

STATE OF NORTH CAROLINA UTILITIES COMMISSION RALEIGH

DOCKET NO. E-100, SUB 101

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Petition for Approval of Revisions to Generator Interconnection Standards) REPLY COMMENTS OF CAROLINAS) CLEAN ENERGY BUSINESS) ASSOCIATION CONCERNING ISSUES) ON THE GENERATOR INSPECTION) PROVISIONS OF THE NC GENERATOR) INTERCONNECTION STANDARD)
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I. INTRODUCTION

The Carolinas Clean Energy Business Association (“CCEBA”) hereby files these Reply Comments, pursuant to the *Order Seeking Comments Regarding Generator Inspection Provisions of the North Carolina Generator Interconnection Standards* issued by the Commission on March 9, 2021 (“Order Seeking Comments”) and several subsequent Orders extending the time to file. The Commission previously requested comments from the parties as to their concerns regarding the inspection of generating facilities having fully-executed Interconnection Agreements on or before July 14, 2019 (“Legacy Facilities”).

On March 29, 2021, CCEBA joined with Strata Solar, LLC and Strata Solar Development, LLC (collectively, “Strata”) to file joint comments. Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC, (“DEP”) (collectively “Duke” or “the Companies”) also filed comments. Since that time, Duke has engaged in discussions, primarily with Strata, in an attempt to resolve the concerns raised about Duke’s proposed mandatory self-inspection program. In light of the fact that Strata and Duke have proposed a Memorandum of Agreement between them (attached as **Exhibit A**), these reply comments will briefly address the underlying dispute, and then focus primarily on the terms of the proposed MOA.

II. BACKGROUND

CCEBA includes among its members several independent renewable energy producers who have built and operate solar energy generating facilities in North Carolina. Those companies, as they have always been, are committed to ensuring the safety and reliability of their operations and of Duke's grid. As sellers of electric power, they only succeed if they produce that power safely and reliably. Thus, in their own operations as well as their interaction with Duke, they have an incentive to contribute to grid reliability and safety. In addition, CCEBA and its members often participate as stakeholders, working with Duke to resolve the issues before this Commission and through the Technical Standards Review Group ("TSRG"), including the appropriate response to ensure the safety and reliability of the grid.

Nevertheless, as stated in the Joint Comments of CCEBA and Strata¹ (the "Joint Comments"), CCEBA objected to Duke's decision to impose a self-inspection regime upon all Legacy Facilities with Interconnection Agreements that predate the Commission's *Order Approving Revised Interconnection Standard and Requiring Reports and Testimony* issued on June 14, 2019 ("June 14, 2019 Order"). As set forth in the Joint Comments, there were three main problems with Duke's new proposal:

First, a mandatory self-inspection program is not authorized by the Commission in the June 14, 2019 Order or any other order. Duke's inaccurate interpretation of the June 14, 2019 Order would essentially impose new terms and requirements on agreements and financing structures which were not required or anticipated at the time they were negotiated. Second, the scope of Duke's proposed inspection regime is not only unnecessary due to the parties' mutual commitment to the safety and reliability of the grid, but it imposes unneeded costs upon solar developers' Generating Facilities. Third, Duke overestimates the available supply of inspectors and Professional Engineers willing to conduct inspections in a self-inspection program. Duke's proposed self-inspection program will likely result in higher costs and delays to solar developers, with a negligible impact on the safety and reliability of the grid.

¹ Strata and its affiliates are not members of CCEBA, but the two parties cooperated in the preparation and filing of their Joint Comments.

(Joint Comments at 2-3.)

Most critically, CCEBA and Strata contended, and it remains CCEBA's position, that neither the June 14, 2019 Order nor NC Interconnection Protocol ("NCIP") Sections 6.5.2 and 6.5.3 authorize the imposition of a mandatory self-inspection program on Legacy Facilities. The clear language of the June 14, 2019 Order and the amendments to the NCIP support that position.

The arguments set forth in Duke's March 29, 2021 Comments echoed the positions Duke had asserted in prior correspondence, and those points were addressed in the Joint Comments. In reply, CCEBA stands by the arguments made in the Joint Comments.

CCEBA-and Strata noted in their Joint Comments that further discussion was warranted and that additional negotiations should be allowed to take place before Commission action. The Commission granted several extensions of time, and Strata undertook to negotiate with Duke to resolve the dispute. In the interim, CCEBA representatives met from time to time with representatives of Strata and provided input and goals for the negotiations from the standpoint of other Generators. CCEBA was not involved in direct discussions with Duke.

