

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

Docket No. SP-8748, Sub 1  
Docket No. SP-8741, Sub 2  
Docket No. E-7, Sub 1156

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	<b>MOTION FOR EXPEDITED</b>
	)	<b>CONSIDERATION OF VERIFIED</b>
	)	<b>AMENDED PETITION FOR</b>
Lick Creek Solar LLC	)	<b>DECLARATORY RULING AND</b>
	)	<b>OTHER RELIEF</b>

NOW COMES Petitioner Lick Creek Solar LLC (“Petitioner”), by and through the undersigned counsel, and submits this Motion for Expedited Consideration to the North Carolina Utilities Commission (“Commission”) in the above-captioned docket.

**PROCEDURAL BACKGROUND**

On March 30, 2020, Petitioner filed a *Verified Petition For Declaratory Ruling And Other Relief* (the “Petition”) challenging the refusal by the Independent Administrator (“IA”) and Duke Energy Carolinas (“DEC”) to permit Petitioner’s project to participate in Tranche 2 of the Competitive Procurement of Renewable Energy (“CPRE”) Program because the Petitioner has a previously-executed PURPA PPA with DEC, which Petitioner has agreed to terminate if awarded a CPRE PPA.<sup>1</sup> The Petition seeks relief on the grounds that the Independent Administrator, Accion Group LLC (“Accion” or the “IA”), disqualified the Tranche 1 Proposal using an Evaluation Tool which was intended and authorized under the RFP to rank bids, but not to disqualify them from consideration.

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<sup>1</sup> The Petition initially included a request for relief by Cool Springs Solar, LLC (“Cool Springs”), which was denied the opportunity to participate in CPRE Tranche 2 on similar grounds. As indicated below, Cool Springs was subsequently removed from the petition.

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On April 8, 2020, DEC filed a *Response in Opposition to Cool Springs Solar LLC's and Lick Creek Solar LLC's Verified Petition For Declaratory Ruling* in Docket No. E-7, Sub 1156.

On April 17, 2020, Petitioner filed a *Reply in Support of Verified Petition for Declaratory Ruling and Other Relief*.

On May 15, 2020, Petitioner filed a *Verified Petition For Declaratory Ruling And Other Relief* (the "Petition"), removing Cool Springs Solar, LLC from the Petition due to circumstances that made it unlikely that Cool Springs would be able to achieve commercial operation in time to meet the in-service deadline for Tranche 2.

**REQUEST FOR EXPEDITED CONSIDERATION**

Petitioner respectfully requests that the Commission expeditiously issue an Order or a Notice of Decision resolving the issues raised in the Petition. The reasons for urgency are as follows:

1. Petitioner's request for relief was filed in March 2020 and was fully briefed and ready for consideration by the Commission by mid-April.
2. On August 13, 2020, DEC filed (in Docket Nos. E-7 Sub 1156 and E-2 Sub 1159) the *Independent Administrator's Conclusion of Tranche 2 Step 2 Evaluation and Selection of Proposal* ("Step 2 Report"), which reported that the IA had identified 689 MW of renewable resources at prices below the Tranche 2 Avoided Cost Cap, and that the contracting period was underway for Tranche 2.
3. The Step 2 Report indicated that in DEC, the average price decrement submitted by Market Participants selected in Step 2 was \$5.41/MWh below the 20-year avoided cost rates. Step 2 Report at 1.
4. As stated in the Petition, Petitioner submitted a PPA Proposal in CPRE Tranche 2

with a pricing decrement of [REDACTED]

– significantly lower than the *average* price decrement of projects selected in Tranche 2. Although the clearing price of Tranche 2 is not disclosed in the Step 2 Report, it is presumably a significantly higher.

5. Lick Creek is an Advanced Stage Project, meaning that it will fund its own Upgrade costs, rather than requiring ratepayers to fund them, as non-Advanced Stage Projects will. The fact that Lick Creek is an Advanced Stage Proposal also means that little or no additional analysis would be required in order to determine that Lick Creek should be selected for Tranche 2.

6. The Step 2 Report confirms Petitioner’s contention that excluding Lick Creek from CPRE Tranche 2 has increased both the bid price and the clearing price for Tranche 2, to the detriment of ratepayers. It also demonstrates that allowing Lick Creek to participate in CPRE will benefit ratepayers by reducing the overall price of DEC’s Tranche 2 procurement.

7. The IA has indicated that the deadline for projects selected in Tranche 2 to sign PPAs is **October 15, 2020**. If the Commission fails to render a decision in time for Lick Creek to execute a Tranche 2 PPA, this could effectively deny Petitioner’s request for relief, or at least make it administratively more difficult for DEC and/or the IA to carry out any relief ordered by the Commission.<sup>2</sup>

8. Petitioner understands that the Commission’s resources are limited and that many

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<sup>2</sup> It is the Petitioner’s understanding that contract awards have been made to other bidders for the full amount of the planned CPRE Tranche 2 procurement. Petitioner does not ask the Commission to unwind any contract award made to another bidder. Rather, if the Commission intends to grant the Petition but all currently-selected awardees execute PPAs by the October 15 deadline (which they may not), Petitioner submits that it would be appropriate to expand the total volume of Tranche 2 awards. Petitioner believes, but is not certain, that there is sufficient remaining CPRE program capacity to allow for such relief. However, it would be desirable for Petitioner to be able to execute a CPRE PPA on the same schedule as other CPRE awardees.

PUBLIC (REDACTED) VERSION

other matters of importance to the ratepaying public demand its attention. However, there are no disputed factual issues in this matter, and the resolution of the Petition turns on a single issue: whether it is appropriate to exclude from participation in CPRE any project that has a pre-existing contract with Duke. Petitioner submits that this Petition may be quickly resolved without undue expenditure of the Commission's resources.

WHEREFORE, in light of the circumstances described above, Petitioner respectfully requests that the Commission expeditiously issue an Order resolving the Petition, or in the alternative issue a Notice of Decision either granting or denying the Petition, and then provide at a later date the Commission's full discussion of its decision as to the Petition.

Respectfully submitted this the 25th day of September, 2020.

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**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has this day served the foregoing **Motion for Expedited Consideration** upon all parties of record by electronic mail.

This the 25th day of September, 2020.

/s/ \_\_\_\_\_  
Benjamin L. Snowden