSAC Facility connects one year later than anticipated due to physical interconnection limits, non-participating customers would not be harmed because they would only pay the avoided cost for the energy produced by that facility.

31. Second, the Public Staff and many intervenors in the Carbon Plan proceedings urged the Companies to find ways to interconnect renewable resources more efficiently, such as streamlining the interconnection process, utilizing surplus and replacement generation interconnection requests, and proactively planning transmission grid upgrades to facilitate more rapid interconnections. The Public Staff also proposed a Performance Incentive Mechanism in DEP's ongoing general rate case¹⁹ linked to utility-scale renewable interconnections. The Public Staff is supportive of appropriate interconnection limits in the Carbon Plan modeling but does not believe those limits should be used to justify a voluntary renewable energy purchase program with no additionality.

32. Minor changes to the GSAC Program could alleviate many, if not all, of the Public Staff's concerns above. The Public Staff sets forth several proposed changes below.

CONCLUSIONS AND RECOMMENDATIONS

33. The Public Staff's review of the Petition and feedback from intervenors and other large customers indicate that the GSAC Program as filed will likely not be successful. The Public Staff recommends that the Commission deny Duke's Petition as filed and direct Duke to revise the program and associated riders to implement the recommended modifications below. The Public Staff's

¹⁹ Docket No. E-2, Sub 1300.

proposed modifications are presented in a revised program diagram in Public Staff Exhibit 2.

34. To address the lack of regulatory surplus in the GSAC PPA Track, the Public Staff recommends that the Commission direct the Companies to remove the requirement that any future renewable energy procurements be reduced by the capacity of any GSAC Facilities that enter into contracts with GSAC Customers. In addition, the Companies must take steps in future CIPRP proceedings to ensure that they adjust resultant renewable energy procurements upward to account for any GSAC Facilities that are expected to come online.

35. To illustrate the adjustment mechanism, consider the following simplified example. Assume a 50 MW solar GSAC Facility under the GSAC PPA Track has a signed interconnection agreement and is expected to achieve commercial operation in 2029; presumably it would be included in the CIPRP model baseline as a “forced in”²⁰ resource coming online in 2029.²¹ Further assume that Duke’s system requires a total of 1,000 MW of new solar resources in 2029 as part of the least cost plan. When the model is run, it will only need to economically select 950 MW of new solar resources in 2029, because the 50 MW is already part of the baseline. When the Company requests Commission approval for the procurement of solar resources to be online by 2029, it should add the 50

²⁰ As opposed to a resource that is economically selected by the model.

²¹ This is similar to how Competitive Procurement of Renewable Energy (CPRE) solar facilities were forced into the Carbon Plan. For a more detailed discussion of this modeling process, please see Public Staff witness Jeff Thomas’ direct testimony, filed September 2, 2022, in Docket No. E-100, Sub 179, at 28, 64-65.

MW GSAC capacity to the 950 MW of economically selected solar, and then seek to procure 1,000 MW of total solar resources independent of the GSAC Facility. By following this process, a total of 1,050 MW of solar will be procured – 1,000 MW of which are attributable to meeting HB 951 compliance in the least cost manner, and 50 MW of which are attributable to the GSAC Customer. This incremental 50 MW would be considered regulatory surplus as requested by customers.

36. As an alternative to the above adjustment mechanism, the Companies could also simply not include the capacity from any GSAC Facilities in their CPIRP modeling, whether they are expected to come online or are already operational. Annual procurements of Carbon Plan and GSAC resources would then be conducted independently from capacity procured through the GSAC PPA Track and would be based on the CPIRP outputs without any adjustment. However, this process presents some challenges to modeling system operations because GSAC Facilities are considered system resources.

37. The interrelation between CPIRP modeling, annual solar and solar plus storage procurements, and the GSAC Program can be addressed in a variety of ways. The Public Staff believes that the adjustment mechanism proposed above is the most straightforward solution but is open to discussing alternatives with the Companies and intervenors.

