



Jack E. Jirak  
Associate General Counsel

Mailing Address:  
NCRH 20 / P.O. Box 1551  
Raleigh, NC 27602

o: 919.546.3257  
f: 919.546.2694

jack.jirak@duke-energy.com

September 3, 2020

**VIA ELECTRONIC FILING**

Ms. Kimberley A. Campbell, Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4300

**RE: Joint Notice of Interconnection Settlement and Petition for Limited Waiver  
Docket No. E-100, Sub 101**

Dear Ms. Campbell:

Enclosed for filing in the above-referenced docket on behalf of the named Joint Petitioners, please find the Joint Notice of Interconnection Settlement and Petition for Limited Waiver. Certain information included in the exhibit constitutes trade secret, and confidential, proprietary, and commercially sensitive information. Such confidential information is being filed under seal pursuant to N.C. Gen. Stat. § 132-1.2. Parties to the docket may contact counsel for Duke Energy Carolinas, LLC and Duke Energy Progress, LLC regarding obtaining copies pursuant to an appropriate confidentiality agreement.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance with this matter.

Sincerely,

Jack E. Jirak

Enclosures

cc: Parties of Record

OFFICIAL COPY

Sep 03 2020

**CERTIFICATE OF SERVICE**

I certify that a copy of the Joint Notice of Interconnection Settlement and Petition for Limited Waiver, in Docket No. E-100, Sub 101, has been served by electronic mail, hand delivery, or by depositing a copy in the United States mail, postage prepaid, properly addressed to parties of record.

This the 3<sup>rd</sup> day of September, 2020.

A handwritten signature in black ink, appearing to read "Jack Jirak". The signature is written in a cursive style with a horizontal line underneath the text.

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Jack E. Jirak  
Associate General Counsel  
Duke Energy Corporation  
P.O. Box 1551/NCRH 20  
Raleigh, North Carolina 27602  
(919) 546-3257  
[Jack.jirak@duke-energy.com](mailto:Jack.jirak@duke-energy.com)

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

**DOCKET NO. E-100, SUB 101**

<b>In the Matter of</b>	)	
	)	<b>JOINT NOTICE OF</b>
	)	<b>INTERCONNECTION</b>
<b>Petition for Approval of Generator</b>	)	<b>SETTLEMENT AND PETITION</b>
<b>Interconnection Standard</b>	)	<b>FOR LIMITED WAIVER</b>
	)	

NOW COMES Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress LLC (“DEP”, and together with DEC, “Duke” or the “Companies”); Birdseye Renewable Energy, LLC (“Birdseye”); Carolina Solar Energy LLC (“Carolina Solar”); Cypress Creek Renewables, LLC (“CCR”); Pine Gate Renewables, LLC (“Pine Gate”); Southern Current LLC (“Southern Current”); National Renewable Energy Corporation (“NARENCO”); Strata Solar, LLC and Strata Solar Development, LLC (collectively and individually, “Strata”); DEPCOM Power, Inc. (“DEPCOM”); and Ecoplexus, Inc. (“*Ecoplexus*”) (Birdseye, Carolina Solar, CCR, Pinegate, Southern Current, NARENCO, Strata, DEPCOM, and Ecoplexus collectively, the “Settling Developers” and together with Duke, the “Joint Petitioners”), by and through counsel and pursuant to Rule R1-7 of the Rules and Regulations of the North Carolina Utilities Commission (“Commission”) and Section 6.2.4 of the North Carolina Interconnection Procedures (“NC Procedures”),<sup>1</sup> and provide notice of a settlement and, further, petition the Commission for approval of three limited waivers from the NC Procedures to implement such settlement (“Joint

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<sup>1</sup> See *Order Approving Revised Interconnection Standard and Requiring Testimony and Reports*, Docket No. E-100, Sub 101 (June 14, 2019) (“June 2019 Interconnection Order”). Capitalized terms not otherwise defined herein shall have the meaning assigned to them in the NC Procedures.

Notice and Petition”). The Joint Petitioners respectfully request expedited approval of such waivers on or before October 15, 2020.

**I. Introduction and Summary**

1. Over the past six months, the Companies and the Settling Developers, composed of the majority of the major utility-scale solar developers in North Carolina and South Carolina, have devoted an immense amount of time and resources to crafting a comprehensive settlement agreement that resolves approximately fifty outstanding disputes and complaints, avoids scores of potential additional complaints, and provides for an efficient and equitable transition in the Queue Reform process, all at no incremental cost to non-settling parties.

2. The Interconnection Settlement Agreement (“Settlement Agreement”), attached hereto as Exhibit 1, accomplishes the following two major objectives (both of which are described in further detail below):

<b>Objective</b>	<b>Relevant Settlement Agreement Sections</b>
Resolves actual and potential disputes concerning 100+ Final Accounting Reports for older distribution-level solar Interconnection Requests that completed construction from 2018 – 2020	Section 1
Provides a clear path for resolving certain legacy pending distribution-connected Interconnection Requests by facilitating a certain number of additional interconnections according to defined timelines and with the benefit of prospective capping of interconnection costs, while all other pending distribution-connected, utility-scale solar projects will be either entered into the Transitional Cluster Study <sup>2</sup> or voluntarily withdrawn.	Sections 2-6

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<sup>2</sup> The Transitional Cluster Study is described in substantial detail in Duke’s May 15, 2020 queue reform proposal in this docket, which has been further modified through the consensus approach described in Duke’s August 31, 2020 reply comments in this docket as further detailed below.

## **II. Background**

3. Beginning in 2014 - 2015, North and South Carolina experienced a very high level of distribution-connected, utility-scale solar development. The Commission has received extensive evidence in this docket concerning both the Companies' nation-leading interconnection success, as well as the inherent technical, logistical and other challenges of processing and interconnecting substantial amounts utility-scale solar generating facilities to the Companies' distribution system under the serial interconnection process mandated by the NC Procedures and South Carolina Generator Interconnection Procedures ("SCGIP"). As the Commission is well aware, members of the third-party solar development community have often disagreed with and criticized various aspects of the Companies' interconnection processes and, in some cases, have initiated formal disputes concerning the same.

4. To date, the Companies have processed approximately 4,230 MW of distribution-connected, utility-scale solar Interconnection Requests, of which approximately 2,002 MW resulted in successful project interconnections, with the balance being withdrawn at various points in the interconnection process.

5. Currently, there are only approximately 1,089 MW of distribution-connected, utility-scale solar Interconnection Requests pending in the interconnection queue.

6. Of those remaining distribution-level Interconnection Requests, approximately 731 MW were determined by the Companies to be transmission-

constrained,<sup>3</sup> which means that such projects likely do not have a financially viable path to interconnection or, at a minimum, will be forced to sit idly in the interconnection queue for many years until earlier-queued Interconnection Customers commit to fund substantial transmission Upgrades and such transmission constraints are resolved (as will be discussed in more detail below).

7. The Companies' Queue Reform proposal, filed at the direction of the Commission in this docket on May 15, 2020 (referred to herein as the "Queue Reform Proposal"), will provide a more efficient, predictable interconnection process whereby "ready" projects are studied in a defined "cluster" study process that will take approximately one year from start to finish. Furthermore, the Queue Reform Proposal will provide for the sharing of Upgrade costs in a manner that was not permitted under the current serial study process. This cost sharing has the potential to facilitate more cost-effective generator interconnections that would not have been possible under the serial study process.

8. The Companies have worked with the utility-scale solar development community by and through the North Carolina Clean Energy Business Alliance ("NCCEBA") and the North Carolina Sustainable Energy Association ("NCSEA") to reach a consensus approach with respect to the Queue Reform Proposal that is further detailed in filings made on August 31, 2020 in this docket.

9. The Settlement Agreement was an important part of the stakeholder process that allowed for achievement of a consensus approach to Queue Reform and

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<sup>3</sup> As is explained in more detail in Para. 16-26, "transmission-constrained" refers to the circumstance in which a transmission-level interdependency has been identified and the required Network Upgrades have been assigned to an earlier-queued Interconnection Customer.

provides, in relevant part, for an equitable transition to Queue Reform in that the Companies have (1) made certain commitments to process and interconnect certain distribution-connected, utility-scale Interconnection Requests that are not transmission-constrained under the existing serial study process in advance of implementation of Queue Reform and (2) provided a pathway to interconnection for an additional limited number of transmission-constrained distribution-connected, utility-scale solar projects. As a result of the combined impact of these provisions of the Settlement Agreement, there are likely to be only approximately 400 MW of legacy distribution-connected utility-scale solar projects that will not be processed through the serial study process and therefore obligated to enter the Transitional Cluster Study to be implemented under Queue Reform.

10. In summary, the concessions and commitments made by Duke and the Settling Developers in the Settlement Agreement will allow for an efficient transition into the Definitive Interconnection cluster study process to be implemented under the Companies' Queue Reform Proposal (as modified by the consensus approach agreed to with NCCEBA and NCSEA and pending Commission approval), while accommodating certain legacy distribution-connected Interconnection Requests that otherwise would be required to enter the Transitional Cluster Study process.

11. Importantly, while the Companies have executed this Settlement Agreement with the Settling Developers, which own or are authorized to represent the vast majority of applicable distribution-level utility-scale solar Interconnection Customers in North and South Carolina, the Settlement Agreement remains open for all similarly-situated Interconnection Customers to join. That is, any eligible

Interconnection Customer is permitted to join the Settlement Agreement and avail itself of the benefits offered therein. The Companies have made good faith efforts to notify all eligible Interconnection Customers and offering the opportunity to join the Settlement Agreement (pending Commission approval) and will continue those efforts subsequent to this filing.

12. Finally, as further described below, the Settlement Agreement does not impose any incremental costs on non-Interconnection Customers and does not disadvantage those Interconnection Customers that elect not to participate in the Settlement Agreement.

13. Settlements of contested issues subject to the Commission's jurisdiction are encouraged<sup>4</sup> and can serve the public interest and promote judicial economy by allowing parties to achieve good faith compromise and to more efficiently resolve active or potential litigation without conceding liability.<sup>5</sup> This is especially the case under the NC Procedures, where the Commission has established informal dispute resolution procedures, and authorized the filing of formal complaints with the Commission if the utility and Interconnection Customer(s) cannot resolve their disagreements informally.<sup>6</sup> To that end, the Commission has directed that parties to informally-resolved disputes shall make an informational filing with the Commission providing notice of the

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<sup>4</sup> See *Order Declining to Adopt Proposed Settlement Rules*, at 10 Docket No. M-100, Sub 145 (March 1, 2017) (citing N.C. Gen. Stat. 62-69(a));

<sup>5</sup> See *Order Accepting Stipulation, Deciding Contested Issues and Requiring Revenue Reduction*, at 294-295, Docket No. E-7, Sub 1146 *et al.* (June 22, 2018).

<sup>6</sup> NC Procedures, 6.2; see also *June 2019 Interconnection Order*, at 39, fn. 6, 40 (recognizing that NC Procedures establish procedures for filing of formal complaints and noting that all prior disputes had been resolved, including by notice of settlement, without action by the Commission).

resolution.<sup>7</sup> As recently recognized by the Commission, the Companies and Interconnection Customers have generally been able to effectively resolve disputed issues.

14. Consistent with prior settlement agreements with Interconnection Customers as well as NC Procedures Section 6.2.4, the Joint Petitioners are filing the Settlement Agreement with the Commission for informational purposes and are not requesting Commission approval of the Settlement Agreement. However, consistent with the Commission's prior direction that departures from the NC Procedures require prior Commission approval, the Joint Petitioners are requesting limited waivers of three provisions of the NC Procedures in order to implement the Settlement Agreement.<sup>8</sup>

15. Section III of this Joint Notice and Petition describes the specific waivers being sought by the Joint Petitioners, while Section IV provides additional details concerning the Settlement Agreement for informational purposes.

### **III. Waiver Requests**

#### **a. Limited Waiver of Interdependency Construct**

16. Section 5(A) of the Settlement Agreement reflects Duke's and the Settling Developers' agreed-upon arrangement to allow for the interconnection of a limited

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<sup>7</sup> See *June 2019 Interconnection Order*, at 41; *NC Procedures Section 6.2.4*.

