

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

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

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Joint Petition of Duke Energy Carolinas, LLC,)
and Duke Energy Progress, LLC, for) **INITIAL COMMENTS OF**
Approval of Competitive Procurement of) **THE PUBLIC STAFF**
Renewable Energy Program)

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Christopher J. Ayers, and respectfully submits initial comments in response to the Commission’s June 2, 2021 *Order Requesting Update* (Order) in the above captioned dockets on Duke Energy Carolinas, LLC’s (DEC) and Duke Energy Progress, LLC’s (DEP) (collectively, Duke) joint Competitive Procurement of Renewable Energy (CPRE) Program Plan Update, filed September 1, 2020, in Docket No. E-100, Sub 165 (September 1, 2020 Update) and the DEC 2020 Compliance Report filed Docket No. E-7, Sub 1247 (DEC 2020 Compliance Report).

In its Order, the Commission noted that the target procurement for the CPRE program is designed to be reduced by the amount of Transition MW, defined by N.C. Gen. Stat. § 62-110.8(b)(1), in excess of 3,500 MW.¹ The DEC 2020

¹ See DEC CPRE 2020 Compliance Report, at 6. Transition MW is the term used to refer to projects that qualify under N.C. Gen. Stat. § 62-110.8(b)(1) as having executed PPAs and interconnection agreements within the DEC and DEP Balancing Authorities that are not subject to economic dispatch or curtailment and were not procured under the Green Source Advantage program. Pursuant to the statute, should the level of Transition MW exceed 3,500 MW, the aggregate CPRE target of 2,660 MW will be reduced by such excess capacity.

Compliance Report noted that the total amount of Transition MW is expected to be between 4,775 and 5,300 MW, which would reduce the final CPRE procurement target to between 860 to 1,385 MW. Tranches 1 and 2 have thus far procured a total of 1,185 MW of renewable resources, resulting in a maximum of 200 MW remaining to be procured for Tranche 3 on the high end of the range. Duke indicated in the September 1, 2020 Update in Docket No. E-100, Sub 165 that it intended to seek stakeholder feedback for input regarding how to implement a potential Tranche 3, and that Duke would petition the Commission for approval of any proposed plan.

In its Order, the Commission requested initial comments on three issues: (1) the most current status of the Transition MW, (2) the need for and appropriate timing of a CPRE Tranche 3, and (3) the parties' positions on statutory interpretation regarding what must be completed within the 45-month term and what actions the Commission may properly take beyond the 45-month timeframe to ensure that the final procurement target is met.

With regard to the first question, the Public Staff requested updated information from Duke on the most current amount of Transition MW, which is reflected in the table below. Transition MW consists of Current Transition MW (projects that as of May 31, 2021, meet the statutory definition of Transition MW), and Potential Transition MW, which Duke has estimated based upon the status of projects within its interconnection queue and historical materialization rates.²

² The materialization rate is the ratio of amount of capacity that is actually interconnected under the North Carolina Interconnection Procedures to the amount of capacity that enters the queue. It is an inverse measure of the amount of capacity that withdraws from the queue. For projects that have a Legally Enforceable Obligation but no Power Purchase Agreement or

Duke's current estimate for Potential Transition MW is 473 MW, which results in a Tranche 3 target of only 112 MW. The Public Staff has reviewed Duke's methodology for estimating the Transition MW and finds that it is a reasonable approach.

Transition MW Summary	DEP	DEC	Total
Solar Connected	2,794	799	3,594
Non-Solar Connected	151	143	294
Additional Solar with a PPA/IA	364	139	503
Current Transition MW	3,309	1,081	4,390
Potential Transition MW	431	41	473
Total Transition MW (approx)	3,740	1,123	4,863
Revised CPRE Target			1,297
Tranche 3 Procurement			112

Taking the Commission's questions out of order, the Public Staff next addresses what actions it believes are required to take place within the 45-month period.³ N.C.G.S. § 62-110.8(a) requires Duke to issue RFPs for the initial competitive procurement capacity⁴ and to reasonably allocate the initial competitive procurement capacity over a 45-month period (the CPRE Program Procurement Period). In the case that there remains capacity to be procured from the initial amount, the statute contemplates that any unawarded portion may be

Interconnection Agreement, Duke estimates approximately 30% will meet the definition of Transition MW by November 2021.

