

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-2, SUB 1314
DOCKET NO. E-7, SUB 1289

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Duke Energy Progress, LLC,
and Duke Energy Carolinas, LLC,
Requesting Approval of Green Source
Advantage Choice Program and
Rider GSAC

INITIAL COMMENTS OF
CIGFUR II AND III

NOW COME the Carolina Industrial Group for Fair Utility Rates II (CIGFUR II) and the Carolina Industrial Group for Fair Utility Rates III (CIGFUR III) (together with CIGFUR II, CIGFUR), pursuant to the Commission's February 9, 2023 *Order Requesting Comments* and March 28, 2023 *Order Granting Extension*, and respectfully submit initial comments in the above-captioned dockets. CIGFUR also intends to submit reply comments in these dockets at the appropriate time.

GSA BRIDGE (GSA-B) PROGRAM

CIGFUR appreciates that Duke Energy Progress, LLC (DEP) and Duke Energy Carolinas, LLC (DEC) (together with DEP, Duke Energy or the Companies) were receptive and responsive to feedback CIGFUR provided; namely, that CIGFUR desired an interim voluntary customer renewable program option while the Companies and stakeholders worked to develop new voluntary customer renewable programs and then subsequently seek regulatory approval, recognizing these processes would take time to accomplish.¹

¹ See, e.g., Initial Comments of CIGFUR II & III, Docket Nos. E-2, Sub 1297 & E-7, Sub 1268, pp. 5-6 (March 28, 2022); see also Tr. Vol. 30, pp. 32-40, Docket No. E-100, Sub 179 (Sep. 29, 2022).

Several CIGFUR members have either seriously considered or are currently seriously considering participating in the Green Source Advantage (GSA) Bridge Program (GSA-B Program).

CIGFUR has two recommendations with respect to the GSA-B Program. First, CIGFUR wishes to ensure that any GSA-B Program applicant who may wish to participate in the GSA-B Program is able to continue pursuing the application and enrollment process for the GSA-B Program if an application has been submitted before the effective date of a new Commission-approved customer renewable program. The reason for this is to avoid a scenario wherein a GSA-B applicant invests time and resources applying for the GSA-B Program only to have the timing of Commission approval of the new customer renewable programs in these dockets potentially disrupt such efforts and cause the customer to have to restart the process from ground zero under different and new program terms. With this in mind, CIGFUR recommends that any otherwise-eligible customer who submits a GSA-B Program application on or before the effective date of any new customer renewable program tariffs be allowed to continue pursuing the application under the terms of the GSA-B Program rather than be subject to the terms of the new customer renewable program(s) approved by the Commission in these dockets.

Second, to the extent any GSA-B Program capacity is unreserved and unsubscribed as of the date when the GSA-B Program expires, CIGFUR recommends that such unsubscribed GSA-B Program capacity be automatically added to the total program capacity for the new Green Source Advantage Choice (GSA-C) Program (GSA-C Program).

GSA-CHOICE (GSA-C) PROGRAM

Statutory Authority

Part III of House Bill 951 (S.L. 2021-165) included, in pertinent part, a directive to the North Carolina Utilities Commission to

establish a rider for a voluntary program that will allow industrial, commercial, and residential customers who elect to purchase from the electric public utility renewable energy or renewable energy credits, including in any program in which the identified resources are owned by the utility in accordance with [G.S. 62-110.9(2)b.], to offset their energy consumption, which shall ensure that customers who voluntarily elect to purchase renewable energy or renewable energy credits through such programs bear the full direct and indirect cost of those purchases, and that customers that do not participate in such arrangements are held harmless, and neither advantaged nor disadvantaged, from the impacts of the renewable energy procured on behalf of the program customer, and no cross-subsidization occurs.

Further, G.S. 62-110.9(2)b. clarified that the 45% third-party independent power producer ownership/55% utility ownership split for new solar generation resources also applies to new solar generation “procured in connection with any voluntary customer program.”

