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September 1, 2023

VIA ELECTRONIC FILING

Ms. A. Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

**Re: Duke Energy Progress, LLC's and Duke Energy Carolinas, LLC's
Motion to Conclude CPRE Program and Discontinue CPRE Program
Planning and Reporting Requirements
Docket Nos. E-2, Sub 1159 and E-7, Sub 1156**

Dear Ms. Dunston:

Enclosed for filing with the North Carolina Utilities Commission in the above-referenced proceedings on behalf of Duke Energy Progress, LLC and Duke Energy Carolinas, LLC is their *Motion to Conclude CPRE Program and Discontinue CPRE Program Planning and Reporting Requirements.*

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

Sincerely,

A handwritten signature in blue ink that reads "Ladawn S. Toon".

Ladawn S. Toon

OFFICIAL COPY

Sep 01 2023

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1159
DOCKET NO. E-7, SUB 1156

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Duke Energy Progress, LLC, and Duke)	MOTION TO CONCLUDE CPRE
Every Carolinas, LLC, Joint Petition for)	PROGRAM AND DISCONTINUE
Approval of Competitive Procurement of)	CPRE PROGRAM PLANNING
Renewable Energy Program)	AND REPORTING
)	REQUIREMENTS

NOW COME Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP” and together with DEC, the “Companies” or “Duke Energy”), pursuant to N.C. Gen. Stat. §§ 62-30, 62-31, 62-110.8(a), and 62-110.9, as well as North Carolina Utilities Commission (“Commission”) Rule R1-7, and hereby respectfully move the Commission to: (i) formally close or discontinue the program for competitive procurement of renewable energy (“CPRE Program”) established in N.C. Gen. Stat. § 62-110.8 consistent with its previous Order on this issue¹ and the new framework for procurement of solar energy facilities established in Session Law 2021-165 (“HB 951”); and (ii) discontinue the planning and reporting requirements established by the Commission in Commission Rule R8-71 Subsections (g) and (h) because the CPRE Program procurement implementation phase has now concluded.

¹ *Order Permitting Additional CPRE Program Procurement and Establishing Target Procurement Volume for the 2022 Solar Procurement*, at 7, Docket Nos. E-2, Subs 1159 and 1297, and E-7 Subs 1156 and 1268 (Nov. 1, 2022) (“November 1 Order”) (“the CPRE Program will be closed out upon the conclusion of the 2022 Solar Procurement.”).

BACKGROUND

A. The CPRE Program Framework for Renewable Procurement

1. On July 27, 2017, North Carolina Session Law 2017-192 was enacted and established, in part, a CPRE Program in N.C. Gen. Stat. § 62-110.8 that had the “purpose of adding renewable energy to the State's generation portfolio in a manner that allows the State's electric public utilities to continue to reliably and cost-effectively serve customers’ future energy needs.”

2. N.C. Gen. Stat. § 62-110.8(a) directed the Companies and an independent administrator to plan and then implement a program for the competitive procurement of renewable energy from new renewable energy facilities during a 45-month timeframe (the “CPRE Procurement Period”) under the Commission’s oversight.

3. N.C. Gen. Stat. § 62-110.8(h)(1) directed the Commission to adopt rules that would facilitate its implementation and oversight of the CPRE Program.

4. Pursuant to N.C. Gen. Stat. § 62-110.8(h)(1), the Commission adopted Commission Rule R8-71 in its *Order Adopting and Amending Rules* issued November 6, 2017.² Consistent with the statute, the Rule was designed, in part, to “provide for Commission oversight of the CPRE Program(s)[.]”³

5. On February 21, 2018, the Commission issued its *Order Approving and Modifying Joint CPRE Program* in this proceeding, commencing the 45-month CPRE Procurement Period. Between 2018 and 2021, the Commission oversaw the Companies’ implementation of Tranches 1 and 2 of the CPRE Program.

² Docket No. E-100, Sub 150.

³ Rule R8-71(a).

