



SunEnergy1's comments are directed only at certain specific areas requested by the Commission:

- (1) Timetable of Procurement
- (2) Equal Opportunity for Developers
- (3) Information Transparency
- (4) Minimum Bid Requirements and Bidder Qualifications
- (5) CPCN Process Changes

#### **I. Background**

SunEnergy1 is a utility-scale solar developer and engineering, procurement and construction ("EPC") contractor. SunEnergy1 has installed 700 MW AC of solar photovoltaic ("PV") systems, including both rooftop and ground-mounted facilities, and has an additional 400 MW AC ready for construction and another 3,000 MW AC in development. SunEnergy1 has extensive development and construction experience in North Carolina, including the territory served by Dominion Energy in Northeast North Carolina, as well as areas served by DEC and DEP. SunEnergy1 executed the first Interconnection Service Agreement in the PJM queue for a North Carolina facility, built the first and largest transmission-interconnected utility-scale solar facility in PJM territory in 2015 (112 MW DC), and was awarded the winning bid in an RFP requesting 75 MW DC of solar for a partnership involving a Duke Energy subsidiary. In addition to solar energy development, SunEnergy1 is an EPC contractor and possesses the ability to lead a solar project through all stages, from initial project development to system commissioning and operation. SunEnergy1 seeks to participate in the Competitive Procurement of Renewable Energy ("CPRE") program, and thus is keenly interested in the outcome of the rulemaking process.

## II. Comments

Through these comments, SunEnergy1 seeks to assist the Commission in developing rules that promote the North Carolina General Assembly's stated goal of reforming North Carolina's approach to integration of renewable electricity generation, and developing a competitive procurement process that will, within 45 months, result in the procurement by electric energy utilities of 2,660 MW of renewable energy and capacity. This is an aggressive goal which, properly administered, will enable the continued development of renewable energy in North Carolina with reasonable assurances of quality, reliability, and cost for North Carolina utility customers.

### A. Timetable of Procurement

After the Commission has ruled and issued rules in accordance with this docket, and an independent evaluator has been established in accordance with N.C. Gen. Stat. § 62-110.8(d), the Commission should establish and publish a schedule, with targeted dates and anticipated volumes for each solicitation window, over the entire 45-month competitive procurement period. Such a schedule would allow interested entities to plan their responses and proposed projects in advance, and would provide a reasonable business opportunity over the long term to such entities. As opposed to a more indefinite periodic review and process, a definite schedule would be consistent with the goal of transparency and fair competition outlined elsewhere in the statute. In addition, a concrete schedule would allow developers the opportunity to make the most efficient use of development funds and to more effectively time the procurement of development assets.

### B. Assuring Equal Opportunity for Developers

SunEnergy1 believes it is essential that any competitive procurement policy be based on equality of opportunity between developers as well as between developers and entities associated with the electric public utilities. N.C. Gen. Stat. §62-110.8(b)(4) states that "no more

than thirty percent (30%) of an electric public utility's competitive procurement requirement may be satisfied through the utility's own development of renewable energy facilities offered by the electric public utility or any subsidiary of the electric public utility that is located within the electric public utility's service territory." This provision is a ceiling, not a floor. Thus, 100% of the electric public utility's competitive procurement requirement should be open to competition with independent developers, and all proposals, whether from developers or from a utility's own development of renewable energy facilities offered by the utility or its subsidiaries, should be assessed based on the same criteria.

The third party administrator, with the review and approval of the Commission, should establish which criteria will be applied to all proposals as well as the weight to be assigned to each of the criteria, and publish those criteria and the weight of those criteria in advance. Such criteria should necessarily include price as the primary point of comparison, along with the experience, capabilities, and creditworthiness of the proposing party.

### **C. Transparency of Information**

In order to assure that competition is fair and that all participants base their proposals and decisions on the same information, N.C. Gen. Stat. §62-110(e) requires that "[i]f a public utility uses nonpublic information concerning its own distribution or transmission system in preparing a proposal to a competitive procurement, the public utility shall make such information available to third parties that have notified the public utility of their intention to submit a proposal to the same request for proposals." SunEnergy1 urges the Commission to implement rules which enforce this statutory provision completely and require any nonpublic information be made immediately available to potential competitors.

The process established by the Commission and the third party administrator should include requirements that electric public utilities provide all information necessary for the preparation of competitive bids, including potentially non-public information as well as the

utility's determined location and allocation of the amount of the competitive procurement within their respective balancing authority areas. N.C. Gen. Stat. § 62-110.8(c) provides the utilities with the authority to determine such location and allocation "taking into consideration ... the State's desire to foster diversification of siting of renewable energy resources throughout the State." Such diversification would be made substantially more difficult if the information on which the utilities base such location and allocation planning and the locations and allocations themselves are withheld from those entities that seek to competitively bid for the opportunity to provide those resources. The Commission should require such information be made available to all potential qualified bidders as soon as reasonably possible in the bidding process.

#### **D. Minimum Bid Requirements and Bidder Qualifications**

In order to assure that potential suppliers under the competitive procurement process are able to provide the services on which they bid and that contracts are awarded on a realistic and achievable basis and not upon mere speculation, the Commission should establish minimum thresholds that each bid and each potential provider must meet in order to take part in the process. SunEnergy1 suggests that such criteria include a requirement that the bidder have site control of the proposed renewable energy facility, experience in the field with the construction of a transmission connection of at least 100MW, and the demonstrated ability to complete projects and render them operational. Moreover, the Commission should require that all bidders have submitted applications for an Interconnection Agreement and a Certificate of Public Convenience and Necessity ("CPCN"). Finally, the Commission should further require shortlisted bidders to post reasonable security in the nature of a posted bond or deposit in a specific amount per MW AC to be provided by the proposed project and a letter of credit in an amount of up to 5% of expected PPA revenue. Such requirements would help to ensure completion of projects awarded, and further the goal of reliability and predictability of supply

without suppressing market competition or presenting too high a barrier to entry by new participants.

#### **E. CPCN Process Changes**

The implementation of the new procedures anticipated by the new statutory scheme presents the Commission with the opportunity to improve the CPCN process. In their comments and proposed rule, DEP and DEC request “expedited review and approval” of CPCNs for facilities either constructed by the public utilities or transferred to the public utility through the CPRE Program. (See DEC and DEP Comments, p. 12.) SunEnergy1 requests that any process adopted for CPCN review and approval for public utility-developed or acquired resources be consistent with that for non-utility providers. To the extent the process is streamlined or expedited for public utilities and their affiliates, other market participants should benefit from the same revisions. For instance, public notice requirements, requirements for public hearing, and the review and approval of initial CPCN applications for projects to be developed in stages (allowing amendment as additional stages are proposed) should be consistent for all market participants, whether public utility, utility-related, or independent.

### **III. Conclusion**

SunEnergy1 appreciates the opportunity to participate in the Commission’s consideration of this important rulemaking process. SunEnergy1 reserves the right to provide further comment in response to comments or proposed rules received by the Commission from other commenters. Above all, SunEnergy1 requests that the Commission establish rules which open this market to fair competition by qualified market participants and ensure that the electric public utilities compete on the same level ground as independent producers. Such fair competition will fulfill the stated intent of the General Assembly to provide reliable renewable

energy resources, distributed widely across the State, and in the best interests of the utility customers and the People of North Carolina.

Respectfully submitted, this 8<sup>th</sup> day of September 2017.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing or attached document as filed in Docket E-100 Sub 150 was served electronically or via U.S. mail, first-class, postage prepaid, upon all parties of record in this docket. This the 8<sup>th</sup> day of September 2017.

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