Broader Policy Context

Also enacted into law as part of House Bill 951 (HB 951), G.S. 62-110.9 directs the Commission to take

all reasonable steps to achieve a seventy percent (70%) reduction in emissions of carbon dioxide (CO₂) emitted in the State from electric generating facilities owned or operated by electric public utilities from 2005 levels by the year 2030 and carbon neutrality by the year 2050.

Consistent with the comments CIGFUR filed in the 2022 Solar Procurement Dockets,² CIGFUR continues to believe that system benefits can be realized in a cost-effective manner if Duke Energy sufficiently leverages nonresidential customer interest in clean energy investments through participation in new voluntary programs that align corporate clean energy goals with North Carolina's broader goals for decarbonizing Duke Energy's generation fleet.

CIGFUR's General Feedback

As an initial matter, CIGFUR appreciated the opportunity to participate in the customer renewable stakeholder sessions hosted and facilitated by Duke Energy. The design of flexible, customizable customer renewable programs is important to CIGFUR and its member companies, many of whom have set their own sustainability goals to consume renewable and zero-carbon energy. Some CIGFUR member companies have taken these sustainability goals a step further by committing to power their operations with 24/7 clean energy.

At the same time, ensuring that new voluntary customer renewable programs abide the legislative mandates that non-participating customers be held harmless and that cross-subsidization by non-participating customers be prohibited are also important to CIGFUR.

The proposed GSA-C Program represents an improvement from the legacy GSA Program in several significant ways, including (1) the optional short-duration battery storage program add-on; (2) the hourly pricing option; (3) the conveyance of both RECs and carbon-free attributes; (4) the preservation of the customer choice between utility

² See Comments of CIGFUR II and III, Docket No. E-2, Sub 1297; Docket No. E-7, Sub 1268 (March 28, 2022).

ownership and third-party generation; and (5) the Companies' willingness to engage with interested stakeholders to develop an hourly accounting and reporting system.

Although CIGFUR acknowledges the proposed GSA-C Program is an improvement from the legacy GSA Program and its predecessor program, the Green Source Rider, CIGFUR believes there is still room for improvement in the proposed GSA-C Program in a few key areas. In those few discrete areas, CIGFUR offers constructive recommendations in these comments for improving GSA-C Program design in ways that would better meet the needs and expectations of increasingly sophisticated customers with energy-intensive operations.

As described more fully herein, CIGFUR recommends the following program design and/or related process improvements:

- (1) Increase GSA-C Program capacity, including additional capacity earmarked specifically for economic development projects.
- (2) Provide for a program expansion mechanism in the event customer interest in the GSA-C Program exceeds available program capacity. Alternatively, provide clear guidance for how program capacity will be allocated in the event the GSA-C Program is oversubscribed.
- (3) Remove the proposed 80-MW cap for each GSA-C Facility.
- (4) Increase the 250-MW annual allocation GSA-C Facility PPA capacity limit. Alternatively, allow any rejected bids in the annual solar procurement processes to be evaluated by prospective GSA-C Program participants and considered as a possible GSA-C Facility PPA.
- (5) Add two additional contract term options, one for 25 years and another for 30 years.
- (6) Adopt the recommendations provided by Google with respect to the need to incentivize optimal dispatch of battery storage to the benefit of the system.
- (7) Engage constructively with customers on how to leverage rapid prototyping to pursue new and innovative customer renewable program design ideas.

- (8) Ensure decisions about GSA-C Program design are being made with customers and their needs as the central focus, within the customer renewable program parameters set forth by HB 951.
- (9) Reduce or eliminate the \$2,000 GSA-C Program application fee, unless such fee is required to comply with the customer renewable program parameters set forth by HB 951.
- (10) Change the GSA-C Program application opening date and time to 12 p.m. EST on the first business day in January each calendar year.

