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JUL 27 2017

July 27, 2017

VIA ELECTRONIC FILING

Ms. M. Lynn Jarvis, Chief Clerk
North Carolina Utilities Commission
Dobbs Building
430 North Salisbury Street
Raleigh, North Carolina 27603-5918

Re: Docket No. E-2, Sub 1149

Dear Ms. Jarvis:

Enclosed for filing on behalf of Duke Energy Progress, LLC in the above-referenced proceeding is Duke Energy Progress, LLC's Answer to Complaint of Fresh Air XXIV, LLC, Fresh Air XXIII, LLC, and Fresh Air XXXVIII, LLC.

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:kjg

Enclosure

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1149

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Fresh Air XXIV, LLC, Fresh Air XXIII, LLC,)	
and Fresh Air XXXVIII, LLC,)	DUKE ENERGY PROGRESS,
)	LLC's ANSWER TO
Complainants,)	COMPLAINT OF FRESH AIR
)	XXIV, LLC; FRESH AIR XXIII,
v.)	LLC; AND FRESH AIR
)	XXXVIII, LLC
Duke Energy Progress, LLC,)	
)	
Respondent)	

NOW COMES Duke Energy Progress, LLC (“DEP,” “the Company,” or “Respondent”) pursuant to Rule R1-9 and answers the Complaint filed by Fresh Air XXIV, LLC, Fresh Air XXIII, LLC, and Fresh Air XXXVIII, LLC (collectively “Fresh Air”), related to three Interconnection Requests, described as Complainant Willoughby PV1, Complainant East Nash PV1, and Complainant Boykin PV1 (respectively “Willoughby,” “East Nash,” and “Boykin,” and together with Fresh Air, the “Complainants”) on June 13, 2017. Respondent has reviewed the Complaint and replies to the allegations as set forth below. Any allegation not specifically admitted shall be deemed denied.

SUMMARY OF ANSWER AND DEFENSES

Contrary to the allegations in the Complaint, DEP has met – and continues to meet – its obligations under the North Carolina Interconnection Procedures (“NCIP”) to use reasonable efforts to process and study Complainants’ Interconnection Requests as part of DEP’s and Duke Energy Carolinas, LLC’s (“DEC” and together with DEP, “the

Companies”) significant ongoing efforts to manage the approximately 5,700 megawatts (“MW”) of proposed generator Interconnection Requests in the Companies’ North Carolina interconnection queues.

The Company has made reasonable efforts to process and study the proposed Willoughby (19.99 MW), East Nash (20 MW), and Boykin (17 MW) generator Interconnection Requests to the DEP distribution system in “Queue Priority Order” pursuant to the NCIP. Prior to the Complainants’ lodging informal Notices of Disputes on July 15, 2016 (the “Disputes”), DEP admits that Complainants’ System Impact Study and Facilities Study processes were delayed as a result of interdependencies with lower queued Interconnection Requests, the need to evaluate potential transmission system impacts associated with interconnecting such large generating facilities to the DEP distribution system, as well as DEP’s ongoing challenge of managing the NCIP study process in light of the surging volume of generator Interconnection Requests proposing to interconnect to the DEP distribution system. Notably, however, prior to receiving the July 2016 Disputes, DEP had, in fact, completed the study process and delivered an Interconnection Agreement (“IA”) to Willoughby in March 2015 (which Complainant Willoughby ultimately failed to execute resulting in queue withdrawal), and was also proceeding with Facilities Study for both East Nash and Boykin.

In July 2016, in furtherance of the Companies’ responsibility under the Public Utilities Act and the NCIP to maintain system reliability and power quality and to ensure that electric service to existing or future retail customers is not degraded due to the operations of new interconnected generating facilities, the Companies developed and implemented the new circuit stiffness review (“CSR”) technical study criteria. In

November 2016, after reviewing the Companies' implementation of CSR, the Commission held that DEP and DEC are "taking appropriate steps to ensure that electric service to retail customers is not degraded due to the operations of interconnected generating facilities."¹ To that end, DEP has evaluated Complainants' Interconnection Requests under CSR, and has done so in a non-discriminatory and comparable manner to all other Interconnection Customers proposing to interconnect to the DEP distribution system.

Subsequent to the July 2016 Disputes, Complainants East Nash and Boykin have each provided written notice to DEP authorizing additional System Impact Studies to evaluate potential mitigation options in response to their CSR failures, and DEP is proceeding to complete the CSR advanced study process for these Interconnection Requests. Complainant Willoughby submitted a new Interconnection Request in September 2015, which is currently interdependent with two lower queued Interconnection Requests. Willoughby is, therefore, "On Hold" for System Impact Study in accordance with the interdependency provisions of the NCIP.

In addition to the Company's ongoing reasonable efforts to study Complainants' Interconnection Requests, DEP has also made good faith efforts to informally resolve Complainants' alleged Disputes. Since the Disputes were lodged in July 2016, DEP has participated in multiple telephone calls with representatives of Ecoplexus, Inc. ("Ecoplexus") and Complainants, as well as agreed to initiate bi-weekly calls with Ecoplexus, which began in February 2017, to discuss DEP's and DEC's ongoing processing of Ecoplexus' numerous Interconnection Requests in the Companies' respective interconnection queues. At this time, however, in recognition of the unresolved

¹ *Order Regarding Duke Settlement Agreement with Generation Interconnection Customers*, at 2 Docket No. E-100, Sub 101 (Nov. 1, 2016) ("Order on CSR Settlement Agreement").

Disputes and Complainants' filing of this Complaint, DEP commits to expeditiously complete the System Impact Study process for these Interconnection Requests in Queue Priority Order, and, specifically, to produce updated CSR mitigation options to the East Nash and Boykin Interconnection Customers within 45 Business Days of filing this Answer.

DEP also answers more generally that the Company is making reasonable efforts to process and study Complainants' Interconnection Requests under the NCIP in light of the unique and challenging interconnection landscape that continues to exist in North Carolina. The May 2015 NCIP Revisions, which were approved by the Commission with support from the Companies, a significant number of solar developers and the Public Staff of the North Carolina Utilities Commission ("Public Staff"), were intended to promote efficiency and to clear the clogged interconnection queue by providing an incentive for developers to withdraw projects they do not intend to pursue. However, the volume of proposed new Interconnection Requests has continued to be significant in 2016 and 2017. In response to this ongoing challenge, DEP and DEC have increased project management, study engineering, construction, and technological resources assigned to the complex task of managing the hundreds of proposed utility-scale solar generators in the DEP and DEC North Carolina interconnection queues. Similar to the 2014-2015 period preceding the NCIP revisions, the significant volume of new Interconnection Requests in 2016-2017, as well as the growing complexity of proposed distribution interconnections, continues to challenge DEC's and DEP's ability to process and study new Interconnection Requests.

While DEP answers that the Company is making reasonable efforts and otherwise commits to expeditiously complete the System Impact Study for East Nash and Boykin, as

requested by Complainants, DEP does not agree to Complainants' request that these Interconnection Requests not be required to conform to the Companies' currently-applicable System Impact Study technical criteria being applied to all other Interconnection Customers. DEP must manage the System Impact Study process in a deliberate and non-discriminatory manner to ensure that system safety, reliability of service, and power quality are maintained for all customers as increasing levels of variable and intermittent utility-scale solar generators request to interconnect to the system. Consistent with good utility practice, DEP and DEC have developed and are now implementing CSR and the distribution line voltage regulator ("LVR") policy, as further discussed herein, to meet these objectives. Accordingly, the Complainants' request to be absolved from these now generally-applicable study criteria is not reasonable or appropriate at this time. Simply put, the Companies should not be directed to discard good utility practice that has been developed based upon DEP's recent experience managing the interconnection study process and is now being applied to assure electric service to retail customers is not degraded in the future based upon the circumstances presented in this Complaint.

As further addressed in this Answer, DEP respectfully requests that the Commission find that the Company is making reasonable efforts to process the Willoughby, East Nash, and Boykin Interconnection Requests. In furtherance of that objective, DEP also commits to expeditiously complete the System Impact Study process for these Interconnection Requests in Queue Priority Order, and, specifically, to produce updated CSR mitigation options to the East Nash and Boykin Interconnection Customers within 45 Business Days of this Answer.

ANSWER

FIRST DEFENSE: RESPONSE TO COMPLAINANTS' ALLEGATIONS

The Company denies each allegation of the Complaint not hereinafter specifically admitted and responds as follows to the allegations in the Complaint:

(Parties)

1. Respondent admits the allegations of Paragraph 1 of the Complaint upon information and belief.
2. Respondent admits the allegations of Paragraph 2 of the Complaint upon information and belief.
3. Respondent admits the allegations of Paragraph 3 of the Complaint upon information and belief.
4. Respondent admits the allegations of Paragraph 4 of the Complaint upon information and belief
5. Respondent admits the allegations of Paragraph 5 of the Complaint upon information and belief.
6. Respondent admits the allegations of Paragraph 6 of the Complaint.
7. The allegations of Paragraph 7 are informational in nature and require no response.

(Facts)

8. In response to the allegations of Paragraph 8 of the Complaint, Respondent admits that DEP is a public utility subject to regulation by the Commission under the Public Utilities Act, and – with regard to DEP's business relationships with certain generating facilities, including Complainants – is subject to the Commission's authority to implement Section 210 of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), 16 U.S.C.S.

§ 824a-3, consistent with regulations established by the Federal Energy Regulatory Commission (“FERC”). 18 C.F.R. § 292.101 *et seq.* Respondent admits that the Commission has authority over the rules and procedures under which DEP manages interconnection of PURPA Qualifying Facility generators (“QFs”) to the DEP distribution system.

9. Respondent admits that the Commission’s Orders dated March 22, 2005, and July 6, 2005, approved initial procedures and agreements to govern interconnection of small generators requesting to interconnect to Respondent’s distribution system in North Carolina. These Orders of the Commission are in the public record of Docket No. E-100, Sub 101, and speak for themselves.