<sup>8</sup> *Order Regarding Duke Settlement Agreement With Generation Interconnection Customers*, at 2 Docket No. E-100, Sub 101 (Nov. 1, 2016) (directing that where a Settlement Agreement requires parties to mutually agree to specific additional language not included in the Commission-approved NC Interconnection Procedures, "[i]n the future, similar language or details shall not be presented as revisions to the NCIP but rather additional terms and conditions. The Commission concludes that all changes to the Interconnection Standard approved in Docket E-100, Sub 101 shall be presented to the Commission for review and approval"); *Order Regarding Duke Settlement Agreement and Requiring Testimony in Cost Recovery Proceedings*, at 1, Docket No. E-100, Sub 101 (Aug. 7, 2018) ("Nonetheless, in implementing the Settlement Agreement, DEC and DEP must conform to or may request a waiver from provisions in the Commission-approved North Carolina Interconnection Procedures, Forms and Agreements.")

number of transmission-constrained, distribution-connected projects, in a way that departs from the NC Procedures' Interdependency construct<sup>9</sup> and therefore requires a waiver from the Commission.

17. As background, the concept of Interdependency is integral to the serial study process currently in effect under the NC Procedures (as contrasted with a cluster study approach under consideration in the Queue Reform Proposal).

18. Under the current serial study approach required by the NC Procedures, projects are studied and assigned Upgrades (where necessary) based on the order in which they enter the interconnection queue, with earlier-queued projects studied and, where necessary, assigned Upgrades, prior to later-queued projects. If an earlier-queued project is assigned an Upgrade on which a later-queued project would be dependent, such later-queued project is deemed "Interdependent" to such earlier-queued project. The later-queued Interdependent Project is not permitted to move forward to interconnect until the Upgrades assigned to such earlier-queued project are irrevocably paid for (*i.e.*, until there is certainty that such Upgrades will be paid for and thus the later-queued project can proceed assuming the construction of such Upgrades).<sup>10</sup>

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<sup>9</sup> Under the Attachment 1 to the NC Procedures, an "Interdependent Customer" is defined as an "an Interconnection Customer (or Project) whose Upgrade or Interconnection Facilities requirements are impacted by another Generating Facility, as determined by the Utility." For purposes of this Joint Notice and Petition, "Interdependent," "Interdependence" or "Interdependency" refers to the conditions resulting in an Interdependent Customer.

<sup>10</sup> *See generally*, NC Procedures Sections 1.7, 1.8, and 4.4.2. A simple example of Interdependency is where an earlier-queued project is determined to require an upgrade of a distribution circuit. This project is known as Project A. A later-queued project on the same circuit, known as Project B, will not proceed to interconnect until it is determined whether Project A has elected whether to proceed to interconnect and therefore fund the upgrade of the distribution circuit or instead, has elected to withdraw. If Project A elects to proceed and has irrevocably paid for the upgrades of the distribution circuit, Project B may proceed and interconnect relying on such distribution circuit upgrade. But Project A ultimately elects to withdraw and not pay for the distribution circuit upgrade, Project B will be assigned the required upgrade and must either pay for such upgrade or withdraw.

19. Interdependency can arise on a distribution level or on a transmission level (or both).<sup>11</sup> That is, any given Interconnection Customer might be impacted by whether an earlier-queued Interconnection Customer elects to fund and construct a distribution or transmission Upgrade (or both).

20. As has been explained by the Companies previously, the large number of utility-scale solar projects already interconnected in North and South Carolina has consumed substantial portions of the available transmission and distribution capacity in certain areas of the states. As a result, substantial Upgrades are needed to accommodate further generator interconnections in some areas, including substantial transmission Upgrades that can cost tens or, in some cases, hundreds of millions of dollars.

21. Currently, more than 700 MW of distribution-connected Interconnection Requests are on-hold due to Interdependency determinations made by the Companies at the transmission-level—that is, such Interconnection Requests have been identified as being dependent on certain transmission Upgrades that have been assigned to but not irrevocably paid for by an earlier-queued project.<sup>12</sup>

22. As it relates to this waiver request, Section 5(a) of the Settlement Agreement would allow a limited number of such transmission-constrained distribution

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<sup>11</sup> See e.g., Pre-filed Direct Testimony of Gary R. Freeman, at 18 – 24, Docket No. E-100 Sub 101 (filed Nov, 19, 2018).

<sup>12</sup> An example is the Upgrades assigned to the Friesian Generating Facility, as discussed in Docket EMP-105, Sub 0. A set of Upgrades have been determined to be necessary to interconnect further Generating Facilities in a certain portion of the south east DEP service territory. Under the serial study process, the Friesian Generating Facility was identified as the first to trigger such Upgrades and was therefore assigned such Upgrades. All later-queued project in the same geographic area will also require all or a portion of such Upgrades in order to interconnect. Therefore, until the Friesian Generating Facility makes a final determination whether to irrevocably pay for those Upgrades, the later-queued projects are not permitted to proceed in the interconnection process and therefore are deemed Interdependent and remain “on hold” as required by the NC Procedures.

projects to interconnect prior to the construction of necessary transmission Upgrades. In other words, under the Settlement Agreement, such projects are being permitted to bypass the Interdependency construct and move forward to interconnect (pending Commission approval of this waiver).

23. While the NC Procedures contemplate that an assigned Upgrade must be constructed prior to interconnecting the project dependent on such Upgrade (as well as other later-queued projects interdependent upon that Upgrade), the Companies have identified a set of operating protocols that can be applied to a limited number of distribution-connected solar projects that will ensure the continued reliability and safety of the transmission system without construction of the transmission Upgrades in question.<sup>13</sup>

24. Under such operating protocols, the Companies will have the right to curtail the output of such distribution projects as needed in order to ensure compliance with all applicable NERC standards. Specifically, the curtailment right under the Settlement Agreement is intended to ensure the Companies' ability to comply with NERC Reliability Standard TOP-001.<sup>14</sup> As part of the Settlement Agreement, the Companies agreed to cap the amount of uncompensated curtailment that is implemented to ensure compliance with NERC Reliability Standard TOP-001. The Companies are

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<sup>13</sup> It has not yet been determined if and when certain of the major transmission Upgrades will be constructed. If and when any such Upgrades are constructed, the operating protocols would no longer apply to affected projects.

<sup>14</sup> As noted in the Settlement Agreement, this curtailment right is distinct from system emergency curtailment contemplated in Procedures for Non-Discriminatory Implementation of System Emergency Curtailments of Qualifying Facilities filed by Duke in Docket No. E-100, Sub 148 on January 30, 2018. The Settlement Agreement does not impact Duke's "system emergency" curtailment rights as set forth in those Procedures.

confident that the amount of uncompensated curtailment allowable under the Settlement Agreement will be sufficient to maintain compliance with this standard.

25. In summary, the Companies and Settling Developers have worked collaboratively to identify a creative solution to facilitate more interconnection of certain pending distribution Interconnection Customers in areas of significant transmission constraints, while limiting such interconnection and putting in place protocols to ensure the safe and reliable operation of the transmission system. This solution, however, partially bypasses the Interdependency construct and therefore requires a limited waiver of the NC Procedures, which the Joint Petitioners hereby request from the Commission.

26. Once again, any similarly situated Interconnection Customer that is not already a party to the Settlement Agreement is free join the Settlement Agreement and avail itself of the same rights that have been made available to the Settling Developers. If an eligible Interconnection Customer elects not to participate, then such Interconnection Customer shall continue to be studied in accordance with the current NC Procedures and will not be impacted by the limited waiver requested herein.

**b. Limited Waiver of Serial Study Requirement**

27. In a very limited and narrow set of circumstances, the Settlement Agreement would allow Interconnection Customers to be studied and potentially interconnected out of serial queue order (*see* Section 3(c)(i) of the Settlement Agreement).

28. This limited exception to the serial study requirement is designed solely to allow the Settling Developers more flexibility to identify and facilitate the interconnection of the distributed generation projects most likely to be technically and

economically viable on a given substation or distribution circuit. Crucially, as is identified in the Settlement Agreement, any such serial study exception would not be permitted where it would adversely impact any Interconnection Customer that is not a party to the Settlement Agreement.

29. The Joint Petitioners therefore request a limited waiver of the serial study process required under the NC Procedures (*see e.g.*, NC Procedures Section 1.4.2 and 1.7.1) in the narrow circumstances identified in Section 3(c)(i), which again prohibits any outcome that would adversely impact any Interconnection Customer that is not a party to the Settlement Agreement.

**c. Limited Waiver to Material Modification Indicia: Downsizing Greater than 10%**

30. Finally, one portion of the Settlement Agreement allows for certain Interconnection Customers to reduce the size of their proposed Generating Facility by more than 10% (*see* Section 2(b)(ii)(2) of the Settlement Agreement). Sections 1.5.1.1.4 and 1.5.1.2.7 of the NC Procedures specify that a reduction in AC output by more than 10% is an indicia of a Material Modification, which would ordinarily require such Interconnection Request to be withdrawn.<sup>15</sup> However, in order to most efficiently administer the Settlement Agreement, certain Interconnection Customers will be permitted to reduce the size of their proposed Generating Facilities by more than 10% so long as the Commission grants this particular waiver.

**IV. Additional Summary of the Settlement Agreement**

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<sup>15</sup> For the avoidance of doubt, the Settlement Agreement does not provide for, and the Joint Petitioners are not requesting a waiver of, the Section 1.5.1.3 and 1.2.2.6 indicia of Material Modification relating to an increase in the Maximum Generating Capacity of the proposed Generating Facility.

31. As discussed above, the Joint Petitioners are only requesting the three limited waivers to the NC Procedures discussed in Section III of this Joint Notice and Petition. Nevertheless, in order to provide the Commission greater context, the Joint Petitioners have provided below a further summary of key provisions of the Settlement Agreement.

**a. Overview of Section 1 of the Settlement Agreement**

32. Section 1 of the Settlement Agreement resolves disputes and complaints related to certain final accounting reports (“FARs”) delivered to certain Interconnection Customers pursuant to their applicable Interconnection Agreements.

33. As background, the Companies are required to provide, and the Interconnection Customers are required to pay soon after Interconnection Agreement execution, the estimated cost for the Interconnection Facilities and Upgrades required to connect each project to the Companies’ system while maintaining the safety and reliability of the system. However, if the Companies elect to deliver, or the Interconnection Customer requests, a FAR, the Interconnection Customer is responsible under the terms of the IA for 100% of the actual cost of the Interconnection Facilities and Upgrades. Therefore, if a FAR is delivered, the Interconnection Customer receives a refund if the actual costs are below the estimated cost and is required to pay the incremental cost when the actual cost exceeds the estimated cost.

34. In late 2018 and early 2019, as the Companies delivered more FARs, it became clear that there was a consistent pattern of cost exceedances for distribution-connected, utility-scale solar projects.

35. The reasons for these cost exceedances were manifold and, in some cases, involved circumstances unique to a particular construction project (such as unforeseen site conditions). But the Companies also identified a consistent set of factors contributing to many of the exceedances and therefore implemented an updated cost estimation methodology in July 2019 that the Companies' more recent experience shows produces more accurate estimates. In addition, the Companies began assessing a fixed overhead charge of \$38,000 per interconnection customer for the interconnection study process ("DET Administrative Overhead").

36. However, for all of those Interconnection Requests that progressed to an IA prior to July 2019, the Companies have continued to observe substantial cost exceedance relative to the estimated cost presented in the Interconnection Customer's Interconnection Agreement.

37. A number of Interconnection Customers that have received FARs for such projects have submitted Notices of Dispute ("NOD") and/or formal complaints pursuant to the NC Procedures. In many cases, the NODs or complaints have challenged not only construction cost exceedances, but also increases in study costs, and the imposition of DET Administrative Overhead and/or direct-charged commissioning costs assigned to such project. The Joint Petitioners acknowledge that if the pending disputes concerning FARs were all to proceed to litigation before the Commission, such proceedings would likely be expensive and time-consuming.

