



May 6, 2022

Ms. Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
430 N. Salisbury Street
Raleigh, NC 27603

Re: Docket No. E-2, Sub 1297 and E-7, Sub 1268
In the matter of: Duke Energy Progress, LLC, and Duke Energy Carolinas, LLC, 2022 Solar Procurement Pursuant to Session Law 2021-165, Section 2(c)
CCEBA's Comments in Reply to Duke Energy's Response to Commission's Order Requesting Answers on 2022 SP Procurement Petition

Dear Ms. Dunston,

Attached please find the Comments of the Carolinas Clean Energy Business Association ("CCEBA"), Intervenor in the above docket, in reply to Duke Energy's Responses to the Commission's April 25 2022 Order Requiring Answers on 2022 SP Procurement Petition. The Comments have been served upon all parties by copy of this letter.

Please let me know if you have any questions.

Sincerely,

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/s/John D. Burns
General Counsel
Carolinas Clean Energy Business Association

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1297

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, 2022 Solar Procurement)

Pursuant to Session Law 2021-165, Section 2(c))

_____)

**Carolinas Clean Energy Business Association's Reply Comments to Duke
Energy's Response to Commission Order Requiring Answers on 2022 SP
Program Petition**

The Carolinas Clean Energy Business Association ("CCEBA"), as intervenor, provides the following comments in reply to the responses of Duke Energy Carolinas, LLC (DEC") and Duke Energy Progress, LLC ("DEP") (together "Duke Energy") to the North Carolina Utilities Commission Order Requiring Answers on 2022 SP Program Petition.

- 1. *Explain why Duke proposes to exclude bids for solar + storage from the 2022 procurement. Provide an explanation for why solar + storage bids are not recommended for utility-owned resources as well as for third-party PPAs.***

CCEBA Reply:

CCEBA strongly supports the deployment of storage and solar + storage projects as resources to accomplish the carbon reduction goals of Session Law 2021-165 ("House Bill 951"), and urges their incorporation in the eventual Carbon Plan to be passed by December 31, 2022. Nevertheless, CCEBA agrees with Duke Energy that a solar-only 2022 procurement is reasonable given the tight timelines, the impending 2022 Definitive Interconnection System Impact Study ("DISIS"), and the need to avoid complexity in the bidding and awarding process. CCEBA also notes that Section 2(c) of House Bill 951 authorizes the North Carolina Utilities Commission "to direct the procurement of *solar energy facilities in 2022* by the electric utilities if, after stakeholder participation and review of preliminary analysis developed in

preparation of the Carbon Plan, the Commission finds that such solar energy facilities will be needed . . . to achieve the authorized carbon reduction goals.”

2. *Describe how the Carbon Plan Solar Reference Cost will be determined.*

CCEBA Reply:

CCEBA appreciates Duke Energy’s explanation of the Carbon Plan Solar Reference Cost. CCEBA urges the Commission to require the fullest possible transparency in the calculation of this cost at each step. For instance, Duke Energy states in response to this question that “the Carbon Plan Solar Reference Cost includes estimates for solar transmission upgrade costs that will likely be required to incorporate this solar on the DEP and DEC systems.” The confidential version of Duke Energy’s responses includes a preliminary figure for such transmission costs that is incorporated into the confidential calculations.

While CCEBA recognizes that transmission upgrades will be required and has repeatedly requested that Duke Energy plan for such upgrades earlier and with a holistic, system-wide approach, CCEBA would prefer that the “estimates” included in the Carbon Plan Solar Reference Cost be transparently determined and subject to scrutiny and comment by stakeholders and intervenors.

CCEBA urges such transparency not only with the transmission cost estimate, but with every factor involved in the calculation of the Carbon Plan Solar Reference Cost, including assumptions about costs associated with third-party PPAs *and* utility owned projects.

Finally, CCEBA requests that the final Carbon Plan Solar Reference Cost determined after Commission and Intervenor input also be incorporated into the Reference Cost used in the 2022 Solar Procurement.

3. *Is “administratively determined avoided cost” analogous to the avoided cost method established by the Commission pursuant to N.C. Gen. Stat. § 62-156, with rates derived by using Duke Energy’s most recent data and assumptions?*

CCEBA Reply:

No further comment.