10. Respondent admits that the Commission’s Order dated June 9, 2008, issued in Docket No. E-100, Sub 101 (“*2008 NCIP Order*”), approved revised procedures, forms, and agreements to govern interconnection of small generators up to 10 MW requesting to interconnect to Respondent’s electric system in North Carolina (“*2008 NCIP*”). Respondent further admits that it is a Utility System within the meaning of the 2008 NCIP, and that the Company managed generator interconnections pursuant to the 2008 NCIP during the period that interconnection standard was in effect. Respondent denies, however, that the 2008 NCIP is applicable to all Interconnection Requests made after June 9, 2008, and before May 15, 2015, including Complainants’, as discussed further below. The *2008 NCIP Order* is in the public record of Docket No. E-100, Sub 101, and speaks for itself. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 10 of the Complaint.

11. Regarding Complainants' allegations on how the current NCIP were established, Respondent admits that the Commission issued an *Order Requesting Discussion and Comments* on April 11, 2014, in Docket No. E-100, Sub 101, directing the Public Staff to facilitate a stakeholder meeting between the Companies, Dominion North Carolina Power ("DNCP" and together with DEC and DEP, the "NC Utilities"), and all other interested parties to evaluate potential revisions to the then-existing NCIP. Respondent further admits that on May 15, 2015, the Commission issued the *Order Approving Revised Interconnection Standard*, in Docket No. E-100, Sub 101 ("*May 2015 NCIP Order*"), approving the revised NCIP. On May 16, 2015, the Commission also issued the *Order Approving Interconnection Agreement* approving the revised Interconnection Agreement ("IA"), and has subsequently issued further Orders in Docket No. E-100, Sub 101 related to the NC Utilities' implementation of the NCIP. The Orders issued in Docket No E-100, Sub 101 speak for themselves. Respondent denies that the Complaint accurately and completely characterizes the applicability of the NCIP, as presented in NCIP Section 1.1 and 1.1.3, but specifically admits that the current NCIP, as approved by the *May 2015 NCIP Order*, applies to the Complainants' respective Interconnection Requests that are the subject of this Complaint. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 11 of the Complaint.

12. The allegations of Paragraph 12 are informational in nature and require no response.

13. Section 1.3 of the 2008 NCIP speaks for itself. Respondent specifically admits that Section 1.3 of the 2008 NCIP required that an Interconnection Customer submit its Interconnection Request with a non-refundable processing fee or deposit. Respondent

notes that, as to Complainants, Section 1.3 of the 2008 NCIP was superseded by the deposit requirements set forth in Section 1.1.3 and Section 1.4 of the NCIP. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 13 of the Complaint.

14. Section 1.6 of the 2008 NCIP speaks for itself. Respondent admits that Section 1.9 of the NCIP, which is now applicable to Complainants, provides that Interconnection Requests submitted prior to the effective date of the 2015 NCIP revisions shall maintain their queue number, upon meeting certain requirements identified therein. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 14 of the Complaint.

15. Section 4.2 of the 2008 NCIP, relating to Scoping Meetings, speaks for itself.

16. Section 4.2 of the 2008 NCIP, relating to Scoping Meetings, speaks for itself.

17. Section 4.2 of the 2008 NCIP, relating to Scoping Meetings, speaks for itself.

18. Section 4.4 of the 2008 NCIP, relating to System Impact Studies, speaks for itself. Respondent specifically admits that the System Impact Study is intended to evaluate the impacts of the proposed generator interconnection on the reliability of the electric system, including a preliminary analysis of the cost and length of time necessary to correct any adverse impacts to the electric system identified during the System Impact Study in order to implement the interconnection. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 18 of the Complaint.

19. Section 4.4 of the 2008 NCIP, relating to System Impact Studies, speaks for itself.

20. Section 4.5 of the 2008 NCIP, relating to Facilities Studies, speaks for itself.

21. Section 4.5 of the 2008 NCIP, relating to Facilities Studies, speaks for itself.

22. Section 4.4 of the 2008 NCIP, relating to System Impact Studies, speaks for itself. Respondent denies that the 2008 NCIP provided Interconnection Customers the option to request an Interim Interconnection Agreement upon completion of System Impact Study, as now provided for in NCIP Section 4.3.8. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 22 of the Complaint.

23. Section 4.5 of the 2008 NCIP, relating to Facilities Studies, speaks for itself. Respondent denies that the 2008 NCIP provided Interconnection Customers the option in NCIP Section 4.3.8 to request an Interim Interconnection Agreement, and further denies that the NCIP or 2008 NCIP provides for an Interim Interconnection Agreement upon completion of the Facilities Study. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 23 of the Complaint.

24. Section 5.8 of the 2008 NCIP, relating to Interconnection Agreements, speaks for itself.

25. Respondent denies that Section 1.3 of the 2008 NCIP relates to the allegations contained in Paragraph 25 of the Complaint. Respondent admits that under Section 1.1.3 of the NCIP, as approved in the *May 2015 NCIP Order*, Interconnection Customers that had not executed an Interconnection Agreement with the utility prior to May 15, 2015, must demonstrate site control and post the interconnection study deposit required under the revised NCIP within thirty (30) calendar days after either the effective

date of the May 2015 revisions or the posted date of written notice from Respondent, whichever is later. *See* Section 1.1.3, 2015 NCIP. Respondent further states that Section 1.1 of the NCIP, relating to Applicability of the interconnection procedures approved in the *May 2015 NCIP Order*, speaks for itself. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 25 of the Complaint.

26. Respondent denies that Section 1.9 of the 2008 NCIP relates to the allegations contained in Paragraph 26 of the Complaint. Respondent admits that under Section 1.9 of the 2015 NCIP, if an Interconnection Customer fails to demonstrate site control or post the required interconnection study deposit after receiving written notice of its failure to comply and the expiration of a ten (10) business-day opportunity to cure, the Interconnection Customer loses its queue position and the Interconnection Request will be deemed withdrawn. *See* Section 1.9, 2015 NCIP. Respondent states that Section 1.9 of the May 2015 NCIP speaks for itself. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 26 of the Complaint.

27. The allegations of Paragraph 27 are informational in nature and require no response.

28. NCIP Section 1.4 speaks for itself. Respondent admits that the Companies and other stakeholders that participated in the 2014 stakeholder process agreed to an updated study deposit for NCIP Section 4 “full study” Interconnection Requests of \$20,000, plus \$1.00 per kWac of capacity, as specified in the Interconnection Customer’s Interconnection Request. Respondent admits that the Companies and renewable energy stakeholders supported the increased up-front deposit as a mechanism to reduce the backlog of Interconnection Requests in the queue, and the *May 2015 NCIP Order*

determined that “stakeholder agreement resulting in the . . . [increased] deposit . . . is a reasonable method of addressing the clogged queue issue in North Carolina and . . . will promote efficiency and clear the clogged queue by providing an incentive for developers to withdraw projects that they do not intend to pursue.”² Since the time the May 2015 revisions to the NCIP became effective, however, the Companies actually experienced an increase in new utility-scale solar Interconnection Requests during 2016 before declining in 2017. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 28 of the Complaint.

29. Respondent admits that the increasing complexity of the System Impact Study process associated with implementation of CSR advanced study and the LVR policy has resulted in the processing of new Interconnection Requests taking more time in 2016-2017 than in 2015. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 29 of the Complaint.

30. NCIP Section 1.7, relating to Queue Number, and NCIP Section 1.8, relating to Interdependent Projects, speak for themselves. The Company specifically admits that the NCIP provides that each Interconnection Customer’s Queue Number determines cost responsibility for Upgrades to accommodate the interconnection and also determines the “Queue Priority Order” in which each Interconnection Request is studied. Respondent further notes that NCIP Section 1.9 preserved the Queue Numbers for Interconnection Requests, such as Complainants’, that were submitted prior to May 15, 2015, contingent upon certain requirements being met. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 30 of the Complaint.

² *Order Approving Revised Interconnection Standard* at 11, Docket No. E-100, Sub 101 (May 15, 2015) (“May 2015 NCIP Order”).

31. NCIP Section 4.2, relating to Scoping Meetings, speaks for itself. Respondent admits that Scoping Meetings should be held within ten (10) business days after the Interconnection Request is deemed complete for non-interdependent Projects proceeding directly into System Impact Study, or as otherwise mutually agreed by the Parties. Respondent specifically denies that Section 4.2 of the NCIP provides for Feasibility Studies as an option for the parties during the Scoping Meeting. *See* Section 4.2.2, 2015 NCIP. Respondent further denies that the determination regarding which study to perform or whether to proceed directly to an Interconnection Agreement is based solely on “the complexity of the proposed interconnection for the customer.” Except as specifically admitted herein, Respondent denies the allegations in Paragraph 31 of the Complaint.

32. NCIP Section 4.2, relating to Scoping Meetings, speaks for itself. Respondent specifically denies that the May 2015 revisions to the NCIP provide for Feasibility Studies within the Section 4 study process applicable to Complainants. The remaining allegations in Paragraph 32 are also denied.

33. NCIP Section 4.3 and Attachment 7, System Impact Study Agreement, speak for themselves.

34. NCIP Section 4.3 and Attachment 7, System Impact Study Agreement, speak for themselves. Respondent admits that the *May 2015 NCIP Order* approved extended timeframes from the prior 2008 NCIP for the Utility to complete the System Impact Study, including fifty (50) business days if only distribution system impacts are studied and sixty-five (65) business days if transmission system impacts are to be studied. Answering further, DEC and DEP agreed to these timeframes as part of the 2014-2015

stakeholder process preceding approval of the NCIP in the *May 2015 NCIP Order* as reflective of an adequate amount of time to complete the System Impact Study work for a single utility-scale generator Interconnection Request, in part, recognizing elimination of the feasibility study from the 2008 NCIP. Respondent denies, however, that these timeframes are adequate in light of the continued surging volume of proposed utility-scale generators requesting to interconnect in North Carolina and the growing complexity of the System Impact Study process. Accordingly, DEC and DEP have continued to make reasonable efforts, as contemplated in NCIP Section 6.1, to study generator Interconnection Requests in Queue Priority Order. Except as expressly admitted herein, Respondent denies the allegations in Paragraph 34 of the Complaint.

35. NCIP Section 4.3, relating to System Impact Studies, speaks for itself.

36. NCIP Section 5.1, relating to the Construction Planning Meeting, and Section 5.2, relating to the Final Interconnection Agreement, speak for themselves.