6. On November 21, 2021, the 45-month CPRE Program Procurement Period ended. Through the CPRE Procurement Period, the Companies procured a total of 1,185 CPRE Program megawatts (“MW”) through two CPRE Tranches.

7. On December 20, 2021, the Commission issued its *Order Determining Adjusted CPRE Program Procurement Target, Requiring Tranche 3 CPRE Program Procurement Solicitation, Approving Resource Solicitation Cluster, and Requiring Responses to Commission Questions Regarding Pro Forma PPA*, in which it directed DEC to target 596 MW in a CPRE Tranche 3 in order to fully meet the procurement requirements under N.C. Gen. Stat. § 62-110.8.⁴

8. On January 5, 2022, DEC issued the CPRE Tranche 3 Request for Proposals (“RFP”) seeking to procure 596 MW. The bid window for CPRE Tranche 3 closed on February 3, 2022.

9. Only two projects totaling 155 MW completed the Tranche 3 bid evaluation process and entered into contracts with DEC. At the close of Tranche 3, the Companies identified 441 MW of unawarded CPRE Program MW relative to the target CPRE Program MW total.

B. HB 951 and the Carbon Plan Framework for Procuring Solar Resources

10. On October 13, 2021, Governor Roy Cooper signed Session Law 2021-165 (“HB 951”) into law, establishing a new framework for the Commission to set a least cost path to carbon neutrality. HB 951 requires the Companies to take all reasonable steps to achieve 70% carbon emission reductions by 2030 and carbon neutrality from by 2050.

⁴ *Order Determining Adjusted CPRE Program Procurement Target, Requiring Tranche 3 CPRE Program Procurement Solicitation, Approving Resource Solicitation Cluster, and Requiring Responses to Commission Questions Regarding Pro Forma PPA* at 8, Docket Nos. E-2, Sub 1159 and E-7 Sub 1156 (Dec. 20. 2021).

Section 1 of HB 951 directed the Commission to develop a Carbon Plan that specifically plans for the addition of “new solar generation” by establishing a new framework for the balanced development and procurement of utility owned and of third-party-owned controllable solar facilities that supply power to the utility through the execution of power purchase agreements (“PPA”) under N.C. Gen. Stat. § 62-110.9(2)b.

11. Section 2(a) of HB 951 also amended N.C. Gen. Stat. § 62-110.8(a) by eliminating future procurements of renewable energy under the CPRE Program framework based upon a showing of need. Additionally, Section 2(b) of HB 951 repealed N.C. Gen. Stat. § 62-110.8(h)(5), which previously provided the Commission discretion to modify or delay compliance with the statutory CPRE Program requirements.

12. Additionally, Section 2.(c) of HB 951 authorized the Commission to direct the Companies to procure solar energy facilities in 2022 “if, after stakeholder participation and review of preliminary analysis developed in preparation of the initial Carbon Plan, the Commission finds that such solar energy facilities will be needed in accordance with the criteria and requirements set forth in Section 1 of [HB 951] to achieve the authorized carbon reduction goals.”

13. On March 14, 2022, in accordance with HB 951, the Companies filed a Petition for Authorization of the 2022 Solar Procurement Program pursuant to Section 2.(c) of HB 951, which sought Commission authorization of a system-wide competitive procurement seeking a minimum of 700 MW of utility-owned and third party solar energy resources sited in both North Carolina and South Carolina.⁵ On June 10, 2022, the

⁵ *Duke Energy Carolinas, LLC’s and Duke Energy Progress, LLC’s Petition for Authorization of 2022 Solar Procurement Program* at 1, Docket Nos. E-2, Sub 1297 and E-7 Sub 1268.

Commission issued an Order that authorized the Companies to proceed with the 2022 Solar Procurement Program.⁶

14. On June 20, 2022, the 2022 Solar Procurement RFP was issued soliciting 750 MW of new cost-effective solar resources between DEP and DEC.