³ N.C.G.S. § 62-110.8(a) requires that "the total amount shall be reasonably allocated over a term of 45 months beginning when the Commission approves the program." The CPRE program was formally approved by the Commission's February 21, 2018 Order Modifying and Approving Joint CPRE Program in this docket, resulting in the term of 45 months ending on November 21, 2021.

⁴ The "initial competitive procurement capacity target" refers to the 2,660 MW mandated by N.C.G.S. § 62-110.8(a) plus or minus the Transition MW as adjusted in accordance with N.C.G.S. § 62-110.8(b)(1).

procured in an additional procurement.⁵ The Public Staff acknowledges that a strict reading of the statute may support an argument that the remaining estimate of Tranche 3 MW to be procured (the Additional MW) should be procured prior to the end of the CPRE Program Procurement Period. The Public Staff believes, however, a reasonable allocation has been achieved and, while Duke is required to procure the total amount of the initial competitive procurement capacity target, an additional procurement outside the CPRE Program Procurement Period would satisfy that requirement.

In the event the Commission disagrees with the Public Staff's interpretation of N.C.G.S. § 62-110.8(a), we would argue, in the alternative, that the Commission may delay or modify the program pursuant to N.C.G.S. § 62-110.8(h)(5) and Commission Rule R8-71(i)(2) if it is in the public interest to do so. This delay may be necessary in any event as procuring the Additional MW by the end of the CPRE Program Procurement Period is likely not feasible in the time remaining.⁶

Finally, the Public Staff addresses the Commission's second question, the need for and appropriate timing for Tranche 3. To procure any Additional MW, the Public Staff believes it is proper and consistent with the requirements of the statute for the Commission to choose either of the following two options to ensure that the final procurement target is met: (1) wait until the 45-month period expires,

⁵ N.C.G.S. § 62-110.8(a) states "The Commission shall require the additional competitive procurement of renewable energy capacity by the electric public utilities in an amount that includes all of the following: (i) *any unawarded portion* of the initial competitive procurement required by this subsection . . ." (emphasis added).

⁶ The Tranche 2 RFP opened to allow proposal submissions on February 7, 2020 and closed on March 9, 2020. The proposal evaluation process concluded on July 17, 2020, and PPAs were executed by winning bidders over the following 90 days. The timeline from RFP opening to final project winners took approximately 5 months; from RFP opening to executed PPAs took approximately eight months.

determine if Duke has met its statutory requirements, and if not, direct Duke to issue an RFP for the remaining MW required by statute; or (2) find that it is in the public interest to modify or delay the CPRE Program Procurement Period pursuant to N.C.G.S. § 110.8(h)(5) and Rule R8-71(i)(2) to provide Duke the flexibility necessary to meet the statutory procurement target. In either scenario, the Public Staff believes that it would be in the public interest for the Commission to require Duke to competitively procure a portion of the renewable capacity it has shown a need for in its current Integrated Resource Plan (IRP) filing, in addition to the Additional MW needed to meet the initial competitive procurement capacity target.

N.C.G.S. § 62-110.1(a) states in part:

In addition, at the termination of the initial competitive procurement period of 45 months, the offering of a new renewable energy resources competitive procurement and the amount to be procured shall be determined by the Commission, based on a showing of need evidenced by the electric public utility's most recent biennial integrated resource plan or annual update approved by the Commission pursuant to G.S. 62-110.1(c).

The Public Staff believes this provision allows the Commission to direct Duke to procure resources identified in the IRP through additional CPRE tranches. While the language of the statute appears to contemplate a competitive procurement of renewable energy resources based on Duke's IRPs in addition to a tranche for the unawarded portion of the initial competitive procurement capacity target, nothing in the statute suggests that these tranches cannot be combined into the same procurement.⁷

⁷ N.C.G.S. § 62-110.8(a) also states that "the Commission shall require the additional competitive procurement...in an amount that includes all of the following...(iii) any capacity reallocated pursuant to G.S. 62-159.2." The Public Staff reads this to mean that the additional

The Additional MW considered for Tranche 3, without additional capacity from the IRP, will likely consist of approximately 112 MW according to Duke's estimation. Program administration costs are deducted from any ratepayer savings accrued from the CPRE program. Therefore, if the procurement target is reduced to a low amount of capacity, the administrative costs could be larger than ratepayer savings and the RFP would not be in the public interest. The Public Staff is concerned that a small procurement target for Tranche 3 might result in very little to no net savings to ratepayers.