Program Availability and Capacity

CIGFUR believes the proposed GSA-C Program capacity of 2,200 MW of DEC-owned or DEP-owned GSA-C Facilities plus 1,800 MW of GSA-C Facilities owned by third parties is insufficient to meet customer demand for participation in the GSA-C Program. For this reason, CIGFUR encourages the Companies and the Commission to look for opportunities to increase the volume of GSA-C Program capacity as currently proposed. In addition, CIGFUR encourages utilizing a potential program expansion mechanism whereby additional GSA-C Program capacity can be automatically made available for subscription by eligible customers in the event that the initial GSA-C Program capacity offering is fully subscribed and demand remains for additional program capacity. Interest in additional program capacity could be shown, for example, through the existence of a waitlist. In the event of an oversubscribed scenario, CIGFUR also encourages the Companies to clarify and the Commission to approve a clearly detailed methodology by which program capacity will be allocated.

Program Capacity for Economic Development Projects

Due in part to the growing number of companies with corporate sustainability goals, the ability of several CIGFUR member companies to procure reliable, sustainable, and cost-effective energy for their respective operations is one of the key factors considered in

selecting where facilities are located or expanded. Along these lines, CIGFUR suggests reserving additional and incremental GSA-C Program capacity for interested economic development customers with a qualifying contract demand size for new or incremental load.

Providing for additional GSA-C Program capacity to be earmarked as economic development capacity for customers with new or incremental qualifying demand will help North Carolina stand out in what is an increasingly competitive environment for business recruitment, especially as an increasing number of companies establish sustainability goals and/or clean energy requirements. A great example of the impact such a policy could have is reflected in Section 11.19.(f1) of SB 105 (S.L. 2021-180), which redefined “eligible customer” for purposes of the legacy GSA Program as “any customer of an electric public utility that locates a new manufacturing facility at a project site that is subject to an agreement with the Department of Commerce pursuant to subsection (d) of this section[.]” An example of such a policy in action in a jurisdiction outside of North Carolina is the Clean and Renewable Energy Subscription (CARES) Program offered by Georgia Power, which features “New Load” and “Economic Development” options.³

Finally, earmarking GSA-C Program capacity for economic development customers reduces the risk that a few new large customers develop projects in North Carolina and soak up all the GSA-C Program capacity contemplated and approved to serve demand for existing nonresidential customers, especially considering as currently proposed, GSA-C Facility PPA capacity will be limited to up to 250 MW total between

³ See Georgia Power: Customer Solutions Renewable & Resiliency, “Clean and Renewable Energy Subscription Program (CARES) Program Frequently Asked Questions,” available at https://www.georgiapower.com/content/dam/georgia-power/pdfs/business-pdfs/CARES_FAQs.pdf.

DEP and DEC service territories. In addition, CIGFUR suggests the Companies explore opportunities to increase forward-looking assurances to new customers or customers considering expanding operations in North Carolina regarding access to renewable and carbon-free energy, such as a multi-year allocation option for interested customers who would otherwise be eligible to subscribe to such capacity. This may encourage more investment in economic development projects in North Carolina and, in turn, further increase customer participation in the GSA-C Program.

GSA-C Facility Capacity Limitation

CIGFUR member companies have concerns regarding the proposed 80-MW constraint on the capacity size for GSA Facilities. CIGFUR recommends eliminating the 80-MW limit so that GSA-C projects can achieve economies of scale. Alternatively, if eliminating the per-facility capacity cap is not a viable option, CIGFUR suggests that rather than implement a per-facility capacity cap of 80 MW, the GSA-C Facility be allowed to exceed 80 MW but instead Duke could limit the amount of capacity one individual customer could subscribe to from any one facility to a maximum of 80 MW. That said, removing this per-facility cap altogether is preferred.

Annual Allocation Process

In addition to the 250 MW of GSA-C Facility PPA capacity to be allocated annually between DEP and DEC, the Companies should also explore the idea of creating an option for customers to evaluate projects that were submitted but not selected as part of the annual solar procurement processes expected to take place to meet the carbon emissions reduction goals set forth in G.S. 62-110.9. Given the capacity constraints in the proposed GSA-C Program, allowing interested nonresidential customers to potentially turn rejected

annual solar procurement bids into GSA-C Facility PPAs would provide an opportunity to leverage efficiencies in a way that would be seemingly beneficial for all parties involved.

