

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-2, SUB 1159
DOCKET NO. E-2, SUB 1297
DOCKET NO. E-7, SUB 1156
DOCKET NO. E-7, SUB 1268

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Duke Energy Progress, LLC, and Duke Energy Carolinas, LLC, Joint Petition for Approval of Competitive Procurement of Renewable Energy Program)	
)	
)	COMMENTS OF THE
)	PUBLIC STAFF
Duke Energy Progress, LLC, and Duke Energy Carolinas, LLC, 2022 Solar Procurement Pursuant to Session Law 2021-165, Section 2(c))	
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NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and responds to the petition filed September 1, 2022, by Duke Energy Progress, LLC (DEP), and Duke Energy Carolinas, LLC (DEC) (together, Companies or Duke), for approval to procure the Competitive Procurement of Renewable Energy (CPRE) Program capacity shortfall through the 2022 Solar Procurement, to extend the CPRE Program power purchase agreement (PPA) term, and for waiver of certain provisions of Commission Rule R8-71 (Petition).

1. On March 14, 2022, the Companies filed a petition proposing a system-wide solar procurement request for proposal (RFP), seeking to competitively procure a minimum of 700 megawatts (MW) of utility-owned and third-party solar capacity, after preliminary analysis in advance of the Companies' 2022 Carbon Plan (2022 Solar RFP). The Companies stated that the 2022 Solar RFP will be aligned with the 2022 Definitive Interconnection System Impact Study (DISIS) cluster and will be overseen by an Independent Evaluator (IE). The proposed schedule and framework are largely similar to recent renewable capacity procurement through the CPRE program, involving a robust pre-solicitation process with review and input from stakeholders and market participants to develop the 2022 Solar RFP draft and pro forma PPAs.

2. On May 26, 2022, the Commission issued its Order Authorizing a Competitive Procurement of Solar Resources Pursuant to House Bill 951 and Establishing Further Procedures, which authorized Duke to commence a system-wide competitive procurement seeking a minimum of 700 MW of utility-owned and third-party solar energy resources. The Commission deferred its decision establishing the final solar resource procurement target for the 2022 Solar RFP, which would be subject to a volume adjustment mechanism to align bid prices with the Solar Reference Cost used in the development of the Companies' Proposed Carbon Plan,¹ filed May 16, 2022, in Docket No. E-100, Sub 179, consistent with Duke's request.

¹ The volume adjustment mechanism is discussed in more detail in the 2022 Solar Procurement RFP on page 2. The mechanism provides that if the weighted average cost of the total portfolio of 2022 Solar Procurement projects is less than or equal to 90% of the Carbon Plan

3. On June 10, 2022, the Commission issued its Order Approving Request for Proposals and Pro Forma Power Purchase Agreement Subject to Amendments, approving the pro forma PPA and the 2022 Solar RFP, including a downward-only bid refresh mechanism to account for uncertainty in the solar market.

4. On September 1, 2022, in Docket No. E-100, Sub 186, contemporaneously with their Petition, the Companies filed their CPRE Program Plan Update, which summarized the CPRE Program procurement to date and updated parties on the status of Tranche 3, which procured only 155 MW out of a target of 596 MW, leading to a 441 MW shortfall (CPRE Shortfall). The Companies described their plan to procure the CPRE Shortfall through the ongoing 2022 Solar RFP.

5. On September 23, 2022, the Commission issued its Order Requesting Comments.

6. The Companies' Petition requests that the Commission approve plans to procure the CPRE Shortfall through the 2022 Solar RFP by (1) selecting the most competitive third-party PPA bids up to the avoided cost cap and designating them as CPRE projects; (2) extending the CPRE Program PPA from 20 years to 25 years to match the 2022 Solar RFP pro forma PPA approved by the Commission; (3) recalculating the administratively determined avoided cost cap to

Solar Reference Cost, the target volume may be increased by up to 20% above the RFP Target Volume. If the weighted average cost is greater than or equal to 110% of the Carbon Plan Solar Reference Cost, the target volume may be decreased by as much as 20%, subject to the 700 MW minimum volume.

be used in the selection of CPRE-designated projects; and (4) waiving to Commission Rule R8-71(d), (e), and (f), to the extent such provisions do not align with the 2022 Solar Procurement framework.

7. The Petition also specifies that the CPRE-designated projects would be exclusively third-party PPAs and would not be included in the utility ownership requirements of N.C. Gen. Stat. § 110.9(2)(b), which specify that 55% of new solar generation selected by the Commission in its Carbon Plan be utility-owned and recovered on a cost-of-service basis.

8. While not mentioned in the Petition, in Docket No. E-100, Sub 179, the Companies' witnesses Snider, McMurry, Quinto, and Kalemba (Modeling Panel) in their direct testimony, stated that the CPRE designated projects would not be included in the 2022 Solar Procurement volume adjustment mechanism calculations.²

9. Generally, the Public Staff supports the Companies' request to procure the CPRE shortfall through the 2022 Solar RFP as being in the best interest of ratepayers, with certain caveats. The Public Staff agrees with Duke that CPRE-designated projects should not count towards the utility ownership requirements of N.C.G.S § 110.9(2)(b) but should be included in the calculation of the 2022 Solar Procurement volume adjustment mechanism. Excluding these low-cost projects from the calculation of the volume adjustment mechanism could result in a reduction in the 2022 Solar Procurement target volume, without actually

² Duke Energy's Modeling Panel, Direct Testimony, at p 77.

protecting ratepayers from excessive costs, because the actual total weighted cost of solar projects procured through the 2022 Solar Procurement would necessarily include the CPRE-designated projects.