37. 2008 NCIP Section 5.1, NCIP Section 6.1, and the *May 2015 NCIP Order* speak for themselves. Respondent admits that it has previously been obligated to comply with Section 5.1 of the 2008 NCIP, and is currently obligated to comply with the requirements of NCIP Section 6.1 to make “reasonable efforts” to meet the timeframes provided in the NCIP. Except as expressly admitted herein, Respondent denies the allegations in Paragraph 37 of the Complaint.

38. The *May 2015 NCIP Order* speaks for itself. Respondent admits that DEP is a Utility subject to the NCIP and that it has worked in good faith under the revised NCIP approved in 2015 to provide for increased transparency and communication desired by Interconnection Customers. Since September 1, 2015, the Companies have submitted

quarterly reports in Docket No. E-100, Sub 101A to the Commission on the status of the queue, and describing the Companies' progress in processing Interconnection Requests under the NCIP. The Companies have also implemented and maintain a monthly queue report on the Duke Energy website. DEP also continues to add resources to directly support solar project development, and has also added resources that are focused on process improvement initiatives including the build-out of two IT solutions, namely Power Clerk and Sales Force. Respondent also facilitates bi-weekly meetings with many utility-scale solar developers, including Ecoplexus since February 2017, to ensure timely project status communications occur. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 38 of the Complaint.

39. Respondent admits that CSR is a proxy technical screen applied by the Company during the System Impact Study process that is designed to ensure the electric distribution system has sufficient capability or "stiffness" to support a proposed generating facility interconnection at a requested point of interconnection. Respondent specifically denies that DEP halted processing interconnection requests on or before June 24, 2016. Respondent also denies Complainants' allegations that CSR is not based upon "accepted industry practices" for studying generator interconnection requests, and further denies Complainants' allegations that there are "other utilities that have significantly higher QF penetration than [DEP and DEC]." Regarding Complainants' allegation that CSR is not based on accepted industry practices, the CSR has been designed consistent with good utility practice, published industry guidance,³ and has a valid technical basis under

³ Michael Coddington et al., National Renewable Energy Laboratory, *Evaluating Future Standards and Codes with a Focus on High Penetration Photovoltaic (HPPV) System Deployment*, presented at the 4th International Conference on the Integration of Renewable and Distributed Energy Resources, 6-10 December 2010, Albuquerque, New Mexico.

generally-accepted Institute of Electrical and Electronics Engineers (“IEEE”) standards applicable to interconnecting distributed energy resources to the electric power system.⁴ Further, DEP responds to Complainants’ allegation that “the proposal of CSR did not change the obligations of Respondent” by admitting that DEP’s obligation under the NCIP is to use reasonable efforts to study Interconnection Requests in Queue Priority Order, in a manner that assures continued system safety, reliability of service, and power quality for all customers. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 39 of the Complaint.

40. Respondent admits that Complainant Willoughby’s currently-active Interconnection Request dated August 27, 2015, and deemed complete on September 9, 2015 (“2015 Willoughby IR”), has complied with applicable provisions of the current NCIP, as approved in May 2015. Respondent denies, however, that Complainant Willoughby’s prior Interconnection Request originally submitted on September 19, 2013, and updated by the Interconnection Customer on March 6, 2014 (“2013 Willoughby IR”), complied with all applicable provisions of the 2008 NCIP, as Complainant Willoughby elected not to execute the Interconnection Agreement (“IA”) delivered to the Interconnection Customer by DEP on April 14, 2015, within the timeframes provided in the 2008 NCIP, as agreed to be extended by DEP. Upon information and belief, Respondent also specifically denies that Complainant Willoughby has engaged the Public Staff to assist in informally resolving the alleged dispute, as provided for in NCIP Section

⁴ IEEE Standard for Interconnecting Distributed Resources with Electric Power Systems, IEEE Std 1547.2-2008, (April 15, 2009) at 4, 64, 117, 129 (identifying stiffness ratio as proper for analyzing voltage and other impacts to electric power system associated with distributed resources); IEEE Guide for Conducting Distribution Impact Studies for Distributed Resource Interconnection, IEEE Std 1547.7-2013 (Dec. 11, 2013) at 12, 29, 36, 51-52, 94, 123 (addressing electric power system stiffness and specifically the stiffness ratio as appropriate technical considerations in distributed resource system impact studies).

6.2.3, prior to filing a formal complaint with the Commission. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 40 of the Complaint.

41. Respondent admits that the 2013 Willoughby IR was submitted on September 19, 2013, and the deposit required under the 2008 NCIP was paid. Respondent specifically denies that the 2008 NCIP required evidence of site control at the time of the Interconnection Request's submission. *See* Section 1.5, 2008 NCIP ("Documentation of site control is not required to be submitted with the Interconnection Request. However, the Utility may request a demonstration of site control if two or more proposed Generating Facilities are competing for capacity on the same circuit."). Upon information and belief, Respondent's records do not support that Complainant Willoughby provided specific documentation evidencing site control as part of the 2013 Willoughby IR. Respondent denies the remaining allegations in Paragraph 41 of the Complaint.

42. Respondent admits the statement in the first sentence of Paragraph 42. Respondent denies that Complainant Willoughby "promptly returned" an executed Facilities Study Agreement as DEP did not offer a Facilities Study Agreement to Complainant Willoughby at that time upon information and belief. Under the 2008 NCIP, a System Impact Study and potentially a Feasibility Study would have preceded the Facilities Study. However, DEP admits that Complainant Willoughby may have unilaterally delivered a Facilities Study Agreement to DEP at that time, but denies that such action by the Interconnection Customer obligates the Utility to begin a study outside the normal NCIP study process. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 42 of the Complaint.

43. Respondent admits the allegations contained in Paragraph 43 of the Complaint.

44. Respondent admits that on March 7, 2015, DEP delivered to Complainant Willoughby an IA for execution after completing System Impact Study and designing Interconnection Facilities/System Upgrades during Facilities Study to support interconnection of the 2013 Willoughby IR. Respondent admits that Complainant Willoughby advocated for use of a surety bond as acceptable financial security for both Interconnection Facilities and for System Upgrades under the 2008 NCIP. However, DEP's position was that a surety bond was acceptable only for purposes of Interconnection Facilities and that upfront payment was required for System Upgrades in accordance with DEP's generally applicable interconnection policies. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 44 of the Complaint.

45. Respondent admits that Complainant Willoughby submitted a written Notice of Dispute on April 20, 2015, requesting that Respondent accept a surety bond and that the Notice is attached as Exhibit A to the Complaint. Respondent specifically denies that DEP deemed a surety bond as an acceptable form of financial security for System Upgrades, which was initially conveyed to Complainant Willoughby in writing on April 17, 2015. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 45 of the Complaint.

46. Respondent admits that on April 21, 2015, Respondent sent Complainant Willoughby written notification that it had failed to execute the IA within the 30 business day time period provided in Section 5.8 of the 2008 NCIP. Respondent extended the deadline to April 24, 2015. Complainant Willoughby again failed to execute the IA.

Respondent is without sufficient information to determine whether the Willoughby IA was deemed withdrawn on May 8, 2015, as alleged. However, on June 2, 2015, Respondent granted Complainant Willoughby 30 additional days to execute the IA during which time Complainant Willoughby and DEP were negotiating a power purchase agreement (“PPA”). As of the conclusion of this 30-day period, Complainant Willoughby had still not executed the IA. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 46 of the Complaint.

47. Respondent admits that pursuant to NCIP Section 1.1.3, on July 24, 2015, DEP requested that Complainant Willoughby tender the balance of the updated interconnection study deposit and submit site control documentation in accordance with the “queue management” process established under the *May 2015 NCIP Order*. Answering further, however, upon information and belief, Respondent deemed the 2013 Willoughby IR to be withdrawn as a result of Complainant Willoughby’s failure to sign the March 2015 IA during this same time period, which had previously been extended past the 30 business days provided in the 2008 NCIP. Answering further, Respondent’s position is that a queue management notice was not required to be delivered to Complainant Willoughby in light of the fact that Complainant Willoughby had failed to execute the IA previously presented in March 2015. Answering further, Respondent admits that Complainant Willoughby failed to provide site control documentation by August 24, 2015, as directed by the queue management notification. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 47 of the Complaint.

48. The allegations in Paragraph 48 of the Complaint are a legal conclusion to which no response is required. To the extent a response is required, Respondent answers

that it provided notice to Complainant Willoughby on or about August 25, 2015, that its 2013 Willoughby IR was deemed withdrawn as a result of failure to execute the IA delivered to Complainant Willoughby on March 7, 2015, even after allowing multiple extensions. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 48 of the Complaint.

49. Respondent specifically denies that the withdrawal of Complainant Willoughby's Interconnection Request was unlawful. Respondent admits that Complainant Willoughby submitted the new 2015 Willoughby IR, along with an interconnection study deposit of \$40,000 pursuant to the requirements of the NCIP, after the 2013 Willoughby IR was withdrawn for failure by Complainant Willoughby to execute the IA. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 49 of the Complaint.

50. Respondent admits that Complainant Willoughby submitted an executed System Impact Study Agreement on October 23, 2015, and that Section 19 of the System Impact Study Agreement speaks for itself. Respondent specifically denies that the System Impact Study, under Complainant Willoughby's circumstances, should have been completed and results delivered to Complainant Willoughby by January 4, 2016. Respondent states that the interdependency provisions of the NCIP provides for System Impact Study of projects that are interdependent with only one other project. *See* Section 1.8.3.1, 2015 NCIP. Complainant Willoughby's 2015 Willoughby IR was – and continues to be – interdependent with more than one project on the Erwin 230 kV substation, and, therefore, was designated as interdependent or “On Hold” for System Impact Study under

the NCIP. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 50 of the Complaint.

51. Respondent denies the allegations in Paragraph 51 of the Complaint as the Company previously provided Complainant Willoughby an IA after studying the 2013 Willoughby IR, and has continued to make reasonable efforts to process the 2015 Willoughby IR in Queue Priority Order.

52. The allegations in Paragraph 52 of the Complaint are legal conclusions to which no response is required. To the extent a response is required, Respondent has already responded to this allegation in its response to Paragraph 47 and otherwise denies the allegations in Paragraph 52.