In addition, the Public Staff believes that ratepayers would benefit if some or all of the renewable capacity anticipated in Duke's IRPs is procured competitively through the CPRE program, as proposed in these comments. Relative to standard offer Public Utility Regulatory Policies Act (PURPA) contracts at avoided costs, Tranche 1 of the CPRE saved ratepayers an estimated \$261 million over 20 years,⁸ and Tranche 2 saved ratepayers an estimated \$98.7 million over 20 years.⁹ In the 2020 IRP proceeding, in its initial comments filed in Docket No. E-100, Sub 165, the Public Staff recommended Duke's Portfolios A and B be accepted as reasonable for planning purposes. Duke plans to add significant quantities of renewable resources over the next several years, as shown in the

procurement must include the capacity from the Green Source Advantage program IF it has been reallocated pursuant to 62-159.2 and because that program does not expire until 2024, there has been no reallocation at this time and therefore, is not required to be included in this additional procurement.

⁸ Tranche 1 Final Report of the Independent Administrator, filed July 23, 2019 in Docket Nos. E-2, Sub 1159 and E-7, Sub 1156, at 1.

⁹ Tranche 2 Final Report of the Independent Administrator, filed February 12, 2021 in Docket Nos. E-2, Sub 1159 and E-7, Sub 1156, at 1.

below table for Portfolios A and B.¹⁰ Much of the additional solar capacity is from new third-party solar power purchase agreements that Duke anticipates will sell their power under the need established by the PURPA.

The Public Staff notes that the initial and reply comments filed by intervenors in the 2020 IRP docket have identified numerous areas of disagreement on inputs and methodologies; however, once these issues have been resolved by the Commission, Duke will most likely still need most if not all of the solar capacity currently in its Portfolios A and B, shown in the table below. The Public Staff notes that the solar capacity in the table below includes mandated, designated, and undesignated solar, and the amount of capacity that should be procured through the CPRE should be determined by a thorough review of the IRP and the filing of a revised CPRE Program Plan.

Portfolio Resource ¹¹	Cumulative New Capacity (MW)				
	2022	2024	2026	2028	2030
2019 IRP Base Case Solar	1,207	2,371	2,929	3,224	3,554
Portfolio A Solar	1,293	2,289	2,976	3,381	3,634
Portfolio B Solar	1,293	2,364	3,201	3,756	4,159
Portfolio A Solar + Storage	135	194	339	589	739
Portfolio B Solar + Storage	135	194	339	664	964

Therefore, the Public Staff believes it is in the public interest to add additional renewable capacity from Duke's IRP to Tranche 3, if needed, in order to

¹⁰ N.C.G.S. § 62-110.8 requires that the Commission base the amount to be procured in the additional competitive procurement on "the electric public utility's most recent biennial integrated resource plan or annual update approved by the Commission," which at the time of the filing of these comments is the 2019 IRP update.

¹¹ The 2020 IRP data was derived from Duke's responses to PS DR 3-14 in Docket No. E-100, Sub 165. The 2019 IRP data was derived from Table 6-B of the DEC and DEP 2019 IRP Updates filed in Docket No. E-100, Sub 157.

efficiently procure new renewable energy capacity and provide the ratepayers with needed renewable energy at or below the avoided cost. Thus, the Public Staff recommends that the Commission require Duke to file a new CPRE Program Plan that includes an additional tranche of the CPRE after the initial CPRE Program Procurement Period for any unawarded capacity needed to meet the initial procurement target and a portion of the renewable energy capacity identified as needed pursuant to the 2020 IRP.

Respectfully submitted this the 15th day of June, 2021.

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CERTIFICATE OF SERVICE

I certify that a copy of these Comments has been served on all parties of record or their attorneys, or both, 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 15th day of June, 2021.

Electronically submitted
/s/ Layla Cummings