38. Not all projects have had cost exceedances, but the Companies acknowledge that the majority of older distribution-connected solar projects have had substantial cost exceedances (relative to the applicable Interconnection Agreement

estimate), in some cases as high as 300%. Therefore, the Joint Petitioners have agreed to a tiered cost capping structure pursuant to which Interconnection Customers are required to pay the cost exceedance up to a certain specified percentage, while the Companies accept cost responsibility for the remaining construction cost amounts over the applicable percentage. All such Interconnection Customers have also agreed to pay all DET Administrative Overheads and direct-charged commissioning and study costs, along with all applicable taxes.

39. The Joint Petitioners do not believe that the true-up portion of the Settlement Agreement requires Commission approval but have provided this summary for the Commission's benefit. As described above and as specified in Section 1(k) of the Settlement Agreement, the Companies commit not to seek recovery of any such amounts from retail or wholesale customers.

40. The resolution of this issue will avoid the need for lengthy and protracted litigation regarding each FAR, which would necessarily involve the evaluation of 100+ different construction projects and the unique circumstances impacting each such project and resulting in the cost exceedances.

41. Once again, any eligible Interconnection Customer (*i.e.*, similarly situated) may join the Settlement Agreement and receive the same tiered cost capping. If an Interconnection Customer chooses not to participate, they would be obligated to pay 100% of the amounts due under a FAR as contemplated by their Interconnection Agreement or to dispute such FAR.

42. At this point, the Companies anticipate that as much of 80% or more of eligible Interconnection Customers will elect to participate in this portion of the

Settlement Agreement, and that percentage could increase further after the date of this Joint Notice and Petition.

**b. Overview of Sections 2-3 and 5 of the Settlement Agreement**

43. As explained in the summary, a portion of Settlement Agreement is intended to more efficiently facilitate the transition of legacy distribution Interconnection Requests to the new Definitive Interconnection Cluster Study framework, while providing that certain projects agree to voluntarily withdraw or be included in the Transitional Cluster Study.

44. This overall goal is accomplished through a variety of mechanisms including: (1) the Companies' and the Settling Developers' reciprocal commitments designed to achieve particular study and interconnection timelines (*see* Section 3(a) and 3(b) of the Settlement Agreement) and (2) a process by which Settling Developers are permitted to select which of their transmission-constrained projects continue to move forward, subject to the curtailment rights discussed above in Para. 24 (*see* Section 2(b) of the Settlement Agreement).

45. The process by which Settling Developers identify their preferred projects for interconnection is complex (involving the concept of "Allocated MW" and the ability of the Settling Developers to assign "Allocated MW" to certain "Allocated MW Projects"), but is structured so as to give discretion to the Settling Developers to determine their optimal projects for interconnection, while limiting the number of projects allowed to interconnect in transmission-constrained areas in order to continue to ensure safe and reliable operation of the transmission system.

46. Section 5(a) of the Settlement Agreement outlines the technical issues related to those projects that will be allowed to interconnect in transmission-constrained areas (which bypasses the Interdependency construct as explained above in Para. 16-26. Section 5(b) of the Settlement Agreement describes a unique payment arrangement agreed to for projects that have been assigned direct transfer trip under the terms of their Interconnection Agreement. Section 5(c) of the Settlement Agreement describes an additional arrangement whereby the Companies have agreed to allow a certain number of projects to participate in a pilot program pursuant to which the Companies utilize smart inverter functions in order to resolve certain technical issues that would otherwise give rise to the need for additional Upgrades and/or a downsizing of the Generating Facility. This pilot was made available to projects meeting certain technical criteria that indicated the potential for benefits from the smart inverter function.

47. Once again, an eligible Interconnection Customer (*i.e.*, similarly situated) may join the Settlement Agreement and receive the same set of benefits. If an Interconnection Customer chooses not to participate, it would simply continue to be processed under the NC Procedures in the ordinary course, including through the application of the Queue Reform Proposal (as applicable and if approved by the Commission).

**c. Overview of Section 4 of the Settlement Agreement**

48. In light of the substantial construction cost exceedances (relative to actual costs) that have been experienced by Interconnection Customers under older distribution-connected, utility-scale solar Interconnection Agreements, the Settling Developers requested and the Companies have agreed to additional cost capping for certain other

Interconnection Customers. As described above, the Companies implemented a revised cost estimating methodology in July 2019, and therefore projects that received an Interconnection Agreement after such date are eligible for cost capping that is even lower than the cost capping applied under Section 1 of the Settlement Agreement. As explained in Section 4 of the Settlement Agreement, such cost capping excludes cost increases arising from certain defined circumstances outside of the Companies' control. As indicated in the Companies Queue Reform Reply Comments filed on August 31, 2020, the Companies are continuing to dialogue with NCCEBA and NCSEA regarding an interconnection cost cap that would be applicable to all state-jurisdictional interconnections. However, for the sake of clarity, the cost cap available under this portion of the Settlement Agreement has been finalized and would apply to the specific projects identified in the relevant attachments.

49. Section 4(e) of the Settlement Agreement makes clear that any construction cost exceedance not paid by the Interconnection Customer under the Settlement Agreement will be accepted by the Companies and not recovered from retail or wholesale customers.

***d. Overview of Section 6 of the Settlement Agreement***

50. Section 6 of the Settlement Agreement addresses a number of mechanical and administrative issues related to the Settlement Agreement. Importantly, Section 6(m) of the Settlement Agreement identifies the process by which any eligible Interconnection Customer is permitted to join the Settlement Agreement and receive all of the benefits that are being granted to similarly situated projects.

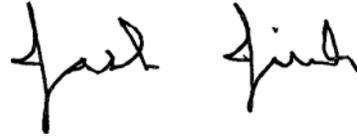
**V. Summary and Conclusion**

51. In conclusion, the Joint Petitioners request Commission approval of the limited waivers to the NC Procedures described in Section III above. These limited waivers have been carefully constructed to ensure that non-participating Interconnection Customers are not adversely impacted and that no costs are shifted to non-Interconnection Customers. Moreover, the associated benefits of the Settlement Agreement remain open to all similarly situated Interconnection Customers should such Interconnection Customers elect to join the Settlement Agreement.

52. The Joint Petitioners request expedited approval of the limited waivers described herein. Specifically, the Joint Petitioners respectfully request approval on or before October 15, 2020.

53. The Settlement Agreement is an important accomplishment that is reflective of a highly collaborative process between the Companies and the Settling Developers and a significant investment of time and effort by both sides. While interconnection issues in North Carolina have in the past often been contentious, the Settlement Agreement was crafted through the mutual, good-faith efforts of the respective parties to identify a more collaborative and constructive approach to issues that would otherwise have had the potential to result in extensive litigation and disputes. Timely approval of the requested waivers (which is also being requested in parallel from the South Carolina Public Service Commission) will facilitate the successful implementation of the Settlement Agreement, and ensure that all parties are able to gain the maximum benefit from the Settlement Agreement.

Respectfully submitted, this the 3<sup>rd</sup> day of September 2020.

A handwritten signature in black ink, appearing to read "Jack Jirak". The signature is written in a cursive style with a horizontal line above it.

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Jack E. Jirak, Associate General Counsel  
PO Box 1551 / NCRH20  
Raleigh, North Carolina 27602  
Telephone: (919) 546-3257  
Jack.Jirak@duke-energy.com

*Attorney for Duke Energy Carolinas,  
LLC and Duke Energy Progress, LLC*

## Interconnection Settlement Agreement

This Interconnection Settlement Agreement (“Agreement”) is executed this 3<sup>rd</sup> day of September 2020 (the “Execution Date”) by and among Duke Energy Progress, LLC (“**DEP**”); Duke Energy Carolinas, LLC (“**DEC**”) (DEC and DEP together referred to as “**Duke**”); Birdseye Renewable Energy, LLC (“**Birdseye**”); Carolina Solar Energy LLC (“**Carolina Solar**”); Cypress Creek Renewables, LLC (“**CCR**”); Pine Gate Renewables, LLC (“**Pine Gate**”); Southern Current LLC (“**Southern Current**”); National Renewable Energy Corporation (“**NARENCO**”); Strata Solar, LLC and Strata Solar Development, LLC (collectively and individually, “**Strata**”); DEPCOM Power, Inc. (“**DEPCOM**”); Ecoplexus, Inc. (“**Ecoplexus**”) (Birdseye, Carolina Solar, CCR, Pine Gate, Southern Current, NARENCO, Strata, DEPCOM, and Ecoplexus collectively, the “**Settling Developers**”); and the Settling Interconnection Customers (as hereinafter defined) (the Settling Developers, the Settling Interconnection Customers (as hereinafter defined), and Duke, each a “**Party**” and collectively, the “**Parties**”).

### RECITALS

WHEREAS, the Settling Developers are owners, authorized agents or affiliates of the Settling Interconnection Customers, which are Interconnection Customers<sup>1</sup> in North Carolina and South Carolina;

WHEREAS, Duke is obligated to interconnect Qualifying Facilities (“**QFs**”) pursuant to Section 210 of the Public Utility Regulatory Policies Act of 1978;

WHEREAS, the interconnection of QFs is governed by the North Carolina Utilities Commission (“**NCUC**”) and the Public Service Commission of South Carolina (“**SC PSC**”), through the North Carolina Interconnection Procedures, Forms, and Agreements for State-Jurisdictional Generator Interconnections (“**NCIP**”) and the South Carolina Generator Interconnection Procedures, Forms, and Agreements for State-Jurisdictional Interconnections (“**SC GIP**”);<sup>2</sup>

WHEREAS, certain disputes have arisen concerning final accounting reports<sup>3</sup> (“**FARs**”) delivered by Duke to certain Settling Interconnection Customers (as hereinafter defined);

WHEREAS, certain other disputes have arisen concerning certain technical issues and engineering standards applied by Duke when evaluating the interconnection of certain Settling Interconnection Customers;

WHEREAS, Duke is pursuing a reform of the interconnection process referred to herein as “**Queue Reform**,”<sup>4</sup> and

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<sup>1</sup> As defined in NCIP and SC GIP.

<sup>2</sup> All references to the SC GIP are inclusive of the Memorandum of Understanding between Duke Energy Carolinas, LLC; Duke Energy Progress, LLC; the South Carolina Office of Regulatory Staff and South Carolina Solar Business Alliance, as approved by the SC PSC in Order No. 2016-191 in Docket No. 2015-362-E.

<sup>3</sup> As that term is utilized in the NCIP and SC GIP.

<sup>4</sup> Duke’s current effort to implement a transition from a serial study interconnection process to a cluster study interconnection process shall be referred herein as “**Queue Reform**.” A request for approval of Queue Reform is currently pending before the NCUC in Docket No. E-100, Sub 101 and will be made with the SC PSC in the near future. Duke acknowledges that Queue Reform will not become effective unless approved by both the NCUC and SC PSC.

WHEREAS, the Parties desire to resolve the disputed matters and achieve a more efficient transition to Queue Reform.