38. Regarding the CEEA Purchase Track, the Public Staff's investigation suggests that many large customers would not be willing to pay a premium price to purchase an uncertified CEEA from Duke. However, a CEEA Purchase Track in

concept is desirable because some large customers who would like to participate in the GSAC Program do not have the ability or resources to negotiate independently with a GSAC Facility developer. This track could be modified to resemble the GSAC PPA Track with the exception that the Companies would procure these resources through their annual competitive procurements. The Public Staff therefore proposes a new GSAC RFP Track, as described below.

39. In the GSAC RFP Track proposed herein, the Companies could open a GSAC enrollment window simultaneously with their annual Request for Proposals (RFP) window. Interested large customers could register and indicate the number of MWhs of renewable energy they are seeking to procure each year with a maximum price (in \$ per MWh) they are willing to pay, along with the desired contract length and bill credit option. Once the Companies receive and evaluate the annual RFP results, they would first procure the capacity required to meet system needs to ensure least-cost planning, subject to the previously described GSAC PPA Track adjustment mechanism.²²

40. Then, Duke would review the next best-ranked proposals and attempt to procure a portfolio of additional GSAC resources that would meet as many GSAC Customers' requests as possible without exceeding each GSAC Customer's maximum price. Once GSAC Customers and additional GSAC Facilities are matched (one GSAC Facility may serve more than one GSAC Customer), these GSAC Facilities would then be treated as GSAC PPA Track

²² The procurement of system resources prior to GSAC resources ensures that non-participants are held harmless and that no cross-subsidization occurs.

facilities, with the exception that some of the GSAC Facility capacity could be utility owned. The GSAC Product Charge would be the GSAC Facility RFP bid price (inclusive of network upgrades) to which the GSAC Customer has been matched. Under the GSAC RFP Track, some GSAC Customers may not receive any renewable energy if their maximum price is lower than the next available incremental GSAC Facilities' bids.

41. As an alternative to the above GSAC RFP Track recommendation, the Commission could either deny the CEEA Purchase Track entirely, or approve it as-is but also require Duke to include a disclaimer in program marketing and tariffs informing potential customers that the CEEAs procured through the GSAC Program are not certified by any third party and do not represent additional renewable energy procured above and beyond what is already required to comply with HB 951. The Public Staff is willing to discuss other potential solutions to the lack of regulatory surplus with the Companies and intervenors.

42. The Public Staff is generally supportive of Duke's energy storage option with modifications. The mechanism for GSAC Customers who contract with energy storage facilities through the GSA PPA Track are fairly straightforward – the negotiated PPA rate includes the energy storage cost. For GSAC Customers that want energy storage but wish to participate in the GSA RFP Track, Duke will need to dispatch the energy storage device so that it maximizes system benefits and matches renewable energy with system needs whenever possible, as described in Appendix A to the Petition. If Duke has full dispatch control over third-

party storage assets under any future solar plus storage procurements, the GSAC RFP Track customers that want energy storage should be able to contract with either Duke-owned or third-party owned solar plus storage assets. However, if full control is not possible, these customers should only be able to contract with Duke-owned storage.²³

43. The Public Staff recommends approval of Duke's proposed 4,000 MW program limit. However, the 250 MW annual limit on GSAC PPA Track capacity may be too low, particularly if the Commission adopts the Public Staff's recommendation on the CEEA Purchase Track. The Public Staff recommends that the Commission set the annual capacity limit for both the GSAC PPA Track and the GSAC RFP Track to 400 MW, which represents the total program capacity divided over ten years.

44. In conclusion, the Public Staff recommends that the Commission deny the Petition and direct Duke to modify its proposed GSAC Program and associated riders to provide for regulatory surplus and to adjust future CPIRP renewable energy procurements to account for GSAC Facilities. In sum, the Public Staff recommends modification of the proposed GSAC PPA Track, elimination of the CEEA Purchase Track, and creation of a new GSAC RFP Track to allow for the participation of as many large non-residential customers as possible, up to the proposed annual and cumulative program limits, as described in these comments.

²³ The extent of Duke control over third-party solar plus storage assets procured in the 2023 Solar Procurement is still being determined in Docket Nos. E-2, Sub 1317 and E-7, Sub 1290.

Respectfully submitted, this the 25th day of April, 2023.

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CERTIFICATE OF SERVICE

I certify that a copy of these 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 25th day of April, 2023.

Electronically submitted
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Staff Attorney