On Thursday, July 22, 2021, Strata provided a confidential draft of a proposed Memorandum of Agreement between Strata and Duke. This was the first opportunity CCEBA had to review the language of any agreement or proposal since Duke filed its Comments in support of its proposed self-inspection regime. A copy of the proposed MOA without a confidential marking was provided on August 4, 2021, and is attached hereto as **Exhibit A**.

As a result of this proposed MOA, CCEBA believes that these reply comments, rather than rehashing the arguments asserted by the parties in March, are better directed at the MOA, and where the Commission and the parties can go from here.

III. DISCUSSION

A. The Proposed MOA is a Positive Development

CCEBA notes that the MOA makes progress on several issues that divided the parties in March, and thanks representatives of Duke and Strata for their significant effort in negotiations.

Those areas include:

1. **The MOA is a voluntary agreement entered into by Strata and Duke**, and not an imposed program without support in Commission Orders or the NCIP. As such, it is a good model for other Generators to undertake as a *voluntary* program and as a potential resolution of a disputed matter.

2. **The MOA would limit the scope of the proposed self-inspection program to “Outside The Fence Facilities.”** In the MOA, Strata and Duke agree that such a program “can provide the Utilities with reasonable assurance of the continued safe and reliable operations of medium voltage equipment at Legacy Facilities interconnected to the DEC and DEP distribution systems.” (MOA Sec. 3b.) Outside the Fence Facilities are defined as “Interconnection Facilities and related equipment which are owned by Strata Interconnection Customers and are located in areas accessible to the general public or local landowners.” (MOA Sec. 2d.) CCEBA agrees that this reduction in scope can help meet Duke’s stated goals without the overreach inherent in Duke’s initial proposals.

The MOA further provides in Section 5 that within 120 days of the execution of the MOA, Duke will provide “comprehensive construction specifications in effect on July 1, 2021 to Strata Interconnection Customers for the Legacy Facilities’ points of interconnection (“POI”) Outside the Fence Facilities, which is a subset of the Duke Energy Distribution Standards Manual.” The MOA allows Strata Interconnection Customers to evaluate their own adherence to

these standards and identify any needed corrective actions and use any components which meet or exceed Duke's specifications. While CCEBA requests clarification on the record below for some cost issues related to any upgrades required by this proposed program, in general CCEBA supports the approach in Section 5 as an improvement over Duke's prior proposed inspection regime.

3. The MOA would allow Legacy Facilities to perform the inspections with their own personnel as part of their own Operations and Maintenance programs, rather than requiring the Legacy Facilities to retain the services of a contractor selected by Duke. This process helps avoid both the undue expense and the lack of contractors willing or able to do the work discussed in the Joint Comments.

4. The MOA calls for Duke to establish a distributed energy resource inverter and interconnection devices functional settings compliance document ("DER Functional Settings Guidance Document"). (MOA Sec. 4.) This document would provide guidance to generators and assurance to Duke that inverter and interconnection devices are set consistently with network requirements. The development of this DER Functional Settings Guidance Document is left to "Duke, in good faith collaboration with Strata." CCEBA supports this document in concept but, as discussed below, seeks input for its members in the development of this document.

5. The MOA sets timelines for inspection of Legacy Facilities' inverter and interconnection device settings at three years, based on a schedule to be provided by Strata to Duke within 120 days. (MOA Sec. 6a.) Should such a schedule be agreed to by CCEBA members for their facilities, CCEBA considers this proposed schedule to be reasonable.

6. The MOA would provide for the Legacy Facilities to validate that Critical Components shown on the single line diagram (“SLD”) of the facilities are present or have been replaced with their functional equivalents. (MOA Sec. 6d.) Use of functional equivalents which do not materially impact the reliability or safety of Duke’s system is a reasonable approach which was requested by CCEBA, and CCEBA appreciates the inclusion of this provision. Again, Duke commits to work “in good faith collaboration with Strata Interconnection Customers” to “define a list of the critical components to be validated on the SLDs (“Critical Component List”).” As discussed below, CCEBA requests that it also be consulted in the development of the Critical Component List, or that the development of that list be developed through the TSRG process.

7. The MOA proposes a Self-Administered Compliance Program on a five-year periodic inspection schedule for Outside the Fence Facilities, ongoing adherence to the DER Functional Settings Compliance Document, and a “cease to energize” or “anti-islanding test” as part of the periodic inspection of Outside the Fence Facilities. CCEBA considers these timeframes and proposals to be a reasonable compromise. The MOA again states that Duke and Strata will “work together to further identify the best approach of requiring and performing this anti-islanding test” and commit to complete that development within 120 days after execution of the MOA. As with all other such provisions of the MOA, CCEBA requests that before any anti-islanding standards can be considered applicable to any parties other than Strata, that CCEBA be consulted or the standards be developed through the TSRG.