NOW, THEREFORE, in consideration of the above recitals (which are hereby incorporated by reference) and the promises and mutual covenants set forth herein, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound thereby, the Parties agree as follows:

1) **PART ONE: INTERCONNECTION AGREEMENT FINAL ACCOUNTING REPORTS**

- a) The Interconnection Customers identified in **Attachment A** have either received a FAR or will receive a FAR and shall be referred to herein as the “*True-Up Settlement Interconnection Customers*.”
  - i) For the avoidance of doubt, Duke agrees that any Interconnection Customer with a distribution-connected solar facility that is both (A) not identified on **Attachment A** and (B) has an Interconnection Agreement (“IA”) dated on or before January 1, 2018 shall not be presented with a FAR or otherwise obligated to pay interconnection study, overhead, construction or commissioning costs in excess of the amounts previously paid under its IA (“*Excluded Interconnection Customers*”). Duke irrevocably and unconditionally releases and forever waives all claims and rights otherwise available to it to issue any such FARs to such Excluded Interconnection Customers or to otherwise seek payment from such Excluded Interconnection Customer for amounts incurred by Duke to construct the applicable Interconnection Facilities<sup>5</sup> and Upgrades<sup>6</sup> in excess of the amounts previously paid under the Excluded Interconnection Customer’s IA, whether at law, in equity, by contract, under the NCIP, under the SC GIP or otherwise unless otherwise directed by the NCUC or SC PSC. Duke agrees to refrain from taking any action that, directly or indirectly, could reasonably be expected to result in the NCUC or SC PSC issuing an order or other ruling that is contrary to the intended release and waiver set forth above. For the avoidance of doubt, the foregoing shall not modify or impact Duke’s right to collect the monthly charges identified in the applicable IA nor shall it prohibit adjustments to such monthly charges to the extent directed by the NCUC or the SC PSC.
  - ii) An “*Eligible True-Up Settlement Interconnection Customer*” is any Interconnection Customer that has received or will receive a FAR in connection with a solar generating facility connected to Duke’s distribution system with an IA delivered on or before July 31, 2019, with the exception of the Excluded Interconnection Customers. In the event that it is determined that an Eligible True-Up Settlement Interconnection Customer owned, controlled, or represented by a Settling Developer is not identified in **Attachment A**, the Parties will amend **Attachment A** to include such Eligible True-Up Settlement Interconnection Customer. In the event that a Settling Developer acquires an Eligible True-Up Settlement Interconnection Customer after the Execution Date, such Settling Developer and Duke shall amend **Attachment A** to include such Eligible True-Up Settlement Interconnection Customer.

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<sup>5</sup> As defined in NCIP and SC GIP.

<sup>6</sup> As defined in NCIP and SC GIP.

- b) Each True-Up Settlement Interconnection Customer shall be responsible for all direct-charged study costs (“**Study Costs**”) and direct-charged Advanced Energy commissioning costs (“**Commissioning Costs**”) reflected in its FAR. Each True-Up Settlement Interconnection Customer shall be responsible for thirty-eight thousand dollars (\$38,000) in administrative overhead costs (“**Administrative Overhead Costs**”),<sup>7</sup> except as specified in Section 1(h).
- c) With respect to the cost of Interconnection Facilities and Upgrades, the following caps on amounts owed by the True-Up Settlement Interconnection Customer in connection with FARs under Section 6.1 of the IA shall apply.

<b>Pre-Sales Tax (“Pre-Tax” or “pre-tax”) Estimated Total Combined Cost of Interconnection Facilities and Upgrades in the IA (“IA Estimated Cost”) (exclusive of Study Cost, Commissioning Costs and Administrative Overhead costs)</b>	<b>IA Percentage Cap as applied to the IA Estimated Cost</b>
\$100,000 or less	160%
Greater than \$100,000 and less than or equal to \$500,000	150%
Greater than \$500,000 and less than or equal to \$1,000,000	140%
Greater than \$1,000,000	130%

- d) For each True-Up Settlement Interconnection Customer, the applicable IA Percentage Cap identified above will be applied to the pre-tax IA Estimated Cost to determine the “**IA Capped Cost.**” The pre-tax actual cost of the Interconnection Facilities and Upgrades identified in the applicable FAR shall be the “**IA Actual Cost.**”
  - (1) Each True-Up Settlement Interconnection Customer shall be responsible for the “**IA Construction Cost Settlement Amount,**” which shall be the difference between the IA Estimated Cost and the IA Capped Cost; provided that where the IA Actual Cost is less than the IA Capped Cost, the True-Up Settlement Interconnection Customer shall only be responsible for the difference between the IA Estimated Cost and the IA Actual Cost and such amount shall constitute the IA Construction Cost Settlement Amount for such True-Up Settlement Interconnection Customer.
  - (2) Each True-Up Settlement Interconnection Customer shall also be responsible for any sales and use tax that is due with respect to the IA Construction Cost Settlement Amount.
- e) **Allocation of IA Construction Cost Settlement Amount Between Interconnection Facilities and Upgrades**
  - i) The Amended IA (as hereinafter defined) will identify (A) the “**Settlement IA Interconnection Facilities Amount**” which shall be equal to the sum of the pre-tax estimated cost of the Interconnection Facilities plus the portion of the IA Construction Cost Settlement Amount allocated to Interconnection Facilities in accordance with Section 1(e)(ii) and (B) the “**Settlement IA Upgrades Amount**” which shall be equal to the sum of the pre-tax estimated cost of the Upgrades plus the portion of the IA

<sup>7</sup> Assigned in accordance with Attachment B.

Construction Cost Settlement Amount allocated to Upgrades in accordance with this Section 1(e)(ii).

- ii) The IA Construction Cost Settlement Amount shall be allocated between Interconnection Facilities and Upgrades based on the percentage split of the Interconnection Facilities and Upgrades reflected in the IA Estimated Cost, provided that where such allocation results in a Settlement IA Interconnection Facilities Amount that is greater than the actual Interconnection Facilities cost identified in the applicable FAR (or supporting documentation), the Settlement IA Interconnection Facilities Amount shall be capped at such actual Interconnection Facilities Amount and the remaining portion of the IA Settlement Amount shall be allocated to the Settlement IA Upgrades Amount.
  - iii) For all True-Up Settlement Interconnection Customers, the portion of the IA Construction Cost Settlement Amount allocated to Upgrades shall be paid by the Interconnection Customer in accordance with Section 1(g).
  - iv) For True-Up Settlement Interconnection Customers with projects located in DEP, the portion of the IA Construction Cost Settlement Amount allocated to Interconnection Facilities shall be paid by the Interconnection Customer in accordance with Section 1(g). The Settlement IA Interconnection Facilities Amount shall be used to calculate the applicable monthly charge in the applicable IA.
  - v) For True-Up Settlement Interconnection Customers with projects located in DEC, no up-front payment will be required for the portion of the IA Construction Cost Settlement Amount allocated to Interconnection Facilities. The Amended IA will identify the Settlement IA Interconnection Facilities Amount, which shall be used to calculate the applicable monthly charge in the applicable IA.
  - vi) In the case of any True-Up Settlement Interconnection Customer that has an IA in which the costs of the Interconnection Facilities and Upgrades were not separately identified, the following shall apply:
    - (1) The combined estimated cost of the Interconnection Facilities and Upgrades identified in the IA shall be deemed split according to the percentage split between Interconnection Facilities and Upgrades in the IA Actual Cost identified in the applicable FAR. The IA Construction Cost Settlement Amount shall then be allocated in accordance with this Section 1(e).
    - (2) The IA Total Settlement Amount shall then be determined in accordance with Section 1(f)(2), except that the True-Up Settlement Interconnection Customer shall pay the entire Settlement IA Upgrades Amount.
- f) **IA Total Settlement Amount**
- i) The “***IA Total Settlement Amount***” shall be determined as follows:
    - (1) For a True-Up Settlement Interconnection Customer located in DEP, the IA Total Settlement Amount shall be equal to the sum of the following components: (A) the IA Construction Cost Settlement Amount, (B) applicable sales and use tax, and (C) Study Costs, Commissioning Costs and Administrative Overhead Costs.

- (2) For a True-Up Settlement Interconnection Customer located in DEC, the IA Total Settlement Amount shall be equal to the sum of the following components: (A) the IA Construction Cost Settlement Amount less the portion of the IA Construction Cost Settlement Amount allocated to Interconnection Facilities in accordance with Section 1(e)(ii), (B) applicable sales and use tax, and (C) Study Costs, Commissioning Costs and Administrative Overhead Costs.
- ii) The IA Total Settlement Amount shall be paid in accordance with Section 1(g).
- iii) In the case of any True-Up Settlement Interconnection Customer that has previously paid the amounts due under a FAR (“**Prior FAR Payment**”), the IA Total Settlement Amount shall be subtracted from the Prior FAR Payment and the difference shall be paid by Duke to the Interconnection Customer within thirty (30) Business Days<sup>8</sup> of receipt of a modified FAR pursuant to Section 1(g)(i).
- g) **Timing of Payment, Amended Interconnection Agreement and Payment Arrangement**
- i) In the case of a True-Up Settlement Interconnection Customer that has received a FAR on or prior to the Final Effective Date, Duke shall issue a modified FAR and an amended IA (“**Amended IA**”) based on this Agreement. An executed Amended IA and the IA Total Settlement Amount identified in such modified FAR shall be due from the True-Up Settlement Interconnection Customer within thirty (30) Business Days of the later of the delivery of the modified FAR or the Final Effective Date; provided that each True-Up Settlement Interconnection Customer shall have the right to elect to participate in the Payment Arrangement (as hereinafter defined).
- ii) In the case of a True-Up Settlement Interconnection Customer that has not received a FAR on or prior to the Final Effective Date, Duke shall deliver to the True-Up Settlement Interconnection Customer an Amended IA and a FAR that identifies the IA Actual Cost, IA Estimated Cost, IA Capped Cost, IA Construction Cost Settlement Amount, IA Total Settlement Amount, Settlement IA Interconnection Facilities Amount and other relevant information. The IA Total Settlement Amount and the executed Amended IA shall be due within sixty (60) Business Days of the date on which a FAR and Amended IA are delivered; provided that each True-Up Settlement Interconnection Customer shall have the right to elect to participate in the Payment Arrangement (as hereinafter defined).
- (1) For a True-Up Settlement Interconnection Customer that has not received a FAR on or prior to the Final Effective Date, Duke shall exert best efforts to deliver a FAR to such True-Up Settlement Interconnection Customer within one hundred twenty (120) Business Days of delivery by Duke of a written notice granting full permission to operate (“**PTO**”) for the applicable project and shall notify the True-Up Settlement Interconnection Customer in writing if it will be unable to deliver a FAR within such time period. Duke shall not be permitted to deliver a FAR later than one hundred and fifty (150) Business Days after PTO for such project, and any such FAR delivered later than one hundred and fifty (150) Business Days after PTO shall be null, void and of no force or effect. To the extent necessary to enforce the terms of the immediately preceding sentence, a True-Up Settlement

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<sup>8</sup> As defined in NCIP and SC GIP.

Interconnection Customer shall be permitted to challenge, and Duke shall not defend, a FAR on the basis of untimely delivery if Duke fails to deliver the FAR within one hundred and fifty (150) Business Days of PTO for the applicable project and, for the avoidance of doubt, a True-Up Settlement Interconnection Customer shall not be permitted to challenge a FAR on the basis of untimely delivery if Duke delivers the FAR within one hundred and fifty (150) Business Days of PTO for the applicable project.

iii) A True-Up Settlement Interconnection Customer or a Sponsoring Settling Developer (as hereinafter defined) of one or more True-Up Settlement Interconnection Customers may make a one-time election (“**Payment Arrangement Election**”) to pay the IA Total Settlement Amount due from any such True-Up Settlement Interconnection Customer under Section 1(f) under the following “**Payment Arrangement.**”

- (1) The Payment Arrangement Election must be delivered to Duke in writing by the True-Up Settlement Interconnection Customer or a Sponsoring Settling Developer of one or more True-Up Settlement Interconnection Customers no later than fifteen (15) Business Days prior to the date on which the executed Amended IA and the IA Total Settlement Amount identified in such modified FAR would otherwise be due from the True-Up Settlement Interconnection Customer in accordance with Section 1(g)(i) or Section 1(g)(ii), as applicable.
- (2) Payment of the IA Total Settlement Amount due shall be made in equal quarterly installments over thirty-six (36) months, with the exception of the last payment, which shall be adjusted in accordance with subsection (1)(3)(a) of this section.
- (3) All unpaid portions of the IA Total Settlement Amount shall accrue interest on a quarterly basis based on the electric interest rates published by the Federal Energy Regulatory Commission at <https://www.ferc.gov/enforcement-legal/enforcement/interest-rates>.
  - (a) Duke shall determine a projected total amount due for each True-Up Settlement Interconnection Customer and invoice such True-Up Settlement Interconnection Customer on a quarterly basis for one-twelfth (1/12) of such total amount; provided that Duke shall reconcile the actual total amount due based on the actual applicable interest rates against the amounts paid by or on behalf of the True-Up Settlement Interconnection Customer and adjust the final quarterly payment accordingly.
- (4) The first quarterly payment under the Payment Arrangement for a particular True-Up Settlement Interconnection Customer shall be due by the date on which payment of the IA Total Settlement Amount would otherwise be due under Section 1(g)(i) or Section 1(g)(ii), as applicable.
- (5) Duke shall deliver to the Sponsoring Settling Developer via email a separate invoice for each True-Up Settlement Interconnection Customer that has made the Payment Arrangement Election. Duke shall make reasonable efforts to deliver such invoice on or before the end of the second calendar month of each calendar quarter. The quarterly payment due under such invoice shall be due by the later of (A) the

end of such calendar quarter or (B) thirty (30) calendar days after delivery of such invoice. Quarterly payments due for any partial calendar quarter shall be prorated.