53. Respondent denies the allegations in Paragraph 53 of the Complaint. Answering further, DEP repeatedly extended the timeframe for Complainant Willoughby to execute the IA provided for the 2013 Willoughby IR, as allowed under the 2008 NCIP, including agreeing to two extensions after April 20, 2015.

54. Respondent admits that Complainant Willoughby delivered the System Impact Study Agreement to Respondent, but that the 2015 Willoughby IR was – and continues to be – designated “On Hold” for System Impact Study due to interdependency with multiple other Interconnection Requests with lower Queue Numbers. *See* NCIP Sections 1.8.3.1 and 1.8.3.3. Except as expressly admitted herein, Respondent denies the allegations in Paragraph 54 of the Complaint.

55. Respondent denies the allegations in Paragraph 55 of the Complaint.

56. Respondent admits that Complainant Willoughby submitted written Notice of Dispute to Respondent on July 15, 2016, that said Notice is attached as Exhibit B to the

Complaint, and that the Notice speaks for itself. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 56 of the Complaint.

57. Respondent denies that Complainant East Nash fully complied with the NCIP as Complainant East Nash failed to provide site control documentation as requested by Respondent in an August 4, 2015 communication. Upon information and belief, Respondent also specifically denies that Complainant East Nash has engaged the Public Staff to assist in informally resolving the alleged dispute, as provided for in NCIP Section 6.2.3, prior to filing a formal complaint with the Commission. Respondent denies the remaining allegations in Paragraph 57 of the Complaint.

58. Respondent admits the allegations in Paragraph 58 of the Complaint.

59. Respondent admits that on May 6, 2013, DEP deemed Complainant East Nash's Interconnection Request application complete and that on July 26, 2013, Complainant East Nash submitted an executed Facilities Study Agreement to Respondent. Respondent denies that Complainant East Nash "promptly returned" an executed Facilities Study Agreement as DEP did not offer a Facilities Study Agreement to Complainant East Nash at that time upon information and belief. Under the 2008 NCIP, a System Impact Study and potentially Feasibility Study would have preceded Facilities Study. However, DEP admits that Complainant East Nash may have unilaterally delivered a Facilities Study Agreement to DEP, but denies that such action by the Interconnection Customer obligates the Utility to begin a study outside the normal NCIP study process. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 59 of the Complaint.

60. Respondent admits the allegations in Paragraph 60 of the Complaint.

61. Respondent admits that on July 15, 2016, Complainant East Nash submitted to Respondent a written Notice of Dispute, that said Notice is attached to the Complaint as Exhibit B, and that the Notice speaks for itself. Except as expressly admitted herein, Respondent denies the allegations in Paragraph 61 of the Complaint.

62. Respondent admits to the allegations in Paragraph 62 of the Complaint. Answering further, Respondent's communications regarding evaluating Complainant East Nash under CSR were comparable to all other Interconnection Customers proposing to interconnect to the Company's distribution system. On July 6, 2016, DEP notified Complainant East Nash of the planned CSR review and provided a detailed explanation of DEP's power quality concerns that led to the CSR evaluation. On August 1, 2016, DEP notified Complainant East Nash that the CSR review had been completed and presented Complainant East Nash a CSR report. The CSR report explained that Complainant East Nash had failed CSR and presented the Interconnection Customer the options to i) request a CSR results meeting; ii) submit a notice for DEP to proceed with additional System Impact Study review to evaluate the potential adverse power quality impacts associated with the CSR study; or iii) withdraw the Interconnection Request. A subsequent letter was delivered to Complainant East Nash on August 25, 2016, identifying that no response had been received and providing Complainant East Nash additional time to elect whether to proceed with further study. After discussions between DEP and Ecoplexus, on September 16, 2016, Complainant East Nash requested to put the CSR study on hold to allow potential interconnection to DEP's transmission system to be evaluated, as opposed to the initially planned distribution connection, which could mitigate failure of CSR. On March 30, 2017, after discussions between DEP and Ecoplexus regarding a potential transmission

interconnection study, Complainant East Nash notified DEP of its intent to proceed with CSR System Impact Study review of its initially proposed distribution interconnection.

63. Respondent admits that on April 28, 2017, as part of the ongoing System Impact Study, Respondent provided six preliminary CSR mitigation options to Complainant East Nash. Respondent offered as a preliminary option Advanced Study with downsize of the Maximum Physical Export Capability Requested from 19.99 MW_{AC} to a maximum of 18.5 MW_{AC}. Respondent further admits that on May 9, 2017, Respondent withdrew the mitigation option to downsize maximum physical export capability from 19.99 MW_{AC} to 18.5 MW_{AC} explaining that good utility practice did not support generators with a maximum physical export capability greater than 10 MW_{AC} interconnecting directly to retail circuits on the distribution system. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 63 of the Complaint.

64. Respondent denies the allegations in Paragraph 64 of the Complaint, as DEP has continued to make reasonable efforts to process the East Nash Interconnection Request in Queue Priority Order.

65. Respondent admits that on July 15, 2016, Complainant East Nash submitted to Respondent a written Notice of Dispute. Except as admitted herein, Respondent denies the allegations in Paragraph 65 of the Complaint.

66. Respondent admits that on July 15, 2016, Complainant East Nash submitted to Respondent a written Notice of Dispute, that said Notice is attached to the Complaint as Exhibit B, and that the Notice speaks for itself. Except as admitted herein, Respondent denies the allegations in Paragraph 66 of the Complaint.

67. Respondent denies the allegations in Paragraph 67 of the Complaint.

68. Respondent denies the allegations in Paragraph 68 of the Complaint, as DEP has continued to make reasonable efforts to process the East Nash Interconnection Request in Queue Priority Order and has applied technical screens and standards within System Impact Study that are consistent with good utility practice and are comparable to the standards being applied to all other Interconnection Customers proposing to interconnect to the Company's distribution system. Respondent is without knowledge or information sufficient to form a belief as to the allegation in Paragraph 68 that Complainant East Nash's proposed generating facility may be "unfeasible" if the generator is required to select a mitigation option as part of System Impact Study. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 68 of the Complaint.

69. Respondent specifically denies that Complainant Boykin fully complied with the NCIP as Complainant Boykin failed to provide site control documentation as requested by Respondent in a July 20, 2015 communication. Upon information and belief, Respondent also specifically denies that Complainant Boykin has engaged the Public Staff to assist in informally resolving the alleged dispute, as provided for in NCIP Section 6.2.3, prior to filing a formal complaint with the Commission. Respondent denies the remaining allegations in Paragraph 69 of the Complaint.

70. Respondent admits that Complainant Boykin submitted an Interconnection Request dated October 15, 2013, to Respondent. Respondent states that Complainant Boykin submitted an Interconnection Request for a generating facility with a nameplate capacity of 17 MW, not 20 MW, as alleged. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 70 of the Complaint.

71. Respondent admits that on October 16, 2013, DEP deemed Complainant Boykin's Interconnection Request application complete. Respondent denies that Complainant Boykin "immediately returned" an executed Facilities Study Agreement as DEP did not offer a Facilities Study Agreement to Complainant Boykin at that time upon information and belief. Under the 2008 NCIP, a System Impact Study and potentially Feasibility Study would have preceded Facilities Study. However, DEP admits that Complainant Boykin may have unilaterally delivered a Facilities Study Agreement to DEP at that time, but denies that such action by the Interconnection Customer obligates the Utility to begin a study outside the normal NCIP study process. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 71 of the Complaint.

72. Respondent specifically denies that it failed to complete the System Impact Study Report in the timeframe required by the NCIP. Respondent admits that the System Impact Study was delayed because the large proposed capacity required transmission impact review. Assessment of potential transmission impacts increased the time required to complete the Ssystem Impact Study. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 72 of the Complaint.

73. Respondent admits to the allegations in Paragraph 73 of the Complaint. Answering further, Respondent DEP produced a System Impact Study Report to Complainant Boykin on or about September 11, 2015.

74. Respondent admits that Complainant Boykin submitted a written Notice of Dispute to Respondent on July 15, 2016, that said Notice is attached to the Complaint as Exhibit B, and that the Notice speaks for itself. Respondent further admits that as of July 15, 2016, the Company had not initiated Facilities Study for the project because

Complainant Boykin failed to deliver site control documentation within 30 days of Respondent's July 30, 2015 request for the information and as required by the 2015 revisions to NCIP. Answering further, Respondent notified Complainant Boykin on July 7, 2016, that the proposed generator would be reviewed under CSR. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 74 of the Complaint.

75. Respondent admits that on July 7, 2016, DEP notified Complainant Boykin that it would be subject to CSR because, as of that date, an IA had not been executed and Complainant Boykin was still in the study process. Answering further, Respondent's communications regarding evaluating Complainant Boykin under CSR were comparable to all other Interconnection Customers proposing to interconnect to the Company's distribution system. On July 6, 2016, DEP notified Complainant Boykin of the planned CSR review and provided a detailed explanation of DEP's power quality concerns that led to the CSR evaluation. On August 1, 2016, DEP notified Complainant Boykin that the CSR review had been completed and presented Complainant Boykin a CSR report. The CSR report explained that Complainant Boykin had failed CSR and presented the Interconnection Customer the options to i) request a CSR results meeting; ii) submit a notice for DEP to proceed with additional System Impact Study review to evaluate the potential adverse power quality impacts associated with the CSR study; or iii) withdraw the Interconnection Request. A subsequent letter was delivered to Complainant Boykin on August 25, 2016, identifying that no response had been received and providing Complainant Boykin additional time to elect whether to proceed with further study. After discussions between DEP and Ecoplexus, on September 16, 2016, Complainant Boykin submitted the "Notice to Proceed" with additional System Impact

Study review to evaluate potential mitigation options to remedy the CSR failure. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 75 of the Complaint.

76. Respondent admits that mitigation options were provided to Complainant Boykin on February 10, 2017, not April 28, 2017, as alleged. Answering further, on February 15, 2017, Complainant Boykin selected a mitigation option to proceed with the CSR advanced study process at full requested capacity of 17 MW. On March 31, 2017, DEP solicited additional technical data necessary to complete the CSR advanced study, which Complainant Boykin returned to DEP on May 12, 2017. Advanced study under the CSR is ongoing. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 76 of the Complaint.