8. The MOA provides for maintenance of right-of-way access for Duke POI facilities through development of maintenance requirements, one-time photographic documentation of maintenance within 5 years, and provision of information about

preventative maintenance programs for right-of-way access. (Sec. 8.) CCEBA agrees that these standards and programs are reasonable and can be made part of a facility's Operations and Maintenance without need for outside inspections or audits.

9. The MOA provides for Duke to have a right to require a compliance audit of any Outside the Fence Facilities “in the event of adverse operating effects or customer complaints based on adverse operating effects, as that term is used in Section 3.4.4 of the NC IA.” (Sec. 9.) CCEBA considers this audit right to be a reasonable compromise and consistent with the obligations of the parties under the NC IA. As set out below, CCEBA does request clarification on the record of certain cost concerns related to these audits.

B. CCEBA's Concerns and Requests

While CCEBA appreciates and congratulates Duke and Strata representatives for their efforts in reaching the terms of the MOA, there are a few areas where CCEBA believes further clarification is needed prior to any consideration of the MOA as a document that can apply to the entire industry.

First, in every area in which the proposed MOA states that standards, lists, or programs will be developed by Duke with participation by Strata, or in good faith collaboration with Strata, CCEBA requests that its members be consulted. In prior correspondence, Duke's counsel has indicated that Duke is agreeable to sharing the documents with CCEBA industry members at the next TSRG meeting and considering the feedback of CCEBA and its members through that forum. CCEBA requests that any approval of the MOA by this Commission be contingent upon such discussion and feedback. For clarity, these areas include development of the DER

Functional Settings Guidance Document, the Critical Components List, and the best approach to the “anti-islanding test.”

Second, CCEBA comments that any resolution of the inspection dispute between stakeholders and Duke is just that, a resolution of a disputed legal matter without determination or concession as to the parties’ legal positions. CCEBA maintains that neither the July 14, 2019 Order nor the NCIP allow for mandatory imposition of an inspections regime for Legacy Facilities. However, parties can in good faith reach an agreement for a voluntary inspections regime that promotes the safety and reliability of the grid. Provided its concerns are addressed, CCEBA believes that the MOA represents a meaningful effort to reach such a resolution.

Third, CCEBA states that prior to any Commission approval of the MOA or use of the MOA by Duke as an industry-wide guidance document, further information is needed as to the following provisions:

1. **Section 5(a)** – With regard to the inspection of Outside-the-Fence Facilities at Legacy Facilities against Duke’s comprehensive construction guidelines in effect on July 1, 2021, if upgrades to those facilities are required to meet those guidelines, which entity will be responsible for the cost of those upgrades?

2. **Section 9** – With regard to any compliance audit of Outside-the-Fence-Facilities that arises as a result of an adverse event, the MOA states that customers “shall fully cooperate with Duke to resolve any identified deficiencies ... within 30 calendar days of written notice from Duke.” CCEBA requests clarification as to whether the intent of the parties is that the audit list needs to be completed within 30 days, whether agreement as to which issues identified in the audit require repair must be achieved within 30 days, or whether any field items identified must be remediated within that 30 day period.

3. **Section 10(d)**- With regard to any equipment remediation needed to comply with the developed single line drawing Critical Components List, CCEBA requests clarification as to which entity, the utility or the customer, would be responsible for the costs of compliance.

4. **Section 10(e)** – In developing anti-islanding test procedures, CCEBA requests confirmation of whether the Advanced Energy Test Procedure will be used, or whether a new test procedure will be developed in concert with interconnection customers. If the latter, CCEBA requests that such development be accomplished through the TSRG.

IV. CONCLUSION

With resolution of these issues and inclusion of CCEBA and its members in the development of the anticipated deliverables outlined in the MOA, CCEBA believes the proposed MOA would represent a reasonable and good faith resolution of the contested issues related to inspections of Legacy Facilities. Without that inclusion, CCEBA asserts that the MOA can only be seen as an agreement between two parties, Duke and Strata and should not be viewed as binding upon or otherwise limiting other parties. Nevertheless, CCEBA looks forward to working with the Commission, Duke, Strata, and any other stakeholder to reach a reasonable and just resolution of these important issues.

Respectfully submitted, this _____ day of August, 2021.

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