h) **Alternative Allocation of Administrative Overhead Costs**

i) The True-Up Settlement Interconnection Customers designated as owned by Southern Current in **Attachment A**, each of which has developed a solar generating facility with a capacity of 2 MW AC or smaller, shall be assigned Administrative Overhead Costs in an amount equal to \$7.55 /KW AC.

i) **Waiver of Claims**

i) Effective as of the Final Effective Date, and except as otherwise addressed in **Section 1**, (A) each True-Up Settlement Interconnection Customer irrevocably and unconditionally waives and forever releases Duke from all claims with respect to any and all FARs issued to it by Duke; and (B) Duke irrevocably and unconditionally waives and forever releases each True-Up Settlement Interconnection Customer from all claims with respect to any and all FARs issued by Duke to such customer. For the avoidance of doubt, this mutual release and waiver shall not include claims arising under this Agreement, including but not limited to claims relating to whether a FAR for a True-Up Settlement Interconnection Customer has been calculated or delivered in accordance with the terms of this Agreement. Any pending Notice of Dispute concerning a FAR delivered to a True-Up Settlement Interconnection Customer shall be deemed withdrawn upon the occurrence of the Applicable Effective Date (as hereinafter defined) of the Sponsoring Settling Developer, and any pending FAR complaint filed at the NCUC shall be withdrawn by the applicable True-Up Settlement Interconnection Customer promptly following the Applicable Effective Date of the Sponsoring Settling Developer.

j) **No Retail or Wholesale Cost Recovery in Connection with True-Up Settlement Interconnection Customer**

D) With respect to True-Up Settlement Interconnection Customers, Duke agrees that it shall not seek reimbursement or cost recovery from Duke's retail or wholesale customers of any amounts incurred by Duke in connection with the engineering, design, procurement, construction and commissioning of the Interconnection Facilities and Upgrades (if applicable) for a True-Up Settlement Interconnection Customer in excess of the IA Total Settlement Amount. For the avoidance of doubt, the foregoing shall not modify or impact Duke's right to collect the monthly charges identified in the applicable IA (as modified where applicable under this Agreement) nor shall it prohibit adjustments to such monthly charges to the extent directed by the NCUC or the SC PSC.

2) **PART TWO: RESOLUTION OF PENDING DISTRIBUTION PROJECTS**

a) **Pending Distribution Projects**

i) **Attachment C** identifies those Interconnection Customers with distribution-connected solar Interconnection Requests pending in the DEC and DEP interconnection queues with Interconnection Requests dated on or before November 30, 2018 that have not received an Interconnection Agreement, exclusive of those Interconnection Customers

that elect to proceed as Business as Usual Interconnection Customers (collectively, the “*Pending Distribution Projects*”).

- ii) The Parties desire for the Settling Developers to identify a subset of Pending Distribution Projects for potential interconnection in accordance with the process described in this Section 2 (“*Allocated MW Projects*”).
- iii) Prior to the closing of the enrollment window for the Transitional Cluster Study<sup>9</sup> to be implemented as part of Queue Reform, each Settling Developer must elect for each of its remaining Pending Distribution Projects (*i.e.*, those not designated as Allocated MW Projects) to either (A) be included in the Transitional Cluster Study or (B) withdraw its Interconnection Request. For the avoidance of doubt, in the event that Queue Reform is not implemented<sup>10</sup> on or before July 1, 2022, such remaining Pending Distribution Projects may continue through the existing interconnection process under the NCIP or SC GIP, as applicable.

b) *Allocated MW Projects*

- i) Each Settling Developer shall be granted a certain amount of “*Allocated MW*” which shall be equal to forty percent (40%) of the total nameplate capacity (in MW AC as identified in the applicable Interconnection Request) of such Settling Developer’s Pending Distribution Projects. The Allocated MW to which each Settling Developer is entitled is set forth in Attachment C.
- ii) Each Settling Developer has initially identified in Attachment D a portion of its Pending Distribution Projects to which Allocated MW have been assigned, which shall constitute its initial Allocated MW Projects.
  - (1) To the extent that a Settling Developer has remaining Allocated MW that are not already assigned in Attachment D, each Settling Developer shall, within thirty (30) Business Days of the Execution Date, notify Duke in writing of the specific Pending Distribution Project(s) to which it desires to assign its remaining share of Allocated MW. For the avoidance of doubt, an Allocated MW may only be assigned to another Pending Distribution Project owned by the assigning Settling Developer or, pursuant to Section 2(d) below, to another Settling Developer.
  - (2) In connection with a Settling Developer’s management of its Allocated MW as to its Pending Distribution Projects, Duke shall permit an Interconnection Customer to reduce the size of an Allocated MW Project by more than ten percent (10%) without having to submit a new interconnection request and, to the extent necessary, will agree to an amendment to the project’s power purchase agreement (“*PPA*”) to reflect such reduction in size.
- iii) Duke has informed the Settling Developers, and the Settling Developers acknowledge that Duke has informed the Settling Developers, that Duke is not guaranteeing that all Allocated MW Projects will be financially viable or that each Settling Developer will be able to fully utilize its Allocated MW.

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<sup>9</sup> As defined in Duke’s May 15, 2020 filing with the NCUC in Docket No. E-100, Sub 101.

<sup>10</sup> Queue Reform will be implemented upon delivery of a written notice to all Interconnection Customers of the transition to the Definitive Interconnection Study Process. This notice is described in Section 1.1.3 of the revised NCIP included in Duke’s Queue Reform filing with the NCUC in Docket No. E-100, Sub 101. The same provision will be included in the revised SC GIP to be filed with the SC PSC.

c) **Substitution of Allocated MW Projects**

- i) Until the closing of the enrollment window for the Transitional Cluster Study under Queue Reform, a Settling Developer shall be permitted to re-assign Allocated MW that had previously been assigned to a particular Pending Distribution Project so long as such Pending Distribution Project has not previously executed an Interconnection Agreement.
- ii) The Settling Developer must notify Duke in writing regarding any such reassignment of Allocated MW.
- iii) In the case of any such reassignment of Allocated MW occurring later than thirty (30) Business Days of the Execution Date period, Duke shall consult with the Sponsoring Settling Developer to assess the potential timing for study and Interconnection of such new Allocated MW Project but, for the avoidance of doubt, Duke may not be able to achieve the particular timelines for the study and Interconnection set forth in the Agreement with respect to such new Allocated MW Project.

d) **Transfer of Allocated MW Between Settling Developers and Transfer of Allocated MW Projects**

- i) Until the closing of the enrollment window for the Transitional Cluster Study under Queue Reform, a Settling Developer shall be permitted to transfer Allocated MW to another Settling Developer, but, for the avoidance of doubt, Allocated MW may only be assigned to the Pending Distribution Project(s) listed in **Attachment C** (as may be amended pursuant to Section 6(1)).
- ii) The Settling Developers that have effectuated such transfer must provide to Duke jointly executed written notice of such transfer within three (3) Business Days after any such transfer.
- iii) Settling Developers shall be free at any time to transfer an Allocated MW Project together with its Allocated MW to any other party, whether or not the transferee is a Party to this Agreement. The transferee shall thereafter be free to transfer the Allocated MW and/or the Allocated MW Project as provided in this subsection. Any such transferee that is not a Party to this Agreement shall be an intended third-party beneficiary of this Agreement, but only as to such Allocated MW Project or its Allocated MW.
- iv) For the avoidance of doubt, a Settling Developer shall be free at any time to transfer to any party a Pending Distribution Project that is not an Allocated MW Project. Such transfer shall not affect the Allocated MW to which any Settling Developer is entitled under Section 2(b)(i) as of the Execution Date (subject to any transfers of Allocated MW occurring under Section 2(d)(i)) and, for the avoidance of doubt, such transfer shall not by itself result in the transfer of the Allocated MW associated with such transferred Pending Distribution Project to the transferee of such Pending Distribution Project.

3) **PART THREE: TIMING OF INTERCONNECTION AND STUDY OF ALLOCATED MW PROJECTS AND BAU PROJECTS**

a) **Allocated MW Projects and BAU Projects Targeted for Interconnection in 2021**

- i) Duke shall exert best efforts in good faith to Interconnect a total of seventy (70) Allocated MW Projects and BAU Projects (as hereinafter defined) in 2021. “**Interconnect**” or “**Interconnection**” shall mean completion by Duke of the construction of the Interconnection Facilities and Upgrades (if applicable) and delivery by Duke to the Interconnection Customer of PTO; provided that where Duke is unable to issue PTO due to the action or inaction of the Interconnection Customer, Interconnection shall be deemed completed upon completion of construction of the Interconnection Facilities and Upgrades (if applicable).
- ii) In order to be targeted for Interconnection in 2021, an Allocated MW Project or BAU Project must satisfy each of the following criteria:
  - (1) Must be at or beyond an Interim System Impact Study in the interconnection process as of the Execution Date;
  - (2) Must not require distribution line reconductoring greater in length than 0.5 miles as identified in the applicable System Impact Study; and
  - (3) Must not require direct transfer trip (“**DTT**”) (the criteria identified in Sections 3(a)(i)(1) – (3) referred to collectively as the “**Initial 2021 Eligibility Criteria**”).
- iii) An initial list of the Allocated MW Projects that will be targeted for Interconnection in 2021 is identified in **Attachment D**.
- iv) In the event that fewer than seventy (70) Allocated MW Projects or BAU Projects satisfy the Initial 2021 Eligibility Criteria, Duke shall collaborate in good faith with the Settling Developers to identify additional Allocated MW Projects or BAU Projects that can be reasonably targeted for Interconnection in 2021 such that the total number of Allocated MW Projects or BAU Projects is as close to seventy (70) as possible.
- v) In order for any specific Allocated MW Project or BAU Project satisfying the Initial 2021 Eligibility Criteria to be Interconnected in 2021, the following conditions must be satisfied:
  - (1) The Regulatory Approvals (as hereinafter defined) must be obtained by October 15, 2020;
  - (2) The Settling Interconnection Customer must provide timely responses to all information requests and, in the case of the Facilities Study Agreement<sup>11</sup> and the Interconnection Agreement, must execute and return such agreements within ten (10) Business Days of receipt;
  - (3) The Settling Interconnection Customer must either: (a) waive the Construction Planning Meeting,<sup>12</sup> or (b) within five (5) Business Days of the date of delivery of the Facilities Study report, schedule the Construction Planning Meeting to occur no later than ten (10) days from the date of receipt of the Facilities Study report.
  - (4) The Settling Interconnection Customer must pay all amounts due under the Interconnection Agreement within ten (10) Business Days of receipt of the Interconnection Agreement;

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<sup>11</sup> As defined in NCIP and SC GIP.

<sup>12</sup> As defined in NCIP and SC GIP.