77. Respondent denies the allegations in Paragraph 77 of the Complaint, as DEP has continued to make reasonable efforts to process the Boykin Interconnection Request in Queue Priority Order.

78. Respondent admits that Complainant Boykin submitted a written Notice of Dispute to Respondent on July 15, 2016, and that the Notice speaks for itself. Respondent further admits that as of July 15, 2016, the Company had not completed Facilities Study. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 78 of the Complaint.

79. Respondent admits that Complainant Boykin submitted a written Notice of Dispute to Respondent on July 15, 2016, that said Notice is attached to the Complaint as Exhibit B, and that the Notice speaks for itself. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 79 of the Complaint.

80. Respondent admits that completion of System Impact Study was initially delayed because the large proposed capacity (17 MW) required transmission impact review. Answering further, after failing CSR, Complainant Boykin provided DEP written notice to proceed with additional System Impact Study to remedy the CSR failure on September 16, 2016. Respondent admits that the increasing complexity of the System Impact Study process associated with CSR advanced study and implementation of the LVR policy have required additional time to complete the System Impact Study process. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 80 of the Complaint.

81. Respondent has responded to the first sentence of Paragraph 81 in its response to Paragraph 80. Respondent admits that CSR mitigation options have been required as a result of Complainant Boykin's CSR failure and subsequent authorization for DEP to proceed with additional System Impact Study to mitigate the CSR failure. Answering further, the CSR process being applied to Complainant Boykin is comparable to the process followed for all other Interconnection Customers proposing to interconnect to the Company's distribution system, is consistent with current good utility practice, and is necessary to ensure that system safety, reliability of service, and power quality are maintained for all customers. Respondent is without knowledge or information sufficient to form a belief as to the allegation in Paragraph 81 that Complainant Boykin's proposed generating facility may be "unfeasible" if the generator is required to select a mitigation option as part of System Impact Study. However, Respondent notes that Complainant Boykin has, in fact, requested DEP proceed with an advanced study mitigation option as

addressed in response to Paragraph 76. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 81 of the Complaint.

82. The allegations contained in the above Paragraphs 1 through 81 of this Answer are realleged and incorporated herein.

83. Respondent admits that on April 20, 2015, and July 15, 2016, Complainants submitted written Notices of Dispute to Respondent. Except as expressly admitted herein, Respondent denies the allegations in Paragraph 83 of the Complaint.

(Response to Allegations of Failure to Comply with NCIP)

84. The responses contained in the above Paragraphs 1 through 83 of this Answer are realleged and incorporated herein.

85. Respondent denies the allegations of Paragraph 85 of the Complaint, as DEP has continued to make reasonable efforts to process the Willoughby, East Nash, and Boykin Interconnection Requests in Queue Priority Order.

86. Respondent admits that DEP did not notify the Interconnection Customers of the status of the System Impact Study process within 50 business days of the date that Complainants provided the System Impact Study Agreement to DEP; however, Respondent denies that this was required under the NCIP and further denies the allegation that DEP has “provided no explanation” for the additional time required to complete the System Impact Study. Answering further, DEP denies that the System Impact Study Agreement provides that the System Impact Study results should have been produced “within 50 Business Days” as NCIP Section 6.1 and Section 19.0 of the System Impact Study Agreement provide that the utility shall use reasonable efforts to complete a System

Impact Study within 65 Business Days where transmission impacts are studied. Except as specifically admitted herein, Respondent denies the allegations in Paragraph 86 are denied.

87. Respondent has specifically addressed these allegations in response to Paragraphs 54, 65, and 72 of the Complaint. Respondent otherwise denies the allegations in Paragraph 87 of the Complaint.

88. Paragraph 88 of the Complaint contains legal conclusions to which no response is required; however, to the extent that a response is required, Respondent denies that DEP has violated the NCIP or that its actions entitle Complainants to the relief they have requested from the Commission. Contrary to the allegations of the Complaint, DEP, has made reasonable efforts to process the Willoughby, East Nash, and Boykin Interconnection Requests under the NCIP and has worked in good faith with Ecoplexus to resolve the Willoughby, East Nash, and Boykin Disputes. Respondent otherwise denies the allegations in Paragraph 88 of the Complaint.

89. Paragraph 89 of the Complaint contains legal conclusions to which no response is required; however, to the extent that a response is required, Respondent specifically denies the allegation that it has “require[d] additional studies” that deviate from the Section 4 study process in the NCIP. To the extent additional System Impact Study has been required as result of Complainants East Nash’s and Boykin’s respective CSR failure, Complainants provided DEP notice to proceed with additional System Impact Study in order to evaluate options to mitigate the CSR failure. Respondent specifically admits that it has developed and required additional non-discriminatory System Impact Study standards and technical requirements, including CSR and the Company’s LVR policy, that are applicable to all distribution interconnection requests proceeding through

the NCIP Section 4 study process. These technical screens and study standards have been designed consistent with good utility practice, industry guidance, North Carolina Utilities Commission Rules and Regulations, and have a valid technical basis under generally-accepted IEEE standards applicable to interconnecting distributed energy resources to the electric power system.

(Response to Alleged Violations of PURPA)

90. The responses contained in the above Paragraphs 1 through 89 of this Answer are realleged and incorporated herein.

91. Paragraph 91 of the Complaint contains legal conclusions to which no response is required; however, to the extent that a response is required, Respondent denies that DEP has violated PURPA, as implemented by the Commission, and denies that DEP's actions entitle Complainants to the relief they have requested from the Commission. Under PURPA, the Commission has the authority to determine the reasonable interconnection standards to govern interconnection of QFs.⁵ Answering further, Respondent specifically denies the System Impact Study technical screens and standards implemented by DEP are "discriminatory against QFs and have no reasonable basis" under the NCIP. Respondent further denies Complainants' allegations that DEP is "[p]rocessing Interconnection Requests for QF customers through a single statewide queue" nor does the Complaint allege that DEP's queuing process is non-compliant with the NCIP. Respondent further denies Complainants' allegations of discrimination between QFs and "new retail or

⁵ FERC's Regulations implementing PURPA delegate to the Commission the responsibility for establishing reasonable standards for interconnecting QFs. *See, e.g., Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, 111 FERC ¶ 61,220 at P 516 (2005) ("When an electric utility is required to interconnect under section 292.303 of [FERC's] regulations, that is, when it purchases the QF's total output, the state has authority over the interconnection and the allocation of interconnection costs.").

industrial customers.” Except as specifically admitted herein, Respondent denies the allegations of Paragraph 91 of the Complaint.

92. Respondent denies the allegations in Paragraph 92 of the Complaint.

SECOND DEFENSE: REASONABLENESS OF EFFORTS

Complainants request that the Commission find and conclude that DEP has “failed to use reasonable efforts to comply with” the June 2008 NCIP and the NCIP approved in 2015. (Compl. Prayer for Relief ¶ 1.) In support of this request, Complainants repeatedly cite the passage of time during which DEP is required to complete the Section 4.3 System Impact Study process, *see* Compl. ¶¶ 50, 54–55, 67–68, 72, 80–81, or Section 4.4 Facilities Study process, *see* Compl. ¶¶ 61, 65, 68, 74, 78, 81, and thereon alleges, in wholly conclusory fashion, that this passage of time must mean that Respondent’s efforts were unreasonable. (Compl. ¶¶ 83, 85.) However, Complainants fail to substantively allege, as they must, that DEP’s actions were unreasonable in light of DEP’s specific efforts to process the 2013 Willoughby IR, the 2015 Willoughby IR, the East Nash Interconnection Request, and the Boykin Interconnection Request, DEP’s ongoing efforts to work with Complainants to resolve the Willoughby, East Nash, and Boykin Disputes, as well as DEP’s continuing efforts to manage the significant volume of utility-scale solar QF Interconnection Requests in the North Carolina queue.

A. DEP HAS MADE REASONABLE EFFORTS TO PROCESS THE WILLOUGHBY, EAST NASH, AND BOYKIN INTERCONNECTION REQUESTS AND GOOD FAITH EFFORTS TO RESOLVE THE DISPUTES

As part of DEP’s ongoing efforts to manage the hundreds of utility-scale solar interconnection requests that have been deemed complete and are now being processed in Queue Priority Order under the NCIP, the Company has made reasonable efforts to process the Complainants’ Interconnection Requests, specifically including DEP’s continuing

efforts to complete the System Impact Studies and Facilities Studies for these Interconnection Customers.

Respondent admits that the additional East Nash and Boykin System Impact Studies are ongoing as a result of CSR and have not been completed within the timeframes contemplated in the NCIP; however, this does not, as Complainants suggest, show that DEP has failed to make reasonable efforts to process and study these requests to interconnect proposed generators to the DEP distribution system. Indeed, the NCIP recognizes that compliance with the NCIP timeframes may not be achievable, and, to that end, provides that the utility shall make “reasonable efforts” to meet the timeframes of the NCIP. Further, the ongoing CSR advanced study of the proposed 20 MW East Nash project and 17 MW Boykin project was necessitated by these proposed generators’ failure of the CSR policy implemented by the Companies in July 2015 to ensure distribution system reliability as increasing numbers of utility-scale solar generators propose to interconnect to the DEP distribution system. Complainants East Nash and Boykin both have authorized DEP to proceed with additional CSR advanced study to evaluate mitigation options that address the proposed generators’ respective CSR failures and to mitigate the potential for adverse impacts to system safety, reliability of service, and power quality. As of the time DEP began implementing CSR, the Company has made good faith efforts to inform Complainants East Nash and Boykin as well as other impacted Interconnection Customers regarding the ongoing study process and the advanced study process for developing mitigation options to complete System Impact Study.

The Company also made reasonable efforts to study the 2013 Willoughby IR, completing the study process and offering the Interconnection Customer an IA for

execution in March 2015. After repeated extensions, DEP deemed the 2013 Willoughby IR withdrawn in August 2015, after which Complainant Willoughby submitted the 2015 Willoughby IR in September 2015. The 2015 Willoughby IR is now interdependent with two other Interconnection Requests with lower queue numbers, and, therefore, DEP has not yet commenced System Impact Study at this time in accordance with NCIP Section 1.8. While Complainant Willoughby disputed the reasons for its August 2015 queue withdrawal in the July 2016 Dispute, DEP's processing of the 2015 Willoughby IR is consistent with the NCIP and the Company's efforts have been reasonable.