10. The CPRE Program in general was designed to procure substantially more capacity in DEC,³ pursuant to N.C.G.S § 110.8(c), which took into account the State's desire to foster diversification of siting renewable resources throughout the state and to consider the efficiency and reliability impacts of siting additional renewable energy. To facilitate this diversification of siting and to increase DEC's solar penetration relative to load, CPRE Tranche 3 was exclusively located in DEC.⁴ Consistent with testimony given by Public Staff witness Jeff Thomas in Docket No. E-100, Sub 179, the Public Staff believes that at least 400 MW of solar generation resources from the 2022 Solar Procurement should be located in DEC's territory.⁵ For the avoidance of doubt, the Public Staff is not recommending that all 441 MW of the CPRE Shortfall be procured in DEC; rather, at least 400 MW of the total solar capacity procured in the 2022 Solar Procurement, inclusive of CPRE designated projects and HB 951 projects, be located in DEC. The Public Staff has

³ Duke's Petition for Approval of Competitive Procurement of Renewable Energy Program to Implement N.C. Gen. Stat. § 62-110.8, Attachment 1, Initial CPRE Program Guidelines (Rule R8-71(c)), page 1, filed in Docket Nos. E-2, Sub 1159 and E-7, Sub 1156, on Nov. 27, 2017.

⁴ Duke's Amended CPRE Tranche 3 RFP, Attachment A, page 4, filed in Docket Nos. E-2, Sub 1159 and E-7, Sub 1156, on January 21, 2022.

⁵ See the revised Direct Testimony of Jeff Thomas, given orally from the stand on September 22, 2022, in Docket No. E-100, Sub 179, Tr. Vol. 21 at 23-25. The Public Staff has slightly revised its jurisdictional allocation recommendation of 441 MW to 400 MW based on subsequent conversations with the Companies.

recommended a target 2022 Solar Procurement volume of 1,200 MW.⁶ Further, in an effort to promote the least cost geographic diversification of this resource procurement, the Public Staff further recommends that the Commission require approximately one third of the total volume to be located in DEC, one third of the total volume in DEP, and one third of the total volume to be procured in either DEP or DEC.

11. The Public Staff supports the extension of the CPRE Program PPA from 20 years to 25 years, because the term of the pro forma PPA approved by the Commission for the 2022 Solar Procurement is 25 years, and market participants have priced their bids accordingly. Not extending the CPRE Program PPA to match the 2022 Solar Procurement term would effectively be changing the terms of the 2022 Solar RFP after bidding has closed. Offering two different PPAs at two different terms would require repricing of bids designated as CPRE projects, which would unnecessarily complicate the evaluation process. In addition, N.C.G.S. § 110.8(b)(3) allows for the approval of a CPRE term longer than 20 years if the Commission determines that it is in the public interest to do so. The Public Staff believes that a term of 25 years is in the public interest.

12. The Public Staff agrees with Duke's proposal to recalculate and file the administratively determined avoided cost based upon the most recently approved avoided cost methodology and inputs. The Public Staff further

⁶ *Id.*

recommends that the first year used in the calculation align with the first year that the 2022 Solar Procurement projects are expected to come online.

13. Finally, the Public Staff generally believes the requested waivers of Commission Rule R8-71(d), (e), and (f) are in the public interest to procure the CPRE shortfall through the 2022 Solar Procurement, with certain exceptions discussed below. While Commission Rule R8-71 expressly lays out requirements regarding the CPRE Independent Administrator (IA), the Public Staff believes that the IE should be sufficient for this procurement because Duke has stated that it is not bidding projects into this RFP. Duke's statement alleviates the Public Staff's concern that Duke's knowledge of the bids would provide it with an advantage over other market participants in this procurement. The Public Staff does, however, believe that the IE should be required to conform to the requirements of Commission Rule R8-71(d)(2) for an IA.

14. Commission Rule R8-71(d)(2) requires the IA to disclose any financial interest involving the electric public utilities or any market participants. The Public Staff believes the IE in the 2022 Solar Procurement should be required to discuss any such financial interests, to the extent this has not already been disclosed.

15. Commission Rule R8-71(d)(9) requires the IA to immediately report any violation of procurement program rules, together with any recommended remedy, to the Commission. The Public Staff believes that the IE should be subject to this requirement and should immediately report any violations which would damage the fairness and transparency of the 2022 Solar Procurement evaluation

process, as well as any violations of the Utility Ownership Team and Bid Refresh Sub-Team Separation Protocols described in Section D of the 2022 Solar Procurement RFP.

Respectfully submitted this the 4th day of October, 2022.

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CERTIFICATE OF SERVICE

I certify that a copy of these Initial Comments of the Public Staff has been served on all parties of record or their attorneys, or both, in accordance with Commission Rule R1-39, by United States Mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 4th day of October, 2022.

Electronically submitted
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