- (5) The Settling Interconnection Customer must provide access and pad ready for Interconnection Facilities within one hundred and twenty (120) Calendar Days of the date on which Duke returns the fully-executed IA to such Interconnection Customer (provided that Duke shall consider in good faith any Interconnection Customer request to extend such timeline where possible so long as such extension does not impede Duke’s obligations hereunder); and
- (6) There must have been no Notice of Dispute<sup>13</sup> submitted or complaint filed concerning such project that, subsequent to the Applicable Effective Date, could reasonably be expected to result in any delay that cannot be mitigated through the use of commercially reasonable efforts in the Settling Interconnection Customer’s or Duke’s performance of its obligations under this Agreement or under the NCIP or the SC GIP (as applicable) (the conditions set forth in this Section 3(a)(iii) shall hereinafter be referred to as the “**2021 Completion Conditions**”).
- vi) In the event that the Regulatory Approvals are not obtained by October 15, 2020, the Settling Developers and Duke, after obtaining the Regulatory Approvals, shall consult in good faith to develop a plan to allow Duke to achieve interconnection for as many of the Allocated MW Projects and BAU Projects as possible by the end of 2021.
- vii) In the event that one or more of the 2021 Completion Conditions are not satisfied for any BAU Project or any Allocated MW Project that satisfies the Initial 2021 Eligibility Criteria (including those Allocated MW Projects identified in Attachment D as satisfying the Initial 2021 Eligibility Criteria), Duke and the Settling Interconnection Customer will collaborate in good faith to satisfy such condition as quickly as possible, and Duke will exert best efforts to process the Allocated MW Projects and BAU Projects in such a way as to achieve Interconnection in 2021 and will keep the Interconnection Customer informed regarding the expected timing.
- viii) Duke shall be excused from its commitment to achieve Interconnection in 2021 under this Section 3 for any Allocated MW Project or BAU Project to the extent that Duke’s activities with respect to such project are substantially impacted by a Force Majeure Event. Duke will promptly notify the affected Settling Interconnection Customer in writing in the event of any applicable Force Majeure Event and will exert best efforts to resume activities and mitigate the impact of the Force Majeure Event on Duke’s obligations hereunder.
- ix) “**Force Majeure Event**” shall mean any act of God, labor disturbance, act of a public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party’s control. For the avoidance of doubt, the Parties agree that a Force Majeure Event includes any circumstance in which COVID-19 (or similar pandemic) results in a material labor or equipment constraint or governmental restrictions on the activities necessary to perform the obligations. A Force Majeure Event does not include an act of negligence or intentional wrongdoing.

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<sup>13</sup> As defined in NCIP and SC GIP.

- x) Notwithstanding the foregoing, if a BAU Project that does not meet the Initial 2021 Eligibility Criteria and does not require DTT (as identified in the applicable IA) fully pays all amounts due under a fully executed IA on or before November 1, 2020, Duke shall exert best efforts to Interconnect such Project by the end of 2021 so long as the relevant Interconnection Customer provides access and pad ready for Interconnection Facilities no later than February 1, 2021; provided that, for the avoidance of doubt, the foregoing shall not modify the obligation of such BAU Project to make payments as required under the terms of the applicable IA.
  - xi) In the case of a BAU Project that has received an Interconnection Agreement as of the Execution Date and does not require DTT (as identified in the applicable IA), the applicable Settling Developer shall exert best efforts to cause such IA to be executed and make full payment by the earlier of (A) the date on which such payment is due under the terms of the IA or (B) within twenty (20) Business Days of the Final Effective Date.
- b) **Allocated MW Projects and BAU Projects Targeted for Interconnection in 2022**
- i) All Allocated MW Projects and BAU Projects that are not targeted for Interconnection in 2021 shall be targeted for Interconnection in 2022 and Duke shall exert best efforts in good faith to Interconnect the remaining Allocated MW Projects and BAU Projects in 2022.
  - ii) In order for an Allocated MW Project or BAU Project without DTT to achieve Interconnection in 2022, the following conditions must be satisfied:
    - (1) The relevant Interconnection Customer must pay all amounts due under the Interconnection Agreement within thirty (30) Business Days of receipt of the Interconnection Agreement;
    - (2) The relevant Interconnection Customer must provide access and pad ready for Interconnection Facilities within one hundred and twenty (120) Calendar Days of the date on which Duke returns the fully-executed IA to such Interconnection Customer (provided that Duke shall consider in good faith any Interconnection Customer request to extend such timeline where possible so long as such extension does not impede Duke's obligations hereunder); and
    - (3) There must have been no Notice of Dispute submitted or complaint filed concerning such project that, subsequent to the Execution Date, could reasonably be expected to result in any delay that cannot be mitigated through the use of commercially reasonable efforts in the Interconnection Customer's or Duke's performance of its obligations under this Agreement or under the NCIP or the SC GIP (as applicable).
  - iii) In order for an Allocated MW Project or BAU Project with DTT to achieve interconnection in 2022, the following conditions must be satisfied:
    - (1) Subject to payment deferral pursuant to Section 5(b)(ii), the relevant Interconnection Customer must pay all amounts due under the Interconnection Agreement within thirty (30) Business Days of receipt of the Interconnection Agreement;

- (2) The relevant Interconnection Customer must provide access and pad ready for Interconnection Facilities within one hundred and twenty (120) Calendar Days of the date on which Duke returns the fully-executed IA to such Interconnection Customer (provided that Duke shall consider in good faith any Interconnection Customer request to extend such timeline where possible so long as such extension does not impede Duke's obligations hereunder); and
  - (3) There must have been no Notice of Dispute submitted or complaint filed concerning such project that, subsequent to the Execution Date, could reasonably be expected to result in any delay that cannot be mitigated through the use of commercially reasonable efforts in the Interconnection Customer's or Duke's performance of its obligations under this Agreement or under the NCIP or the SC GIP (as applicable).
- c) **Processing of Allocated MW and BAU Projects**
- i) **Interdependency and Exceptions**
    - (1) The Parties acknowledge that where an Allocated MW Project or BAU Project is targeted for Interconnection in 2021 but is Interdependent (as hereinafter defined) with either (A) an Allocated MW Project or BAU Project that fails to satisfy the Initial 2021 Eligibility Criteria or the 2021 Completion Conditions or (B) an Interconnection Customer that is not Party to this Agreement, Duke may not be able to achieve Interconnection of the Interdependent Allocated MW Project or BAU Project in 2021. Duke will inform the affected Settling Interconnection Customer of such occurrence and keep such Settling Interconnection Customer apprised of the status of Duke's efforts.
    - (2) Where a Settling Developer owns, controls, or represents an Allocated MW Project or a BAU Project that is Interdependent with an earlier-queued project that is owned by a different Settling Developer and is a Pending Distribution Project that such Settling Developer has not designated as an Allocated MW Project, the Settling Developer that owns or controls the later-queued Allocated MW Project or BAU Project shall be permitted to Interconnect ahead of the earlier-queued Pending Distribution Project, if: (a) either (i) the Sponsoring Settling Developer for the earlier-queued Pending Distribution Project consents in writing to the earlier interconnection of the later-queued Allocated MW Project or BAU Project; or (ii) the later-queued Allocated MW Project or BAU Project delivers a written request for earlier interconnection to DEC or DEP (as applicable) and to the Sponsoring Settling Developer of the earlier-queued Pending Distribution Project, and such Sponsoring Settling Developer does not, within thirty (30) days of receipt of such notice, designate the earlier-queued Pending Distribution Project as an Allocated MW Project; and (b) such Interconnection does not disadvantage any other Interconnection Customer. Where an Allocated MW Project or a BAU Project is permitted to Interconnect ahead of an earlier-queued Pending Distribution Project under this Section(c)(i)(2), the Interdependency designation (e.g., Project A, Project B) of each project under the NCIP or SC GIP (as applicable) shall be revised accordingly.
    - (3) Where a Settling Developer owns, controls or controls an Allocated MW Project or a BAU Project that is Interdependent with an earlier-queued project (or projects)

that is a Pending Distribution Project that is owned by the same Settling Developer and which such Settling Developer does not intend to designate as an Allocated MW Project, such Settling Developer may consent in writing to the Interconnection of the later-queued Interdependent Allocated MW Project prior to the other Pending Distribution Projects(s), so long as such Interconnection does not disadvantage any other Interconnection Customer. Where an Allocated MW Project or a BAU Project is permitted to Interconnect ahead of an earlier-queued Pending Distribution Project under this Section (c)(i)3), the Interdependency designation (*e.g.*, Project A, Project B) of each project under the NCIP or SC GIP (as applicable) shall be revised accordingly.

ii) **Timing of Interconnection Study for Certain BAU Projects**

- (1) If a BAU Project is in Facilities Study as of the Final Effective Date and meets the Initial 2021 Eligibility Criteria, Duke will exert best efforts to deliver the Facilities Study Report for such BAU Project within thirty (30) Business Days of the Final Effective Date so long as the applicable Interconnection Customer provides any requested information within five (5) Business Day of any reasonable request from Duke.
- (2) If a BAU Project is in Facilities Study as of the Final Effective Date and does not meet the Initial 2021 Eligibility Criteria, Duke will exert best efforts to deliver the Facilities Study report for such BAU Project within sixty (60) Business Days of the Final Effective Date so long as the applicable Interconnection Customer provides any requested information within five (5) Business Days of any reasonable request from Duke.

iii) **Timing of Interconnection Study for Allocated MW Projects**

- (1) In the case of Allocated MW Projects that are identified in **Attachment D** that meet the Initial 2021 Eligibility Criteria, Duke shall exert best efforts to provide final System Impact Study reports on or before October 1, 2020 and Facilities Study report on or before December 15, 2020 so long as the relevant Interconnection Customer executes and returns the Facilities Study Agreement within five (5) Business Days of delivery by Duke and provides any requested information within five (5) Business Days of any reasonable request from Duke.
- (2) In the case of Allocated MW Projects that do not meet the Initial 2021 Eligibility Criteria and that are identified as Allocated MW Project within thirty (30) Business Days of the Execution Date pursuant to Section 2(b)(ii)(1), Duke shall exert best efforts to provide final System Impact Study reports on or before February 28, 2021 and Facilities Study report on or before July 31, 2021 so long as the relevant Interconnection Customer executes and returns the Facilities Study Agreement within five (5) Business Days of delivery by Duke and so long as the applicable Interconnection Customer provides any requested information within five (5) Business Day of any reasonable request from Duke.

d) **Allocated MW Projects in Queue Reform and Expiration of Allocated MW**

- i) Duke shall tender a Facilities Study Agreement to all Allocated MW Projects that are a Project A or B (from a distribution perspective)<sup>14</sup> as of the Execution Date prior to commencement of the Transitional Serial Study under Queue Reform. In the event that an Allocated MW Project that is a Project A or B (from a distribution perspective)<sup>15</sup> as of the Execution Date has not been tendered an IA prior to the commencement of the Transitional Serial Study under Queue Reform, such Allocated MW Project shall be exempt from any additional requirements imposed under the Transitional Serial Study.
  - ii) For the avoidance of doubt, except as provided in Section 3(d)(i), when Queue Reform is implemented,<sup>16</sup> Allocated MW Projects will be subject to all procedural and other requirements thereunder.
  - iii) Any Allocated MW not assigned to a Pending Distribution Project prior to the closing of the enrollment window for the Transitional Cluster Study shall expire and be null and void.
- e) **Reporting Regarding Timing of Allocated MW Projects**
- i) The Settling Developers and Duke shall work together to develop a regular reporting and/or meeting cycle in which Duke and all Settling Developers participate in a collaborative manner to inform each other regarding the status of their respective obligations under this Agreement. During such reporting and/or meeting cycle, Duke shall be permitted to disclose circumstances in which the action or inaction of a Settling Developer is impacting another Settling Developer, including in the event of any Delay Instruction (as hereinafter defined).
- f) **Additional Interconnection Study Details**
- i) Duke represents and warrants to each affected Settling Developer and Settling Interconnection Customer that for purposes of providing a revised System Impact Study cost estimate to those Settling Interconnection Customers that had previously received an Interim System Impact Study report, it utilized a revised cost estimating methodology in order to minimize cost increases, if any, that may result by virtue of the completion of the Facilities Study. Duke acknowledges that each affected Settling Developer and Settling Interconnection Customer has materially relied on each such refined cost estimate in making a decision to enter into this Agreement
  - ii) In the case of Pending Distribution Projects that received a System Impact Study report (whether interim or final) prior to July 30, 2019, the Parties acknowledge that the cost estimates provided in the final System Impact Study report or Facilities Study report, as applicable, were (or will be) substantially higher than that which was previously provided.
  - iii) Except as described in Section 5 below, Duke shall continue to study Allocated MW Projects in accordance with the NCIP or SC GIP (as applicable), including any applicable Interdependency provisions, and the Method of Service Guidelines; provided, however, if a Pending Distribution Project is a settlement project from the

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<sup>14</sup> As defined in NCIP and SC GIP.