Contract Term

CIGFUR appreciates the optionality of allowing the participating customer to choose between a 5-, 10-, 15-, or 20-year contract. That said, some CIGFUR member companies are seeing longer-term contracts in other jurisdictions. In other jurisdictions, these contracts include term lengths of up to 25-30 years. CIGFUR member companies prefer greater optionality on the issue of contract length, including contract term options up to 30 years.

Importance of Customer-Centric Process and Decisions

While CIGFUR acknowledges the value of inclusivity and diversity of thought, it is important to remember that the voluntary programs being proposed in these dockets are *customer* programs; not just any stakeholder or intervenor, but *customers*. And with respect to the GSA-C Program in particular, this is a program proposed not just for any customer, but for *nonresidential customers* specifically. In order for the GSA-C Program to be successful, nonresidential customers must voluntarily subscribe to program capacity. In order for nonresidential customers to choose to subscribe to GSA-C Program capacity, the GSA-C Program must be designed to meet the needs of *nonresidential customers*. For this reason, it is important to remember that it is the voices of non-residential customers and their advocates (including the Public Staff) who matter most in this proceeding.

Capacity Valuation

CIGFUR has had a chance to review the draft comments of Google LLC in advance of filing and agrees with the critiques and supports the recommendations provided by

Google with respect to the need to incentivize optimal dispatch of battery storage to the benefit of the system.

Rapid Prototyping Potential for Future Customer Programs

CIGFUR has appreciated the opportunity to be actively involved in the Companies' ongoing Rapid Prototyping Stakeholder process. Along these lines, CIGFUR has several ideas regarding possible future voluntary customer programs that could potentially be good candidates for rapid prototyping. For example, CIGFUR is interested in discussing with the Companies—both as a potential future power quality solution and as a new, innovative voluntary customer program offering—a possible behind-the-meter storage option. As another example, CIGFUR is interested in discussing the possibility of new customer offerings for carbon-free energy supply beyond the specific technologies identified in the proposed GSA-C Program.

One specific idea CIGFUR has for rapid prototyping involves allowing interested large industrial customers voluntarily agree to serve as an anchor tenant for a community solar project, preferably in or near the same community where the large customer has operations. Allowing such an arrangement would help make the economics and value proposition for community solar projects more tenable for all participating customers. Duke Energy's non-regulated business has recognized the benefits of allowing such an arrangement:

What are the benefits of community solar?

01

Save Money

As an anchor tenant, you don't have to worry about upfront investments, construction or costs associated with owning an off-site solar project. And since your utility will directly credit you for energy supplied to the grid, you'll save more on energy costs.

02

Lower Risks

Because we own, operate and maintain the off-site solar project, your organization can look forward to reduction of risks associated with maintaining the solar project.

03

Make a Difference

You're not only reducing your environmental impact. You're also expanding access to solar and helping to provide renewable energy to those who haven't had access to it.

4

Indeed, CIGFUR believes such a program structure could present a rare opportunity for a win-win-win for all involved parties.

CIGFUR looks forward to continued dialogue and constructive engagement with the Companies regarding new and innovative customer offerings, especially to the extent such offerings may be eligible for rapid prototyping. CIGFUR hopes the proposed GSA-C Program is merely the beginning of continued dialogue and constructive engagement with the Companies regarding new voluntary customer programs facilitated by the enactment of HB 951.

Application Fee and Process

CIGFUR member companies note that in other jurisdictions, they can solicit responses to a Request for Proposal for solar capacity free of charge. If the \$2,000 nonrefundable application fee is a requirement to comply with the HB 951 prohibition against cross-subsidization by non-participating program participants, then CIGFUR

⁴ Available at <https://sustainablesolutions.duke-energy.com/solutions/distributed-generation/community-solar/>.

would be willing to accept that. However, this is an issue CIGFUR wishes to raise on principle.