4. ***How will the Carbon Plan Solar Reference Cost compare to the “administratively determined avoided cost”?***

CCEBA Reply:

No further comment.

5. ***Does the proposed 2022 solar procurement potentially allow for PURPA qualifying facilities to be compensated at a rate that is in excess of the rates calculated using the avoided cost method established by the Commission pursuant to N.C.G.S. § 62-156? If so, why should the Commission permit PURPA qualifying facilities to be compensated in excess of avoided cost rates?***

CCEBA Reply:

Duke Energy states that it has “the Solar Reference Cost itself neither complies nor conflicts with the least cost mandate” but is instead one input into the calculation of an overall least-cost portfolio in compliance with House Bill 951. CCEBA agrees with this statement but again urges maximum transparency in the calculation of the Reference Cost and its integration into the overall modeling process. Further if the Carbon Plan Solar Energy Reference Cost that ultimately emerges from the Carbon Plan process is different from that forecast by Duke Energy in its 2022 Procurement Petition, that number should be updated and incorporated into the 2022 Solar Procurement.

6. ***Does the proposed 2022 solar procurement potentially allow for PURPA qualifying facilities to be compensated at a rate that is in excess of the rates calculated using the avoided cost method established by the Commission pursuant to N.C.G.S. § 62-156? If so, why should the Commission permit PURPA qualifying facilities to be compensated in excess of avoided cost rates?***

CCEBA Reply:

CCEBA has reviewed both the Responses of Duke Energy and the comments of the Carolina Power Suppliers Association (“CPSA”) to this question and believes that between them, those parties have provided a comprehensive response to this question. CCEBA notes that the avoided cost method established by the Commission pursuant to N.C.G.S. §62-156 would not compensate bidding entities for the value of the Renewable Energy Credits (RECs) or the curtailment rights that are required to be conveyed under House Bill 951. Further, the possibility that facilities will be

compensated at a rate in excess of the administratively-determined avoided cost method should not deter the Commission from approving such compensation because, as CCEBA has previously noted in the Avoided Cost docket, the current CT peaker method is going to need to be adjusted in some manner going forward to address the realities imposed by the carbon reduction mandate of House Bill 951.¹

Further, CCEBA supports the position of Duke Energy and CPSA that the Commission is not required to apply N.C.G.S. § 62-156 to the 2022 solar procurement to determine the relevant avoided cost. The competitive process anticipated by the 2022 Procurement Petition should help to ensure that rates paid to winners are at or below the utility's actual avoided costs and will contribute to meeting the least cost mandates of House Bill 951. CCEBA agrees with CPSA that "as a matter of both state and federal law . . . this Commission would have the discretion to approve an alternative approach to calculating avoided cost for the limited purposes of solar procurements, outside the procedures called for by G.S. § 62-156."

7. How will the services of the proposed Independent Evaluator compare to those of the Independent Administrator of the Competitive Procurement of Renewable Energy Program pursuant to N.C.G.S. § 62-110.8? What will be the main differences?

CCEBA Reply:

Though CCEBA has no objection to Duke Energy's response to this question or the use of an Independent Evaluator over an Independent Administrator, CCEBA cautions the Commission to carefully scrutinize the actions and results of the 2022 Procurement as the first such use of the Independent Evaluator and to assure that the Independent Evaluator is truly independent. CCEBA further refers the

¹ See Joint Reply Comments of NCSEA and CCEBA In the Matter of: Biennial Determination of Avoided Cost Rates for Electric Utility Purchases from Qualifying Facilities – 2021, Docket No. E-100, Sub 175, 1 April 2022, at 4 ("Joint Commenters agree with the Public Staff and SACE that the carbon reduction mandates of H.B. 951 should be incorporated into the calculation of avoided cost rates. The peaker methodology is designed to determine a utility's marginal capacity and marginal energy cost. Avoided *energy* rates are produced by generation production cost modeling, and the Joint Commenters agree with the Public Staff that it would be appropriate for Duke to include the approved Carbon Plan in the production cost modeling used to determine avoided energy rates under the peaker method, although Joint Commenters acknowledge that the appropriate application of this modeling will require further analysis and discretion at that time."); and 9 ("Joint Commenters join SACE and the Public Staff in encouraging the Commission to carefully study the role of the peaker method in the Carbon Plan and future Avoided Cost proceedings. As more and more renewable technologies integrate into the system and reduce the applicability of the currently utilized CT peaker method, particularly as it applies to new QFs, new methodologies and resources should be carefully considered and, as necessary, edited to reflect the reality of more valuable, carbon free energy.")