<sup>15</sup> As defined in NCIP and SC GIP.

<sup>16</sup> See FN 12.

Settlement Agreement dated January 30, 2018 (“*MOS Settlement*”), and filed with the NCUC in Docket No. E-100 Sub 101 on February 2, 2018, Duke’s policies and practices shall comply in all respects with the MOS Settlement.

- iv) Each Settling Interconnection Customer shall be responsible for the full cost of the Interconnection Facilities and Upgrades assigned to its Allocated MW Projects and BAU Projects in accordance with the applicable Interconnection Procedures and this Agreement.
- v) Notwithstanding the process and timelines described in this Section 3, a Settling Developer may provide direction to Duke to depart from the process and timelines otherwise required hereby with respect to an Allocated MW Project or BAU Project in order to more closely correspond the completion of the interconnection process with the achievement of outstanding development milestones and, if so instructed, Duke will cooperate with each such request (“*Delay Instruction*”) so long as such Delay Instruction does not violate the NCIP or the SC GIP. The Settling Developers acknowledge and agree that any Delay Instruction will likely prevent Duke from achieving one or more of the timeline commitments set forth in this Section 3 with respect to such Allocated MW Project or BAU Project or for any Allocated MW Project or BAU Project that is Interdependent on a such Allocated MW Project or BAU Project.

#### 4) **PART FOUR: ADDITIONAL INTERCONNECTION COST CAPPING**

##### a) **Under-Construction Interconnection Customers**

- i) The Interconnection Customers identified in **Attachment E** shall be referred to as the “*Under-Construction Interconnection Customers*.”
- ii) For the Under-Construction Interconnection Customers, the IA Capped Cost shall be equal to 120% of the IA Estimated Cost plus any costs arising due to unforeseen geotechnical conditions or other unforeseen physical site conditions (including the need for environmental matting), a Force Majeure Event, or unforeseen or higher than expected costs to obtain right of way (collectively, the “*Cost Capping Exceptions*”).
- iii) In addition to the IA Capped Cost, each Under-Construction Interconnection Customer shall be responsible for all Study Costs, Commissioning Costs, and Administrative Overhead Costs.

##### b) **Business As Usual Projects**

- i) The Interconnection Customers identified in **Attachment F** shall be referred to as the “*Business as Usual Interconnection Customers*” or “*BAU Interconnection Customers*” and the related projects shall be referred to as the “*BAU Projects*.”
- ii) For the BAU Interconnection Customers with an IA Estimated Cost of less than \$500,000, the IA Capped Cost shall be equal to the lesser of (A) one hundred and twenty percent (120%) of the IA Estimated Cost or (B) \$550,000 plus, with respect to both (A) and (B), any costs arising due to the Cost Capping Exceptions.
- iii) For a BAU Interconnection Customer with an IA Estimated Cost equal to or greater than \$500,000, the IA Capped Cost shall be 110% of the IA Estimated Cost plus any costs arising due to the Cost Capping Exceptions.

- iv) In addition to the IA Capped Cost, each BAU Interconnection Customer shall be responsible for all Study Costs, Commissioning Costs, and Administrative Overhead Costs.
- c) **Allocated MW Projects**
  - i) For the Allocated MW Projects that achieve interconnection, the IA Capped Cost shall be the IA Estimated Cost plus any costs arising due to Cost Capping Exceptions.
  - ii) In addition to the IA Capped Cost, each Allocated MW Interconnection Customer shall be responsible for all Study Costs, Commissioning Costs, and \$38,000 of Administrative Overhead Costs.
- d) **Additional Cost Details for Cost-Capped Interconnection Customers**
  - i) The IA Actual Cost shall be identified in the applicable FAR delivered to each Under-Construction Interconnection Customers, Business as Usual Interconnection Customers and Allocated MW Interconnection Customers (collectively, the “***Cost-Capped Interconnection Customers***”).
    - (1) Duke shall exert best efforts to deliver the FAR to a Cost-Capped Interconnection Customer within one hundred and twenty (120) Business Days of PTO for the applicable project and shall notify the Cost-Capped Interconnection Customer in writing if it will be unable to deliver the FAR within such time period. Duke shall not be permitted to deliver a FAR any later than one hundred and fifty (150) Business Days after PTO for such project, and any such FAR delivered later than one hundred and fifty (150) Business Days after PTO shall be null, void and of no force or effect. To the extent necessary to enforce the terms of the immediately preceding sentence, a True-Up Settlement Interconnection Customer shall be permitted to challenge, and Duke shall not defend, a FAR on the basis of untimely delivery if Duke fails to deliver the FAR within one hundred and fifty (150) Business Days of PTO for the applicable project and, for the avoidance doubt, a True-Up Settlement Interconnection Customer shall not be permitted to challenge a FAR on the basis of untimely delivery if Duke delivers the FAR within one hundred and fifty (150) Business Days of PTO for the applicable project.
  - ii) Each Cost-Capped Interconnection Customer shall be responsible for the “***IA Construction Cost Capped Amount***,” which shall be the difference between the IA Estimated Cost and the IA Capped Cost; provided that:
    - (1) where the IA Actual Cost is less than the IA Capped Cost, the Cost-Capped Interconnection Customer shall only be responsible for the difference between the IA Estimated Cost and the IA Actual Cost; and
    - (2) where the IA Construction Cost Capped Amount is less than the IA Estimated Cost, the Cost-Capped Interconnection Customer shall receive a credit (or refund, as applicable) for the difference between the IA Estimated cost and the IA Actual Cost.
    - (3) Each Cost-Capped Interconnection Customer shall also be responsible for any sales and use tax that is due with respect to the IA Construction Cost Capped Amount (if applicable).

- iii) The IA Construction Cost Capped Amount shall be allocated between Interconnection Facilities and Upgrades consistent with Section 1(e); provided that, for the avoidance of doubt, no such allocation will be needed where the IA Actual Cost is less than the IA Estimated Cost.
- iv) The ***“IA Total Capped Cost Amount”*** shall be determined as follows:
  - (1) For a Cost-Capped Interconnection Customer located in DEP, the amount due up-front shall be equal to the sum of the following components: (1) the IA Construction Cost Capped Amount, (2) applicable sales and use tax, and (3) Study Costs, Commissioning Costs and Administrative Overhead Costs
  - (2) For a Cost-Capped Interconnection Customer located in DEC, the amount due up-front shall be equal to the sum of the following components: (1) the IA Construction Cost Capped Settlement Amount less the Settlement IA Interconnection Facilities Amount, (2) applicable sales and use tax, and (3) Study Costs, Commissioning Costs and Administrative Overhead Costs.

(e) **No Retail or Wholesale Cost Recovery in Connection with Cost-Capped Interconnection Customers**

- i) With respect to the Cost-Capped Interconnection Customers, Duke agrees that it shall not seek reimbursement or cost recovery from Duke’s retail or wholesale customers of any amounts incurred by Duke in connection with the engineering, design, procurement, construction and commissioning of the Interconnection Facilities and Upgrades (if applicable) for a Cost-Capped Interconnection Customer in excess of the IA Total Capped Cost Amount. For the avoidance of doubt, the foregoing shall not modify or impact Duke’s right to collect the monthly charges identified in the applicable IA (as modified where applicable under this Agreement) nor shall it prohibit adjustments to such monthly charges to the extent directed by the NCUC or the SC PSC.

5) **PART FIVE: INTERCONNECTION OF TRANSMISSION-CONSTRAINED PROJECTS AND CERTAIN TECHNICAL ISSUES**

a) **Transmission Constraints**

- i) The Parties agree that a subset of the Pending Distribution Projects are currently Interdependent Customers<sup>17</sup> due to the fact that the Upgrades potentially required for such Pending Distribution Projects are impacted by another Generating Facility.<sup>18</sup> More specifically, such Pending Distribution Projects are on-hold due to an ***“Interdependence”***<sup>19</sup> that has been identified on Duke’s transmission system.
- ii) Subject to obtaining the applicable Regulatory Approval, Duke shall allow interconnection of Allocated MW Projects that are also Interdependent Customers due

<sup>17</sup> As defined in the NCIP / SC GIP.

<sup>18</sup> As defined in the NCIP / SC GIP.

<sup>19</sup> Under both the NCIP and SC GIP, an “Interdependent Customer” is defined as an “an Interconnection Customer (or Project) whose Upgrade or Interconnection Facilities requirements are impacted by another Generating Facility, as determined by the Utility.” For purposes of this Agreement, “Interdependent,” “Interdependence” or “Interdependency” refers to the conditions resulting in an Interdependent Customer.

to reliance on Network Upgrades<sup>20</sup> already assigned to one or more other Interconnection Customers (such projects, the “**Transmission Interdependent Allocated MW Projects**”) subject to the following:

- (1) The Parties acknowledge and agree that, solely for the purposes of Transmission Interdependent Allocated MW Projects and under this Agreement, a contingency violation requiring curtailment of a Transmission Interdependent Allocated MW Project to maintain compliance with NERC Reliability Standard TOP-001 (“**Transmission Contingency Violation**”) shall constitute an emergency condition for purposes of the applicable PPA.
- (2) Duke shall have right to curtail at no cost the output of a Transmission Interdependent Allocated MW in the event of a Transmission Contingency Violation (such curtailment the “**Transmission Contingency Violation Curtailment**”).
- (3) For each Transmission Interdependent Allocated MW Project, Duke and the relevant Allocated MW Project shall execute an amendment to the project’s IA and/or PPA memorializing and effectuating the limit on curtailment rights contemplated under this Agreement, ensuring that any Transmission Contingency Violation Curtailment shall not be deemed to impair any Allocated MW Project’s performance under its PPA and/or IA, and providing a mechanism by which the Allocated MW Project shall be compensated by Duke in the event that curtailment exceeds the Maximum Annual Transmission Curtailment as provided in Section 4(b).
- (4) Notwithstanding the terms of the applicable PPA, Duke agrees to limit the amount of Transmission Contingency Violation Curtailment for each Transmission Interdependent Allocated MW Project to no more than one hundred and ninety (190) MWh per MW AC of installed capacity per calendar year (prorated for any partial calendar year), decreasing by 1% annually commencing with the first anniversary of the date of PTO (“**Maximum Annual Transmission Curtailment**”).
  - (a) For the avoidance of doubt, the Maximum Annual Transmission Curtailment is only applicable to curtailment due to a Transmission Contingency Violation and does not apply to any other curtailment or disconnection otherwise permitted under the terms of the applicable IA or PPA. For the avoidance of doubt, the Procedures for Non-Discriminatory Implementation of System Emergency Curtailments of Qualifying Facilities filed by Duke with the NCUC in Docket No. E-100, Sub 101 on January 30, 2018 shall not govern Duke’s exercise of the curtailment rights granted herein in the event of a Transmission Contingency Violation.
  - (b) In the event that the Transmission Contingency Violation Curtailment in any calendar year exceeds the Maximum Annual Transmission Curtailment, Duke shall compensate the Allocated MW Project for the amount of energy that the Allocated MW Project would have generated above the Maximum Annual Transmission Curtailment but did not generate due to the Transmission

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<sup>20</sup> As defined in the NCIP / SC GIP.

Contingency Violation Curtailment, in accordance with the applicable energy and capacity rates set forth in the Allocated MW Project's PPA. Duke, in consultation with the Settling Developers, shall develop a commercially reasonable methodology for determining the amount of curtailed energy above the Maximum Annual Transmission Curtailment using the start and end times of the Transmission Violation Curtailment and a trend of actual production MWh.