As a final note, CIGFUR member companies prefer an application opening date some time other January 1, a federal and State holiday, especially considering the Companies' proposal to apply a "first come, first served" policy beginning with earliest timestamp on the applications as of, presumably, 12:01 a.m. on January 1. That is an inconvenient and unreasonable program application opening time and date. If the program could open at, say, 12 p.m. EST on the first business day of January each year, that would be more manageable and realistic for CIGFUR member companies.

CONCLUSION

It remains CIGFUR's intent to work collaboratively with the Companies to modify program design in a way that more meaningfully aligns with the corporate decarbonization goals of several CIGFUR member companies, while at the same time ensuring non-participating customers are held harmless. By working together on the to ensure we get the program design right on the front end, the Companies and nonresidential customers can maximize the chances that a new voluntary nonresidential customer program will be successful and fully subscribed.

In summary, CIGFUR makes the following recommendations regarding the GSA-B Program in these initial comments:

- (1) Allow any otherwise-eligible customer who submits a GSA-B Program application on or before the effective date of any new customer renewable program tariffs approved in these dockets to continue pursuing its application under the terms of the GSA-B Program rather than be subject to the terms of the new customer renewable program(s) approved by the Commission in these dockets.

- (2) To the extent there remains any unreserved and unsubscribed GSA-B Program capacity as of the date when the GSA-B Program expires, CIGFUR recommends that such unsubscribed GSA-B Program capacity be automatically added to the total program capacity for the new Green Source Advantage Choice (GSA-C) Program (GSA-C Program).

CIGFUR also makes the following recommendations with respect to GSA-C Program design in these initial comments:

- (1) Increase GSA-C Program capacity, including additional capacity earmarked specifically for economic development projects.
- (2) Provide for a program expansion mechanism in the event customer interest in the GSA-C Program exceeds available program capacity. Alternatively, provide clear guidance for how program capacity will be allocated in the event the GSA-C Program is oversubscribed.
- (3) Remove the proposed 80-MW cap for each GSA-C Facility.
- (4) Increase the 250-MW annual allocation GSA-C Facility PPA capacity limit. Alternatively, allow any rejected bids in the annual solar procurement processes to be evaluated by prospective GSA-C Program participants and considered as a possible GSA-C Facility PPA.
- (5) Add two additional contract term options, one for 25 years and another for 30 years.
- (6) Adopt the recommendations provided by Google with respect to the need to incentivize optimal dispatch of battery storage to the benefit of the system.
- (7) Engage constructively with customers on how to leverage rapid prototyping to pursue new and innovative customer renewable program design ideas.
- (8) Ensure decisions about GSA-C Program design are being made with customers and their needs as the central focus, within the customer renewable program parameters set forth by HB 951.
- (9) Reduce or eliminate the \$2,000 GSA-C Program application fee, unless such fee is required to comply with the customer renewable program parameters set forth by HB 951.
- (10) Change the GSA-C Program application opening date and time to 12 p.m. EST on the first business day in January each calendar year.

The member companies of CIGFUR II and III appreciate the opportunity to submit these initial comments in the above-captioned dockets. CIGFUR respectfully reserves the right to address any and all issues germane to any issue raised by CIGFUR or any other party in initial comments filed in the above-captioned dockets. CIGFUR will carefully review all other initial comments and submit reply comments in these dockets at the appropriate time.

WHEREFORE, CIGFUR respectfully requests the Commission consider these initial comments in its decision making in these dockets.

Respectfully submitted, this the 25th day of April, 2023.

BAILEY & DIXON, LLP

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CERTIFICATE OF SERVICE

The undersigned attorney for CIGFUR hereby certifies that she caused to be served by electronic mail the foregoing *Initial Comments of CIGFUR II & III* upon the parties of record to this proceeding, as set forth in the service list for the above-captioned dockets maintained by the Chief Clerk of the North Carolina Utilities Commission.

This the 25th day of April, 2023.

/s/ Christina D. Cress

Christina D. Cress

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Apr 25 2023