C. Unawarded CPRE Program MW Procured through the 2022 Solar Procurement Program

15. On September 1, 2022, the Companies filed a petition requesting Commission approval to procure the 441 unawarded CPRE Program MW through the ongoing 2022 Solar Procurement.⁷

16. On November 1, 2022, the Commission issued an Order that required the Companies to attempt to procure the CPRE Program MW shortfall through the 2022 Solar Procurement RFP in a “final CPRE Program procurement” to be completed through the 2022 Solar Procurement.⁸

17. The Commission further ruled that “regardless of whether the CPRE MW shortfall is procured in total through the 2022 Solar Procurement, the CPRE Program will be closed out upon the conclusion of the 2022 Solar Procurement.”⁹

18. On June 30, 2023, the Companies filed a *Notice of Completion of 2022 SP Contracting Phase* (the “Notice”) in Dockets No. E-2, Sub 1297 and E-7, Sub 1268. As stated in the Notice, in the 2022 Solar Procurement, the Companies collectively contracted

⁶ *Order Approving Request for Proposals and Pro Forma Power Purchase Agreement Subject to Amendment* at 8, Docket Nos. E-2, Sub 1297 and E-7 Sub 1268.

⁷ *Petition for Approval to Procure CPRE Program Unawarded MW Through 2022 Solar Procurement; To Extend CPRE PPA Term; and for Waiver of Certain Provisions of NCUC Rule R8-71* at 19, Docket Nos E-2, Subs 1159 and 1297, and E-7, Subs 1156 and 1268.

⁸ November 1 Order at 7.

⁹ *Id.*

with 286 MW of controllable CPRE PPA solar resources and 679 MW of new controllable PPA and utility owned solar resources under the Commission's approved Carbon Plan and N.C. Gen. Stat. § 62-110.9.¹⁰

MOTION TO CONCLUDE CPRE PROGRAM

19. The CPRE Procurement Period has concluded and the additional procurement of CPRE Program MW approved in the November 1 Order through the 2022 Solar Procurement has now been completed. Pursuant to the November 1 Order, the CPRE Program should now be "closed out." Accordingly, the Companies respectfully move the Commission to formally conclude implementation of the CPRE Program under N.C. Gen. Stat. § 62-110.8 and to recognize that the Companies will continue to procure new solar resources identified as needed in the Commission's Carbon Plan under the procurement framework established by N.C. Gen. Stat. § 62-110.9(2)b.

20. Commission action to formally conclude implementation of the CPRE Program is in the public interest and consistent with the Public Utilities Act, as modified by HB 951, as well as the Commission's prior direction in the November 1 Order. The State's new framework for procuring renewable energy no longer relies upon or calls for implementation of the CPRE Program under N.C. Gen. Stat. § 62-110.8 and Commission Rule R8-71 and it is therefore appropriate and in the public interest for the Commission to provide direction to the Companies, as well as notice to interested parties, that the CPRE Program is now concluded.

¹⁰ As stated in Appendix I to the Companies' *Carolinas Resource Plan* filed on August 17, 2023, in Docket No. E-100, Sub 190, the projects procured in the 2022 Solar Procurement are expected to complete the interconnection study process in early 2024 and are targeted to come online in 2026-2027.

MOTION TO CONCLUDE CPRE PROGRAM PLANNING AND REPORTING REQUIREMENTS

21. As stated above, N.C. Gen. Stat. § 62-110.8(h)(1) directed the Commission to adopt rules that would facilitate its implementation and oversight of the CPRE Program.

22. To facilitate Commission oversight of the CPRE Program, Commission Rule R8-71 Subsections (g) and (h) require the Companies to make annual filings with the Commission that provide information related to the Companies' implementation of the CPRE Program. Now that the Commission has determined that implementation of CPRE Program should be concluded, there is no ongoing CPRE Program for the Commission to oversee and there is no need for the Rule's annual planning and reporting filing requirements.

23. Rule R8-71(g)(2) requires the Companies to annually file a CPRE Program plan ("Plan") with the Commission that "cover[s] the remainder of the CPRE Program Procurement Period."¹¹ As stated above, the 45-month CPRE Program Procurement Period ended on November 21, 2021. Once the Commission formally closes out the CPRE Program, there will be no need for an annual Plan as the Program will be concluded. Accordingly, the Companies request the Commission discontinue the requirement that the Plan be filed annually.