Subsequent to receiving the July 15, 2016 Notice of Dispute, DEP has also worked in good faith to resolve Complainants' concerns by participating in teleconferences with Complainants' representatives on numerous occasions to discuss the Willoughby, East Nash, and Boykin Interconnection Requests, as well as numerous other Ecoplexus projects. Upon information and belief, DEP management and engineering staff have participated in teleconference meetings to discuss these projects on August 18, 2016; September 14, 2016; October 25, 2016; November 10, 2016; and November 30, 2016. As of February 2, 2017, DEP interconnection team personnel have also begun bi-weekly calls with Ecoplexus to discuss DEP's and DEC's ongoing processing of Ecoplexus' Interconnection Requests in the Companies' respective interconnection queues. Through these interactions, and others, DEP has continued to advise Complainants regarding the status of their projects in the study process as well as continued to make reasonable efforts to progress the respective Interconnection Requests through the CSR and CSR advanced study processes in Queue Priority Order.

Accordingly, in recognition of the unresolved Dispute and Ecoplexus' filing of this Complaint, DEP commits to expeditiously complete the System Impact Study process for these Interconnection Requests in Queue Priority Order, and, specifically, to produce updated CSR mitigation options to the East Nash and Boykin Interconnection Customers within 45 Business Days of filing this Answer.

B. DEP'S ONGOING EFFORTS TO MANAGE THE NORTH CAROLINA INTERCONNECTION QUEUE SHOULD BE CONSIDERED IN ASSESSING THE REASONABLENESS OF DEP'S EFFORTS TO PROCESS COMPLAINANTS' INTERCONNECTION REQUESTS

- a. The Commission's determination of "reasonable efforts" should take into account the overall volume of Interconnection Requests since the May 2015 NCIP Order

Determining whether DEP has made reasonable efforts to process the Willoughby, East Nash, and Boykin Interconnection Requests without taking into account the overall volume of Interconnection Requests and North Carolina's current interconnection landscape would be unjust and unreasonable. Making such a determination in a vacuum focused only on these Interconnection Requests would also be inconsistent with the Commission's prior findings in the *May 2015 NCIP Order* that the Companies were making reasonable efforts to manage their interconnection queues even as the significant volume of new requests was causing DEP and DEC to not meet the then-existing timeframes in the NCIP.⁶

As background, in November 2014, the NC Utilities submitted joint comments to the Commission highlighting the "dramatic increase in the number of solar QF

⁶ *May 2015 NCIP Order*, *supra* note 2 at 24.

projects . . . [and] a significant shift in the size of the projects requesting to interconnect.”⁷ The NC Utilities advised the Commission of the evolving “interconnection customer profile,” describing how the recent proliferation of “project originators . . . have had a negative impact on the interconnection process and queue.”⁸ The NC Utilities also highlighted that proposed project locations on the utilities’ systems presented “another significant shift in the interconnection landscape,” as utility-scale solar developers sought “low-cost, cleared rural land . . . [on] rural North Carolina distribution circuits . . . requir[ing] engineering studies and fairly significant distribution upgrade costs as part of their interconnection costs.”⁹ Finally, the NC Utilities’ comments emphasized for the Commission that “the Utilities see no short-term change in the trends that have led to the explosion of solar QF development in North Carolina . . .” suggesting that “current levels of solar development and associated [Interconnection Requests] could even increase in the future.”¹⁰

Consistent with the NC Utilities’ comments, the Commission’s *May 2015 NCIP Order* found that the “volume of interconnection requests as well as the solar landscape in North Carolina has evolved and changed” since the Commission’s prior review of the North Carolina interconnection standard in 2008.¹¹ The May 2015 revisions to the NCIP were designed to assist in managing “North Carolina’s current unique interconnection

⁷ *In the Matter of Petition for Approval of Revisions to Generator Interconnection Standards*, Joint Initial Comments of Duke Energy Carolinas, Duke Energy Progress, and Dominion North Carolina Power at 7, Docket No. E-100, Sub 101 (filed Nov. 21, 2014) (“Joint Utilities November 2014 Sub 101 Comments”).

⁸ *Id.* at 7.

⁹ *Id.* at 9.

¹⁰ *Id.* at 6.

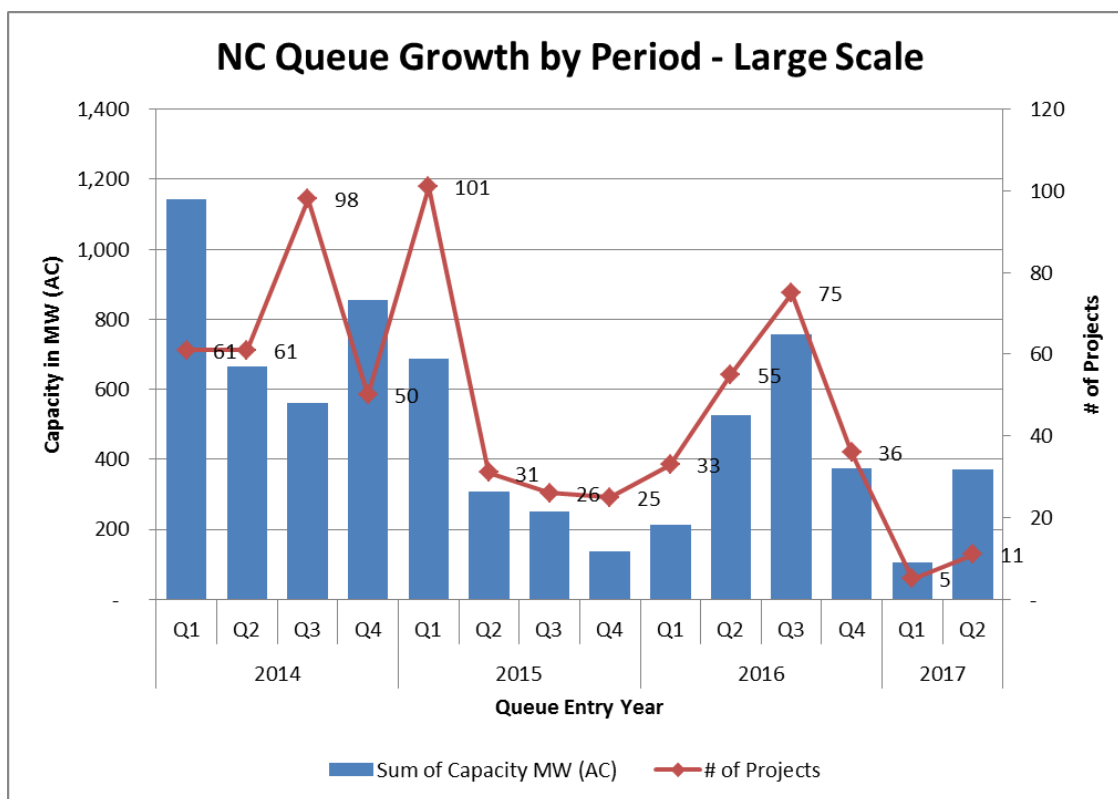
¹¹ *May 2015 NCIP Order supra* note 2 at 11.

landscape . . .” including the challenges of addressing the NC Utilities’ backlogged or “clogged” interconnection queues.¹² Specifically, the *May 2015 NCIP Order* contemplated that process improvements approved in that Order, such as the increased up-front interconnection study deposit (NCIP § 1.4.1.2) and verification of site control (NCIP §§ 1.4.1.3, 1.6), would “promote efficiency and clear the clogged queue by providing an incentive for developers to withdraw projects that they do not intend to pursue.”¹³

The May 2015 revisions to the NCIP have been largely beneficial to the Companies’ ongoing efforts to manage the interconnection process; however, both DEP and DEC continue to be challenged by the significant volumes of Interconnection Requests. Indeed, the recent trend of surging utility solar interconnection requests has only begun to decline materially in 2017.

¹² *Id.* at 10 (consensus-supported revisions to the NCIP “provides the most workable means to achieve some amount of consistency with the FERC Standard while retaining and adopting policies that will serve North Carolina’s current unique interconnection landscape, especially clearing the queues over the next two years”).

¹³ *Id.*



Pursuant to the *May 2015 NCIP Order*, the Companies have filed eight quarterly queue status and performance reports in Docket No. E-100, Sub 101A, presenting the Commission, the Public Staff, and other interested parties with detailed information on the continuing surging volume of utility-scale solar interconnection requests seeking to interconnect to the DEP and DEC systems.¹⁴ DEP's most recent queue status and performance report for the period ending March 31, 2017, showed that approximately 2,800 MW of utility-scale interconnection requests are currently proposed in the DEP North Carolina study queue, including approximately 1,200 MW of new projects that have entered the study queue since January 2016. The Report also showed DEP's progress in managing the interconnection queue, as DEP reported a net decrease of 13 projects in the

¹⁴ Specifically, DEP filed Interconnection Queue Quarterly Reports in Docket No. E-100 Sub 101A on September 1, 2015; October 29, 2015; February 1, 2016; April 29, 2016; July 28, 2016; October 31, 2016; January 31, 2017; and April 27, 2017.

queue, as three IAs were issued, seven projects were connected and have moved off the status report, and seven projects have been made available for operation.¹⁵ Similarly, DEC's most recent queue status and performance report for the period ending March 31, 2017, showed that approximately 750 MW of utility-scale interconnection requests are currently in the DEC queue, including approximately 545 MW of projects that have entered the queue since January 2016.¹⁶

In sum, the significant volume of Interconnection Requests fostered by the Commission's PURPA policies continues to challenge the Companies' ability to manage the NCIP study process under the timeframes set forth in the System Impact Study Agreement; however, both DEP and DEC have made reasonable and good faith efforts under the NCIP to process Interconnection Requests as efficiently as possible in Queue Priority Order, while ensuring that system safety, reliability of service, and power quality are maintained.