Commission to the Joint Comments of CPSA and CCEBA on the proposed RFP documentation submitted as an exhibit by CPSA.

- 8. Will ratepayers be responsible for any Independent Evaluator's fees that exceed program fees collected from solar procurement bidders? Describe cost containment measures to be implemented with regard to the Independent Evaluator's fees.**

CCEBA Reply:

CCEBA has no objection to Duke Energy's response to this question, but agrees with CPSA that to the extent Duke Energy projects are selected for the Utility Ownership track, Duke Energy should be responsible for a proportional share of those fees as a non-recoverable cost.

- 9. What solutions have the stakeholders discussed to mitigate the concerns described in Paragraph No. 13 of the Public Staff's initial comments, particularly in light of the rate disparity between DEC and DEP raised in footnote 5?**

CCEBA Reply:

CCEBA agrees with Duke Energy that "rate disparity between DEC and DEP was not a significant topic of discussion in the 2022 SP Program stakeholder process." However, CCEBA objects to Duke Energy's statement that "the most immediate mitigant against increasing the rate disparity is to limit the size of the 2022 SP to a reasonable level so that Duke Energy and stakeholders can work together on Carbon-Plan informed solutions that can be incorporated into future procurements." CCEBA has previously argued for a significant 2022 Procurement because of the limited number of DISIS windows between 2022 and the 2030 deadline in House Bill 951. CCEBA does not accept that limitation of the 2022 Procurement is a cost-saving measure or the most effective measure to avoid a rate disparity between the balancing authorities. CCEBA notes that the combination of the two balancing authorities was discussed in the stakeholder process as a potential option under the Carbon Plan, an option which CCEBA believes has significant appeal and would be a more effective mitigant than limiting the size of the 2022 Procurement.

10. Explain further how the “Volume Adjustment Mechanism” described in Paragraph No. 9 of the Public Staff’s initial comments will “provide some ratepayer protection and offer some assurance that the 2022 Solar RFP adheres to the Carbon Plan’s least cost pathway.” What other cost-containment measures have been considered?

CCEBA Reply:

CCEBA agrees that the Volume Adjustment Mechanism described in the petition and in the Public Staff’s initial comments is superior to a cost cap and can help assure a least cost approach. For the limited purposes of the 2022 Solar Procurement, the approach proposed is a simple and easily-understood way to assure flexibility in response to market conditions. This approach should be adjusted and more carefully calibrated in future procurements with the benefit of information obtained in the Carbon Plan process. In addition, CCEBA reiterates its Joint Comments submitted with CPSA in this docket, suggesting that the volumes of PPA Track and Utility Ownership Track projects should be adjusted independently rather than the entire procurement adjusted as one block. Joint Comments at 8-9.

11. What workarounds or alternatives are available to the issue described in Paragraph No. 15 of the Public Staff’s initial comments – that the Commission may have difficulty enforcing a limited termination right in the event that transmission upgrade costs increase above a specified threshold relative to the DISIS upgrade costs without impacting projects both participating in the 2022 Solar RFP and those not participating in the 2022 Solar RFP?

CCEBA Reply:

CCEBA does not take issue with Duke Energy’s assertion of a contractual right to terminate a 2022 Solar Procurement PPA due to substantially-higher-than-anticipated interconnection costs. Nevertheless, because such a right gives great discretion to Duke Energy and could result in substantial impact on the overall portfolio, such a right should not be acted upon without Commission approval if it would result in the modification of the overall resource additions approved in the Carbon Plan.

Respectfully submitted this the 6th day of May, 2022.

**CAROLINAS CLEAN ENERGY
BUSINESS ASSOCIATION**

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CERTIFICATE OF SERVICE

I hereby certify that all persons on the Commission's docket service list have been served true and accurate copies of the above Comments by hand delivery, first class mail, deposited in the U.S. Mail, postage pre-paid, or by e-mail transmission with the party's consent.

This the 6th day of May, 2022.

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