

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH
DOCKET NO. E-100, SUB 101**

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Petition for Approval of Generator Interconnection Standard) NORTH CAROLINA) ATTORNEY GENERAL'S OFFICE'S) REPLY COMMENTS REGARDING) THE PETITION FOR LIMITED) WAIVER
--	---

NOW COMES the North Carolina Attorney General's Office ("AGO") and, pursuant to the Commission's September 14, 2020, *Order Requesting Comments on Petition for Limited Waiver*, respectfully submits the following reply comments in response to initial comments filed by the Public Staff and GreenGo Energy US, Inc. ("GreenGo") regarding the petition for approval of three waivers from the North Carolina Interconnection Procedures, which was filed by Duke Energy Carolinas, LLC ("DEC"), and Duke Energy Progress LLC ("DEP," and together with DEC, "Duke"); Birdseye Renewable Energy, LLC ("Birdseye"); Carolina Solar Energy LLC ("Carolina Solar"); Cypress Creek Renewables, LLC ("CCR"); Pine Gate Renewables, LLC ("Pine Gate"); Southern Current LLC ("Southern Current"); National Renewable Energy Corporation ("NARENCO"); Strata Solar, LLC, and Strata Solar Development, LLC (collectively and individually, "Strata"); DEPCOM Power, Inc. ("DEPCOM"); and Ecoplexus, Inc. ("Ecoplexus") (collectively, "Settlement Parties" or "Petitioners") to advance the Settlement Parties' Interconnection Settlement (the "Interconnection Settlement").

I. PROCEDURAL BACKGROUND

The Settling Parties submitted the Joint Notice of Interconnection Settlement and Petition for Limited Waiver on September 3, 2020 (the “Joint Notice and Petition”). The Joint Notice and Petition disclosed the Settling Parties’ execution of the Interconnection Settlement, pursuant to which Settling Parties released certain pending and/or potential future claims related to the North Carolina Interconnection Procedures (“the Procedures”). Moreover, it requested that the Commission grant three waivers from the Procedures to facilitate the Interconnection Settlement and support the processing of certain, pending interconnection requests. Those waivers are as follows:

1. Waiver of Interdependency Construct – In relevant part, Sections 1.7, 1.8, and 4.4.2 of the Procedures prevent newer projects from interconnecting if their interconnection is contingent upon network upgrades for older projects being paid. Subject to the Commission’s grant of a waiver, Section 5(a) of the Interconnection Settlement would relieve certain “transmission-constrained, distribution-connected” projects from complying with these procedures if settling Interconnection Customers, among other things, agreed to curtail their generation.
2. Waiver of Serial Study Requirement – Sections 1.4.2 and 1.7.1 of the Procedures require a project seeking interconnection to be processed in order from when the original interconnection request was submitted. Subject to the Commission’s grant of a waiver, Section 3(c)(i) of the Interconnection Settlement would allow settling Interconnection

Customers to interconnect a certain number of their projects “out of order” if interconnection did not adversely impact any Interconnection Customers that declined to join the Interconnection Settlement (“Non-Participating Customers”).

3. **Material Modification Waiver** – Sections 1.5.1.1.4 and 1.5.1.2.7 of the Procedures provide that it is a material modification of an interconnection request for an Interconnection Customer to decrease the AC output of its proposed generating facility by more than 10%. Under these circumstances, an Interconnection Customer would likely be required to remove its interconnection request unless it committed to maintaining its original AC output. Subject to the Commission’s grant of a waiver, Section 2(b)(ii)(2) of the Interconnection Settlement would allow a settling Interconnection Customer to curtail its generating facility’s AC output by more than 10% without triggering a material modification.

The Commission’s September 14 Order required comments from the Public Staff on the requested waivers on or before September 25, 2020, requested comments from all other parties on or before that same date, and requested reply comments from all parties on or before October 2, 2020.

II. PUBLIC STAFF’S COMMENTS

The AGO largely concurs with the Public Staff’s observations regarding the requested waivers. While the AGO applauds the Settling Parties for their diligence and creativity in reaching a comprehensive resolution, more information would be

helpful on what safeguards would be implemented to prevent the waivers from inadvertently shifting network upgrade costs to Non-Participating Customers, burdening Non-Participating Customers in other areas, and impacting system reliability. Specifically, the AGO supports the Public Staff's requests for information on:

1. The additional technical support that would be provided for eligible projects under Section 5(a) of the Interconnection Settlement;
2. The potential impacts of the interdependency construct waiver on system operations, including, but not limited to "operations & maintenance; fuel utilization; increases or decreases in the cycling of traditional thermal assets; and whether the additional capacity will drive further need for future capital investments like static VAR compensators, energy storage, or locational voltage support to account for ramp restraints and or intermittency";¹ and
3. Actions that Duke will take to ensure that the serial study and material modification waivers do not shift network upgrade costs to Non-Participating Customers or otherwise adversely impact them.

III. GREENGO'S COMMENTS

GreenGo's primary contention appears to be that (1) the three waivers, if granted, would potentially violate N.C. Gen. Stat. § 62-140(a), which prohibits a public utility from making or granting any unreasonable preferences or advantages

¹ Comments of Public Staff, in Docket No. E-100, Sub 101 (September 25, 2020).

when offering its services and (2) the waiver relief must be extended to all Interconnection Customers.

The AGO takes no position on whether the Interconnection Settlement implicates N.C. Gen. Stat. § 62-140(a). To the extent that § 62-140(a) applies here, the AGO notes that “the Commission may determine any questions of fact arising” thereunder.

Notwithstanding the foregoing, the AGO is pleased with the largely successful efforts to achieve consensus around the queue reform proposal. It is the AGO’s hope that Duke, GreenGo, and other non-participating Interconnection Customers can reach a resolution, whether that is through the Interconnection Settlement or some other means, that addresses the interconnection backlog and cost control concerns.

IV. CONCLUSION

The AGO is encouraged that the Settlement Parties have committed to resolving pending and potential future claims associated with the Settling Developers’ Final Accounting Reports and establishing a robust protocol for processing certain interconnection requests. Overall, the Interconnection Settlement represents a significant, positive step forward for distributed energy in North Carolina and builds upon the State’s past successes in a cost effective manner. If granted, waiver relief would help facilitate this progress and growth.

WHEREFORE, the AGO respectfully requests that the Commission take these comments into consideration in reaching its decision in this proceeding.

Respectfully submitted this the 2nd day of October, 2020.

JOSHUA H. STEIN
ATTORNEY GENERAL

/s/

Munashe Magarira
Assistant Deputy Attorney General
N.C. Department of Justice
Post Office Box 629
Raleigh, N.C. 27602-0629
Telephone: (919) 716-6812
Facsimile: (919) 716-6050
mmagarira@ncdoj.gov

CERTIFICATE OF SERVICE

The undersigned certifies that she has served a copy of the foregoing NORTH CAROLINA ATTORNEY GENERAL'S OFFICE'S REPLY COMMENTS REGARDING THE PETITION FOR LIMITED WAIVER upon the parties of record in this proceeding by email or by depositing a copy of the same in the United States Mail, postage prepaid, this the 2nd day of October, 2020.

/s/

Munashe Magarira
Assistant Attorney General