- b. The Commission's determination of "reasonable efforts" should take into account DEP's ongoing efforts to maintain system safety, reliability of service, and power quality for all customers while continuing to process interconnection requests under the NCIP

The Commission has recently found that "Duke is taking appropriate steps to ensure that electric service to retail customers is not degraded due to the operations of interconnected generating facilities."¹⁷ Maintaining safe and adequate system operations,

¹⁵ *In the Matter of Annual Reports for Interconnection and Net Metering Pursuant to Dockets E-100, Sub 83 and E-100, Sub 101*, DEP's 1st Qtr. 2017 Interconnection Queue Performance and Status Report Docket No. E-100, Sub 101A (April 27, 2017).

¹⁶ *In the Matter of Annual Reports for Interconnection and Net Metering Pursuant to Dockets E-100, Sub 83 and E-100, Sub 101*, DEC's 1st Qtr. 2017 Interconnection Queue Performance and Status Report Docket No. E-100, Sub 101A (April 27, 2017).

¹⁷ *Order on CSR Settlement Agreement*, *supra* note 1 at 2.

reliability of service, and power quality on the grid are at the core of DEP's and DEC's operations as regulated public utilities in North Carolina generally, as well as integral to their management of the North Carolina interconnection process under the NCIP. Under the Public Utilities Act, the Commission has established extensive regulations of DEP's public utility operations to provide all customers with safe, adequate, and reliable electric utility service.¹⁸ Similarly, the NCIP provides that system safety, reliability, and power quality must be evaluated and maintained by the utility in studying generator interconnection requests and interconnecting generators to the utility system.¹⁹ Once a generator is interconnected, the Commission-approved IA continues to provide that system safety, reliability, and power quality shall be maintained by the generator and that interconnection service is subject to potential temporary disconnection or isolation if an adverse power quality impact arises.²⁰

¹⁸ See e.g., NCUC Rules R8-5 ("each utility shall maintain its plant, distribution system and facilities at all times in proper condition for use in rendering safe and adequate service."); R8-16 (establishing standard frequency to assure reliable service); R8-17 (establishing standard service voltages to assure reliable service); R8-23 ("Each electric utility . . . shall operate and maintain in safe, efficient and proper condition, all the facilities and instrumentalities used in connection with the regulation, measurement and delivery of electric current to any consumer up to and including the point of delivery").

¹⁹ See e.g., NCIP §§ 2.2.1 (Requiring utility to ensure small generators less than 20 kW can be interconnected consistent with safety, reliability, and power quality standards); 3.2.2.4 (Requiring utility to assure Fast Track small generators that fail Fast Track screens be studied to determine whether they may be interconnected consistent with safety, reliability, and power quality standards); 3.4.1 (Providing for Fast Track Supplemental Review process to evaluate modifications to the utility's system that would allow a Fast Track small generator to interconnect consistent with safety, reliability, and power quality standards); Attachment 7, System Impact Study Agreement, (requiring utility to analyze and identify "any potential adverse system impacts that would result from the interconnection of the Generating Facility" including impacts of the proposed generating facility on electric system operations and the distribution and transmission system impacts).

²⁰ See NCIP § 6.12.3 (authorizing utility to isolate or disconnect Generating Facility where continued operation "may endanger either (1) the Utility's personnel or other persons or property or (2) the integrity or safety of the Utility's System, or otherwise cause unacceptable power quality problems for other electric consumers; NC IA § 3.4 (providing for temporary disconnection of the Generating Facility, in a number of circumstances, including emergency conditions and where Generating Facility causes adverse operating effects to the electric system or disruption or deterioration of service to other customers).

As increasing numbers of utility-scale solar generators have progressed from the NCIP study process to an executed IA and have now become energized, DEP and DEC are in a “living laboratory” of utility-scale solar deployment operating in parallel with their utility systems in North Carolina. As of June 30, 2017, DEC and DEP have interconnected approximately 2,200 MW of utility-scale solar generators in North Carolina, largely to rural distribution circuits in the DEP eastern North Carolina service area. As the Companies have begun to operate in parallel with these significant utility-scale additions of variable and intermittent solar energy generators on rural distribution circuits, DEC and especially DEP have gained growing experience and identified potential concerns regarding previously-unforeseen impacts to system safety and reliability of service, as well as potential detrimental power quality impacts and impacts to the operation of existing equipment on the distribution system. These growing concerns have necessitated more thorough evaluation of potential impacts of proposed utility scale solar generators on the Companies’ system as well as ensuring a proposed generator interconnection will not cause adverse impacts to retail service customers.

DEP and DEC applied significant engineering resources in 2016 to evaluate whether traditional System Impact Study technical standards properly and sufficiently evaluate the impact of a proposed intermittent and variable utility-scale solar generator interconnection on the electric system, or whether good utility practice requires additional study criteria be applied during System Impact Study to evaluate the impact of utility-scale solar generators on electric system safety, reliability, and power quality.²¹ In furtherance

²¹ *In the Matter of Generator Interconnection Standard, Tariffs and Contract Forms*, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC’s Response to September 8, 2016 Order Requiring Response and Requesting Comments at 3, Docket No. E-100, Sub 101 (filed Sept. 22, 2016) (explaining the Companies’ concerns that “historically valid ‘steady state’ engineering studies are inadequate to properly predict power

of the Companies' responsibility under the Public Utilities Act and the NCIP to maintain system reliability and power quality and to ensure that electric service to existing or future retail customers is not degraded due to the operations of new interconnected generating facilities, the Companies developed and implemented the following new technical study criteria in 2016 as part of the System Impact Study process:

Circuit Stiffness Review: As the Commission is aware and recently addressed in its *Order on CSR Settlement Agreement*, the Companies began applying a new System Impact Study "circuit stiffness review" or "CSR" technical criteria for all utility-scale generator Interconnection Requests requesting to interconnect to DEP's or DEC's distribution system in July 2016. As described in the August 29, 2016 informational filing with the Commission in Docket No. E-100, Sub 101, the CSR is a proxy technical screen applied during the System Impact Study process that is designed to ensure the electric distribution system has sufficient capability or "stiffness" to support a proposed generating facility interconnection at a requested point of interconnection.²² The CSR has been designed consistent with good utility practice, published industry guidance, and has a valid technical basis under generally-accepted IEEE standards applicable to interconnecting distributed energy resources to the electric power system.²³

Implementation of the new CSR technical standard was disputed by certain Interconnection Customers, specifically including a number of customers that had

quality issues associated with utility-scale solar projects connected to the distribution system" requiring "development of . . . more robust and dynamic models" that "simulate the dynamic nature of loads and distributed generation.").

²² *In the Matter of Petition for Approval of Revisions to Generator Interconnection Standards*, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Notice of Settlement Agreement to Commission, Cover Letter at 1, Docket No. E-100, Sub 101 (Filed Aug. 29, 2016) ("CSR Settlement Agreement Informational Filing").

²³ See notes 3 and 4 *supra*.

proceeded through System Impact Study and Facilities Study and were in advanced stages of development at the time CSR was first applied.²⁴ As part of a settlement agreement entered into by the Companies on August 24, 2016, to resolve alleged disputes over CSR, the Companies agreed to initiate a series of informal technical discussions beginning in September 2016 to discuss the Companies' power quality concerns and to develop additional study criteria to be applied during the System Impact Study in conjunction with CSR.²⁵ Through these technical discussions, the Companies have maintained the CSR, as designed, but have worked with industry stakeholders to develop more refined "advanced study" criteria that are now being evaluated, at the Interconnection Customer's option and expense, for generators that fail the CSR. As an interim step, all generating facility interconnection requests that fail CSR are also being provided alternative "mitigation options" within System Impact Study that allow the Interconnection Customer to elect modifications to the size of its proposed generating facility or to request alternative distribution-to-transmission system point of interconnection options be evaluated as alternatives to CSR advanced study.

Reverse Power Flow Beyond First Distribution LVR Adversely Impacting Existing Operations and Power Quality: The Companies have also recently determined that power quality and system operations have been unreasonably and adversely impacted by accommodating proposed generators at points of interconnection beyond the first distribution line voltage regulator or "LVR" on a circuit. Specifically, the Companies have determined that "backfeed" or reverse power flow from distributed generators, flowing in

²⁴ *CSR Settlement Agreement Informational Filing*, *supra* note 22 at 1.

²⁵ *Id.* at 2-3.

reverse from an area beyond the first zone of voltage regulation (*i.e.*, beyond the first distribution line voltage regulator) will detrimentally impact the Companies' existing distribution system operations, including degrading the Companies' investments in distribution management systems, such as the DEP Distribution System Demand Response ("DSDR") system. Degradation of the integrated volt/VAR capabilities of DSDR would unreasonably and adversely impact power quality, degrade DEP's preexisting investment in distribution system operations for the benefit of customers, and would be inconsistent with good utility practice. Further, allowing extensive dedicated QF distribution facilities in existing utility rights-of-way beyond the first distribution line voltage regulator, a practice commonly known as "partial double-circuiting" to electrically connect ahead of the line regulator, would limit future use of existing right-of-ways beyond the regulator and would be inconsistent with the Companies' policies for serving other retail customers.

The CSR and distribution LVR policies are now being applied consistently and comparably to all Interconnection Requests. Implementing these policies, while necessary to assure system safety, reliability, and power quality for each Interconnection Request, have further challenged DEP's ability to manage the interconnection process in conformance with the timeframes identified in the NCIP, and have also caused ripple effects for interdependent projects as well as projects in the Companies' queues awaiting study. Applying these new policies has required – and will continue to require – additional time within the System Impact Study process to educate and address Interconnection Customers' concerns, as well as work with Interconnection Customers to evaluate reasonable and appropriate mitigation options, including processing requests for CSR advanced study.