24. Discontinuing the CPRE Program planning requirements of Rule R8-71(g) is also appropriate because upon formal closure of the CPRE Program, Rule R8-71(g)'s specific reporting requirements will become contextually illogical and will not provide any

¹¹ The CPRE Program Procurement Period is defined in Rule R8-71(b)(5) as the "initial 45-month period in which the aggregate 2,660 MW of renewable energy resource nameplate capacity is required to be procured under the CPRE Program(s) approved by the Commission."

useful information to the Commission. Subsection (2) of Rule R8-71(g) sets forth the information that must be included in the Plan and clearly assumes that the Plan will discuss activities related to ongoing implementation of CPRE Program procurements. For example, Rule R8-71(g)(2)(ii) requires the Plan to include: “a description of the electric public utility’s planned CPRE RFP Solicitations and specific actions planned to procure renewable energy resources during the CPRE Program planning period.” As the Commission determined in the November 1 Order that there will be no more CPRE Program procurements, there will be no planned CPRE RFP Solicitations to describe and Rule R8-71(g)(2)(ii) serves no purpose. The same can be said about all of Rule R8-71(g)(2)’s requirements.

25. Rule R8-71(h)(1) similarly requires the Companies to annually file a CPRE Program compliance report (“Report”) contemporaneous with the CPRE Program annual rider filed pursuant to R8-71(j). Subsection (2) of Rule R8-71(h) sets forth the information that must be included in the Report and assumes that the Report will discuss activities related to ongoing CPRE Program procurements. Upon formal closure of the CPRE Program, nearly all of Rule R8-71(h)(2)’s reporting requirements also become contextually illogical. For example, Rule R8-71(h)(2)(i) requires the Report to include: “a description of CPRE RFP Solicitation(s) undertaken by the electric public utility during the reporting year . . .” and (h)(2)(ii) and (iii) respectively focus on “resources procured,” and “capacity and megawatt-hours of renewable energy and the number of renewable energy certificates obtained through the CPRE Program during the reporting year.” Because the Commission determined in the November 1 Order that the CPRE Program should be closed out and that

there will be no more CPRE Program procurements, there will be no new resources procured or obtained in future reporting years.

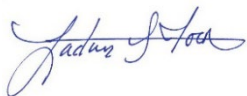
26. The Companies are not requesting the Commission to discontinue the applicability of Rule R8-71 in its entirety. For example, Subsection (j) “Cost of authorized revenue recovery” will continue to be applicable as the Commission is still required by N.C. Gen. Stat. § 62-110.8(g) to annually review the Companies’ request to recover CPRE Program costs through Rider CPRE. Information related to the status of CPRE projects and “the actual total costs and authorized revenues incurred by the electric public utility during the calendar year to comply with G.S. 62-110.8” as required by Rule R8-71(h)(2)(vi) will also continue to be provided by the Companies during their annual rider proceedings. Accordingly, pursuant to the above, and considering the Commission’s determination in the November 1 Order that the CPRE Program should be closed out, it is appropriate for the Commission to discontinue the annual planning reporting requirements set forth in Rule R8-71(g) and (h).

CONCLUSION

WHEREFORE, for the reasons stated above, Duke Energy Progress, LLC, and Duke Energy Carolinas, LLC, respectfully request that the Commission issue an order:

- i. Formally concluding or discontinuing implementation of the CPRE Program and transitioning to the new procurement framework established by N.C. Gen. Stat. § 62-110.9 and HB 951; and
- ii. Discontinuing the planning and reporting requirements set forth in Commission Rule R8-71 Subsections (g) and (h).

Respectfully submitted this 1st day of September, 2023.

By:  _____

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ATTORNEYS FOR DUKE ENERGY
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion to Conclude CPRE Program and Discontinue CPRE Program Planning and Reporting, as filed in Docket Nos. E-2, Sub 1159 and E-7, Sub 1156, were served electronically upon all parties of record.

This the 1st day of September, 2023.

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