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Nov 01 2021

November 1, 2021

**VIA Electronic Filing**

Ms. Shonta Dunston, Chief Clerk  
North Carolina Utilities Commission  
Dobbs Building  
430 North Salisbury Street  
Raleigh, North Carolina 27603

*Re: Motion for Extension of Time  
Docket No. SP-100, Sub 35*

Dear Ms. Dunston:

Enclosed for filing in the above-referenced proceeding on behalf of Duke Energy Progress, LLC is its *Motion for Extension of Time*.

Please do not hesitate to contact me should you have any questions. Thank you for your assistance with this matter.

Very truly yours,

/s/E. Brett Breitschwerdt

EBB:sjg

Enclosure

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. SP-100, SUB 35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	
Request for Declaratory Ruling by	)	DUKE ENERGY PROGRESS,
Sunstone Energy Development LLC	)	LLC’S MOTION FOR
Regarding the Provision of Solar Energy	)	EXTENSION OF TIME
and Energy Efficiency Service Within Fort	)	
Bragg	)	

NOW COMES Duke Energy Progress, LLC (“DEP”), pursuant to Rule R1-7 of the Rules and Regulations of the North Carolina Utilities Commission (“Commission”), and moves the Commission for an extension of time through and including November 15, 2021, for DEP and Sunstone Energy Development LLC (“Sunstone”) to file pre-argument briefs pursuant to the Commission’s October 20, 2021 *Order Scheduling Oral Argument, Allowing Briefing, and Requiring Responses to Commission Questions* (the “Order”).

In support of the foregoing, Duke shows the Commission the following:

1. On December 9, 2020, Sunstone filed a corrected Request for Declaratory Ruling requesting the Commission to find that Fort Bragg is not subject to the North Carolina Public Utilities Act because it is a federal enclave; (2) Sunstone’s provision of energy and energy efficiency services within the federal enclave of Fort Bragg does not subject Sunstone to the Public Utilities Act; and (3) the activities Sunstone proposes to undertake will not cause it to be considered a public utility under N.C. Gen. Stat. § 62-3(23) (“Petition”).

2. On May 4, 2021, the Commission issued an Order denying DEP's February 25, 2021 Motion to Dismiss for Failure to Meet Requirements of North Carolina Declaratory Judgment Act and required interested parties to file comments on the merits of Sunstone's Petition.

3. On June 8, 2021 DEP filed its Initial Comments on the Petition and on July 20, 2021 Sunstone filed its Reply Comments.

4. As the Commission notes in the Order, on September 7, 2021, the North Carolina Court of Appeals issued a decision in *State ex rel. Utils. Comm'n v. Cube Yadkin Generation LLC*, No. COA20-46, 2021 N.C. App. LEXIS 479 (N.C. Ct. App. Sept. 7, 2021) ("*Cube Yadkin*"). The Commission's Order provided DEP and Sunstone an opportunity to file pre-argument briefing by November 9, 2021, limited to the issue of whether and, if so, how the *Cube Yadkin* decision impacts the jurisdictional questions previously decided in the Commission's May 4, 2021 Order Denying Motion to Dismiss.

5. The Order also directed Sunstone or DEP, or both if appropriate, to file on November 9, 2021 verified written responses to six Commission questions addressing the current facts and circumstances related to matters presented in the Petition.

6. DEP requests an extension of time for the parties to file pre-argument briefs in order for the parties' briefs to be informed by certain verified responses to the Commission's questions.

7. Based on the foregoing, DEP requests an extension up to and including November 15, 2021, for DEP and Sunstone to file pre-argument briefs.

8. Counsel for DEP has contacted counsel for Sunstone and Sunstone consents to the extension.

WHEREFORE, Duke Energy Progress, LLC respectfully requests that the Commission grant this Motion for an extension of time through and including November 15, 2021 for DEP and Sunstone to file their pre-argument briefs, and grant such other relief as the Commission deems just and proper.

Respectfully submitted, this the 1<sup>st</sup> day of November, 2021.

*/s/ Brett Breitschwerdt*

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Motion for Extension of Time*, as filed in Docket No. SP-100, Sub 35, was served via electronic delivery or mailed, first-class, postage prepaid, upon all parties of record.

This, the 1<sup>st</sup> day of November, 2021.

*/s/E. Brett Breitschwerdt*

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