- c. The Commission's determination of "reasonable efforts" should take into account the Companies' recent increases in interconnection process-related resources to better manage the volume and growing complexity of the interconnection process

The Companies have continued to make significant efforts to better manage the challenging volumes and growing complexity of the interconnection process by adding additional resources. The *May 2015 NCIP Order* highlighted comments at the February 2015 Technical Conference that the Companies "are not meeting the current timelines and will not meet them for a while until the clogged queue is corrected."²⁶ However, the Commission still found that "the additional resources DEC and DEP have added to address the current clogged queue are reasonable at the present time."²⁷ In 2016 and 2017, DEC and DEP have continued to allocate increased project management, study engineering, construction, and technological resources to the complex task of managing the North Carolina interconnection queue. Since January 1, 2015, DEC and DEP have added 16 full-time employees assigned to interconnection processing and contract management, as well as approximately 25 additional employees and/or contract engineers to manage the increased volume and complexity of the Interconnection Request study process in North Carolina and South Carolina. The Companies have also added approximately 400 new construction crew members in the past few years to support the growing level of utility system upgrades required to interconnect new generators to the Companies' distribution and transmission systems in addition to new retail customer connections. The Companies

²⁶ *May 2015 NCIP Order*, *supra* note 2 at 24.

²⁷ *Joint Utilities November 2014 Sub 101 Comments*, *supra* note 7 at 24 (highlighting that DEC and DEP "have gone from two engineers to ten engineers to perform studies" and that the Companies "predicted that this increased workforce is reasonable to accommodate the current work flow and to catch up on bottlenecked studies.").

have also invested in new IT platforms, namely Power Clerk and Sales Force, to better manage and support the task of processing Interconnection Requests under the NCIP.

- d. The Commission's determination of "reasonable efforts" should take into account the ongoing dialogue the Companies have maintained with Interconnection Customers through industry-wide stakeholder meetings as well as other activities exceeding the express requirements of the NCIP

DEP and DEC have also held numerous renewable energy industry-wide stakeholder meetings to address ongoing challenges associated with managing the unprecedented volume as well as the growing complexity of utility-scale solar Interconnection Requests seeking to interconnect to the Companies' distribution and transmission systems. These informational meetings have facilitated ongoing dialogue between the Companies, renewable energy developers/Interconnection Customers, engineering and technical consultants and trade associations that support the renewable energy industry, solar equipment vendors, as well as the Public Staff. Upon information and belief, representatives of Ecoplexus have participated in recent stakeholder meetings where the CSR and the LVR policies have been discussed.

The Companies have also assigned project specific account managers to improve coordination with renewable energy developers/Interconnection Customers that have proposed a significant number of projects, even committing to standing (*i.e.*, bi-weekly) calls with certain developers, including Ecoplexus, to discuss project updates across their portfolios of proposed projects.

Further, as part of the Companies' ongoing efforts to better understand the technical and engineering issues associated with interconnecting higher levels of utility-scale solar and other distributed resources, DEC and DEP are engaged in multiple solar-related R&D projects and also committed starting in 2016 to increased involvement in the IEEE 1547

working group process in order to work with other utility industry stakeholders to improve understanding and build consensus around these issues.

Finally, beginning in June 2017, the Companies have also begun significant work to review the current NCIP and to work with the Public Staff and other interested stakeholders to evaluate potential revision to the NCIP as directed in the *May 2015 NCIP Order*.

In sum, the Commission's determination of "reasonable efforts" should take into account the ongoing challenges faced by the Companies in managing the current interconnection process under the NCIP, as well as DEC's and DEP's significant efforts to better manage the North Carolina interconnection process in the face of these challenges.

THIRD DEFENSE: REQUESTED RELIEF WOULD VIOLATE NCIP

If DEP were required to comply with Complainants' demand to "expeditiously complete the System Impact Study . . . without subjecting Complainant[s] Willoughby, [East Nash, and Boykin] to Respondent's recently implemented study criteria" (Compl. Prayer for Relief ¶ 2), DEP necessarily would violate two fundamentally important concepts under the May 2015 NCIP – Queue Priority Order and Comparability.

First, the NCIP provides that DEP shall study all requests for interconnection on a non-discriminatory basis in Queue Priority Order. NCIP Section 1.7 provides that the Interconnection Customer's Queue Number "shall be used to determine . . . cost responsibility" and "shall also determine the order in which each Interconnection Request is studied." The NCIP specifically defines "Queue Number" as establishing "a Customer's Interconnection Request's position in the study queue relative to all other valid Interconnection Requests," such that a "lower Queue Number will be studied prior to a

higher Queue Number, except in the case of Interdependent Projects . . .”²⁸ Studying Complainants’ Interconnection Requests (or any other higher-queued Interconnection Request) in a manner that deviates from Queue Priority Order would force DEP to take actions that are inconsistent with the NCIP, and would disadvantage other Interconnection Customers progressing through the NCIP study process.

Complainants’ demand to be immediately studied is especially problematic as it relates to the 2015 Willoughby IR, which, as discussed above, remains interdependent with at least two other lower-queued Interconnection Requests. Pursuant to NCIP Section 1.8.3.1, the Utility shall not study a project that is interdependent with more than one project with lower queue numbers. At this time, the 2015 Willoughby IR is interdependent with two lower queued Interconnection Requests and “On Hold” for study pursuant to the NCIP. The relief requested by Complainant Willoughby would be inconsistent with the NCIP and would disadvantage other lower-queued Interconnection Customers who have been in the queue longer than Complainant Willoughby’s 2015 Willoughby IR.

As to comparability, NCIP Section 6.7 requires DEP to “use the same reasonable efforts in processing and analyzing Interconnect Requests from all Interconnection Customers . . .” By definition, if the Commission were to order the Company to study the Willoughby, East Nash, and Boykin Interconnection Requests without requiring these customers to meet currently-applicable minimum study requirements of CSR and/or conform to the distribution LVR policies, then Complainants would not be treated the same as other Interconnection Customers.

²⁸ *May 2015 NCIP Order*, Attachment 1, Glossary of Terms at 6.

FOURTH DEFENSE: REQUESTED RELIEF WOULD BE UNREASONABLE AND
INCONSISTENT WITH THE NCIP'S ASSIGNMENT OF INTERCONNECTION
COSTS TO THE QF UNDER PURPA

Specific to Complainant Willoughby, the Complaint also requests the Commission to assign to DEP “the incremental increase in upgrade costs over the original estimate of upgrade costs provided in July 2016.” (Compl. Prayer for Relief ¶ 2). As an initial matter, DEP speculates that Complainant’s reference to “the original estimate of upgrade costs” refers to the upgrade costs identified in the IA delivered for execution in March 2015 – not July 2016 – while the “incremental increase” in upgrade costs presumably refers to any future increases in System Upgrade costs required to comply with the CSR advanced study mitigation options. DEP notes that CSR was first applied in July 2016, and was limited only to customers that had not yet executed an IA. Because Complainant Willoughby elected not to timely execute the March 2015 IA delivered by DEP, even after multiple extensions, that IA was deemed withdrawn in August 2015. Subsequently, Complainant Willoughby submitted a new Interconnection Request in September 2015, which is now being processed pursuant to the NCIP and will be studied by DEP, applying all generally-applicable study requirements, comparable to all other Interconnection Customers proposing to interconnect to the Company’s distribution system. In any case, it would be completely unjust and unreasonable to require DEP to pay any future incremental System Upgrade costs assigned to the 2015 Willoughby IR pursuant to a future IA. Further, assigning any portion of the cost of System Upgrades to interconnect Complainant Willoughby to DEP’s system would be inconsistent with the NCIP and PURPA’s requirements that a QF should be obligated to pay any interconnection costs reasonably assessed by DEP on a non-discriminatory basis. *May 2015 NCIP Order*, Attachment 9, § 5.2. (providing that “the actual cost of the Network Upgrades, including overheads, on-

going operations, maintenance, repair, and replacement shall be borne by the Interconnection Customer”); *See also* 18 C.F.R. § 292.101(b)(7) (defining Interconnection Costs) and 18 C.F.R. 292.306(a)(assigning interconnection costs, including Upgrades to the utility’s System to the QF on a non-discriminatory basis).

(Prayer for Relief)

Respondent denies any factual assertions contained in the Prayer for Relief and further denies that Complainants are specifically entitled to any relief in this action.

WHEREFORE, the Company respectfully prays as follows:

1. That the Commission order DEP to continue to expeditiously process Complainants’ Interconnection Requests in Queue Priority Order and, specifically, to produce updated CSR mitigation options to the East Nash and Boykin Interconnection Customers within 45 Business Days of filing this Answer.
2. That the Commission deny Complainants’ request for waiver of DEP’s generally applicable System Impact Study technical standards and study criteria, including CSR and the distribution LVR policy, and order DEP to continue to study Complainants’ Interconnection Requests in a non-discriminatory manner comparable to all other generators requesting to interconnect to DEP’s distribution system.
3. That the Commission grant such other relief as the Commissions deems just, equitable, and proper.

Respectfully submitted, this the 27th day of July, 2017.

DUKE ENERGY PROGRESS, LLC

By: /s/E.Brett Breitschwerdt

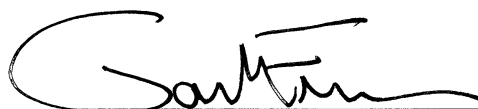
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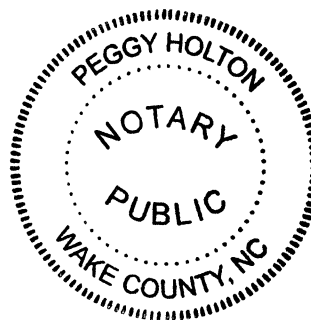
Counsel for Duke Energy Progress, LLC

VERIFICATIONE-2, Sub 1149

I, Gary R. Freeman, General Manager, DER Compliance & Origination, for Duke Energy Corporation, do solemnly swear that the facts stated in the foregoing *Duke Energy Progress, LLC's Answer to Complaint of Fresh Air XXIV, LLC; Fresh Air XXIII, LLC; and Fresh Air XXXVIII, LLC*, insofar as they relate to Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, are true and correct to the best of my knowledge and belief.



Gary R. Freeman



STATE OF NORTH CAROLINA)
)
 COUNTY OF WAKE)

The foregoing instrument was sworn to and acknowledged before me this 26th day of July, 2017.


 Notary Public 

My Commission Expires: 12/22/2021

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Duke Energy Progress, LLC's Answer to Complaint of Fresh Air XXIV, LLC, Fresh Air XXIII, LLC, and Fresh Air XXXVIII, LLC, as filed in Docket No. E-2, Sub 1149, was served via electronic delivery or mailed, first-class, postage prepaid, to the parties of record as follow:

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This, the 27th day of July, 2017.

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