- (c) The particular transmission issue that is currently giving rise to the need for the Transmission Contingency Violation Curtailment with respect to any Transmission Interdependent Allocated MW Project shall be referred to as the "***Current Transmission Constraint***." For the avoidance of doubt, there is more than one Current Transmission Constraint. At such time as the particular Current Transmission Constraint impacting a particular Transmission Interdependent Allocated MW Project is resolved through the construction of a transmission upgrade, Duke agrees that the need for the particular Transmission Contingency Violation Curtailment will be eliminated, and any amendment to a PPA and/or IA executed pursuant to this Agreement related to such Current Transmission Constraint shall cease to have any further effect. Duke shall provide written notice to each Transmission Interdependent Allocated MW Project for which the need for Transmission Contingency Violation Curtailment has been relieved within thirty (30) days of the date of such resolution. For the avoidance of doubt, this provision shall not prohibit Duke from exercising any and all applicable rights under the applicable PPA and IA, as they existed prior to such amendment.

(5) The Pending Distribution Projects identified in **Attachment G** shall not be permitted to be a Transmission Interdependent Allocated MW Project.

b) **Direct Transfer Trip**

- i) Any Settling Interconnection Customer that is required to install DTT under the terms of its IA shall be entitled to utilize a third-party fiber communications service provider upon written notification of such election to Duke. Additionally, promptly following the NC Effective Date, Duke will, in good faith, explore certain approaches, including engaging with others, in an effort to potentially reduce the cost to any such Settling Interconnection Customer of Upgrades associated with DTT, short of eliminating the requirement for DTT.
- ii) In the case of any Settling Interconnection Customer that has been required to install DTT under the terms of its Interconnection Agreement, in lieu of requiring full up-front payment of the best estimate set forth in the Interconnection Agreement, Duke shall permit payment of the best estimate to be made as follows:
  - (a) Thirty percent (30%) of the estimated cost of the portion of the DTT that involves upgrades to the applicable substation ("***DTT Substation Upgrades***") shall be due within forty-five (45) Business Days after the full and complete execution and return to the Interconnection Customer of the IA.

- (b) The balance shall be due within seven (7) months after the date the initial payment is required by Section 5(b)(ii)(a) above.
- (c) The Settling Developers acknowledge and agree that payment deferral pursuant to Sections 5(b)(ii)(a) and (b) above subjects all later-queued Interdependent projects to the risk that full payment of the best estimate by the prior queued Interdependent project is not made and the next in line later queued Interdependent project will be responsible for the unpaid portion of the cost of the DTT Substation Upgrades. The payment deferral in Sections 5(b)(ii)(a) and (b) shall not be permitted where the later-queued Interdependent Project is a non-Settling Interconnection Customer. Where the later-queued Interdependent Project is a Settling Interconnection Customer, Duke shall be permitted to identify such contingent liability for any remaining cost of the DTT Substation Upgrades in the IA for such later-queued Interdependent Project.

c) **Smart Inverter Pilot**

- i) The Interconnection Customers identified in **Attachment H** shall be the “***Eligible Smart Inverter Pilot Projects***.” The Eligible Smart Inverter Pilot Projects have each received a preliminary cost estimate for the Interconnection Facilities and Upgrades (if applicable) that will be required to interconnect each such Project based on the utilization of certain smart inverter features.
- ii) An Eligible Smart Inverter Pilot Project shall proceed through the interconnection study process in accordance with this Agreement and the NCIP or SC GIP (as applicable).
- iii) The Parties acknowledge that any Eligible Smart Inverter Pilot Project will be required to be designed consistent with, as applicable, Section 1.8 of the IA contained in the NCIP or Section 1.9.1 of the IA contained in the SC GIP and shall abide by any technical direction identified by Duke in the IA that is necessary in Duke’s reasonable judgment to ensure that voltage levels on relevant circuit remain within regulatory requirements; provided that Duke shall not require an Eligible Smart Inverter Pilot Project to operate outside the allowed power factor range identified in Section 1.8.

**6) PART SIX: GENERAL PROVISIONS**

a) **Effectiveness of Agreement and Regulatory Approvals.**

- i) This Agreement shall become effective as follows:
  - (1) As to NC Settling Developers and their Sponsored Interconnection Customers, this Agreement shall become effective as of the date on which the NCUC approves the waivers to the NCIP that are identified in a joint petition to be filed by the NC Settling Developers and Duke (such waiver request the “***NC Waiver Request***” and such date of approval of the NC Waiver Request, the “***NC Effective Date***”).
  - (2) As to SC Settling Developers and their Sponsored Interconnection Customers, this Agreement shall become effective as of the date on which the SC PSC approves the waivers to the SC GIP that are identified in a joint petition to be filed by the SC Settling Developers and Duke (such waiver request the “***SC Waiver***”).

***Request***” and each of the NC Waiver Request and the SC Waiver request, a ***“Waiver Request”*** and such date of approval of the SC Waiver Request, the ***“SC Effective Date”***).

- (3) As to Multistate Settling Developers and their Sponsored Interconnection Customers, this Agreement shall become effective as of the later of the NC Effective Date or the SC Effective Date (***“Final Effective Date”***), provided that:
  - (a) If the NCUC or the SC PSC approves the applicable Waiver Request, but the other state commission either declines to approve the applicable Waiver Request or fails to approve it by March 1, 2021, the Multistate Settling Developer may elect to either:
    - (i) Withdraw from the Agreement entirely, in which case such Settling Developer and Duke, with respect to each other, shall be restored to the *status quo ante* to the greatest extent practicable (including the refunding of any funds paid under the Agreement and the reinstatement of any FAR(s) and/or Notice(s) of Dispute); or
    - (ii) Remain a Party to the Agreement only as to its Sponsored Interconnection Customers located in the State where approval of the applicable Waiver Request has been granted, in which case its Allocated MW shall be adjusted to equal to forty percent (40%) of the total nameplate capacity (in MW AC) of such Settling Developer’s Pending Distribution Projects located in that State; and the Settling Developer shall provide a revised list of Allocated MW Projects to Duke.
  - (b) The Multistate Settling Developer shall deliver written notice of its election to Duke within thirty (30) calendar days after the applicable state commission declines or fails to approve the applicable Waiver Request by March 1, 2021.
- (4) If neither the NCUC nor the SC PSC has approved the respective Waiver Request by March 1, 2021, this Agreement shall terminate and have no further force or effect, and each party shall be restored to the *status quo ante* to the greatest extent practicable (including the refunding of any funds paid under the Agreement and the reinstatement of any FAR(s) and/or Notice(s) of Dispute).
- (5) Notwithstanding any of the foregoing, (A) in the event that the NCUC fails to approve the NC Waiver Request, each NC Settling Developer and its Sponsored Interconnection Customers shall nevertheless have the option to enter into a separate Agreement with Duke incorporating without material change the provisions of Part One of this Agreement; (B) in the event that the SC PSC fails to approve the SC Waiver Request, each SC Settling Developer and its Sponsored Interconnection Customers shall nevertheless have the option to enter into a separate Agreement with Duke incorporating without material change the provisions of Part One of this Agreement; and (C) in the event that either the NCUC or the SC PSC fails to approve the applicable Waiver Request, each Multistate Settling Developer and its Sponsored Interconnection Customers shall nevertheless have the option to enter into a separate Agreement with Duke

incorporating without material change the provisions of Part One of this Agreement.

ii) Definitions

- (1) “**Applicable Effective Date**” shall be defined as follows:
  - (a) For NC Settling Developers, the NC Effective Date;
  - (b) For SC Settling Developers, the SC Effective Date;
  - (c) For Multistate Settling Developers, the Final Effective Date, subject to the opt-out rights set forth in Section 6(a)(i).
- (2) “**Final Effective Date**” shall mean the later of the NC Effective Date and the SC Effective date, provided that if either the NCUC or the SC PSC (but not both) declines to approve the applicable Waiver Request, the Final Effective Date shall be the later of (a) the date on which the applicable state commission approves the applicable Waiver Request; and (b) the date on which the applicable state declines to approve the applicable Waiver Request. Notwithstanding the foregoing, if one of the state commissions fails to either approve or disapprove the applicable Waiver Request by March 1, 2021, the Final Effective Date shall be the date on which the other state commission approved the applicable Waiver Request.
- (3) “**Method of Service Guidelines**” shall mean the Distributed Energy Resource (DER) Method Of Service guidelines for DER no larger than 20 MW available at [https://www.duke-energy.com/\\_media/pdfs/for-your-business/generate-your-own-renewable/method-of-service-guidelines-20171013.pdf?la=en](https://www.duke-energy.com/_media/pdfs/for-your-business/generate-your-own-renewable/method-of-service-guidelines-20171013.pdf?la=en).
- (4) “**NC Regulatory Approval**” shall mean the approval of the NC Waiver Request by the NCUC.
- (5) “**NC Effective Date**” shall mean the date on which NC Regulatory Approval is issued.
- (6) “**NC Settling Developer**” shall mean a Settling Developer whose Sponsored Interconnection Customers are located only in North Carolina.
- (7) “**SC Settling Developer**” shall mean a Settling Developer whose Sponsored Interconnection Customers are located only in South Carolina.
- (8) “**Multistate Settling Developer**” shall mean a Settling Developer whose Sponsored Interconnection Customers are located in both North Carolina and South Carolina.
- (9) “**SC Regulatory Approval**” shall mean the approval of the SC Waiver Request by the SC PSC.
- (10) “**SC Effective Date**” shall mean the date on which SC Regulatory Approval is issued.
- (11) “**Sponsored Interconnection Customer**” shall mean, for each Settling Developer, any Settling Interconnection Customer on whose behalf the Settling Developer executes this Agreement, as provided in Section 6(c).
- (12) “**Sponsoring Settling Developer**” shall mean, for each Settling Interconnection Customer, the Settling Developer executing this Agreement on its behalf, as

provided in Section 6(c).

- (13) **“Regulatory Approvals”** shall mean, collectively, both the NC Regulatory Approval and SC Regulatory Approval.
- b) Each Party to this Agreement represents and warrants that the execution, delivery and performance of this Agreement and the consummation of the transactions provided in this Agreement have been duly authorized by all necessary action of the respective entity and that the person executing this Agreement on its behalf has the full capacity to bind that entity.
- i) Each Settling Developer represents and warrants that it has full and complete authority to execute this Agreement on behalf of the Interconnection Customers so designated in **Attachment A**, **Attachment C**, **Attachment E**, and **Attachment F** (all such Interconnection Customers, the **“Settling Interconnection Customers”**).
- c) The Settling Developers and Duke shall exert best efforts to support obtaining the Regulatory Approvals.
- d) This Agreement constitutes a negotiated settlement and is the result of a compromise by the Parties. The Agreement does not constitute and shall not be construed to constitute an admission of liability or wrongdoing, nor shall it be construed to constitute an endorsement by a party of any legal or policy position advocated by another party. This Agreement shall not be cited as precedent by any Party in any future proceeding, including proceedings before the NCUC or the SC PSC.
- e) The Parties hereto agree to execute and deliver such other and further agreements or documents as may be necessary to fully effectuate the Agreement.
- f) IN THE CASE OF A SETTLING INTERCONNECTION CUSTOMER WITH A PROJECT LOCATED IN NORTH CAROLINA, THIS AGREEMENT AND ALL DOCUMENTS REFERENCED HEREIN SHALL BE GOVERNED AND INTERPRETED UNDER THE LAWS OF THE STATE OF NORTH CAROLINA AND, EXCEPT AS SET FORTH BELOW, IS SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE NCUC UNDER THE NCIP AND THE PARTIES SHALL BE REQUIRED TO EXCLUSIVELY UTILIZE THE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE NCIP TO RESOLVE ANY DISPUTES ARISING UNDER THIS SETTLEMENT AGREEMENT; PROVIDED, HOWEVER, SHOULD A PARTY SEEK RELIEF THAT INVOLVES MONETARY DAMAGES, THE PARTIES AGREE THAT SUCH PARTY MUST FIRST UTILIZE THE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE NCIP AND THEN PROCEED TO PETITION THE NCUC TO ISSUE AN ORDER ESTABLISHING THE RIGHTS AND OBLIGATIONS OF THE PARTY AND DETERMINING WHETHER A BREACH OF THE AGREEMENT HAS OCCURRED AND, IF SUCCESSFUL IN OBTAINING SUCH ORDER, SHALL BE PERMITTED TO THEN SEEK MONETARY DAMAGES IN THE WAKE COUNTY SUPERIOR COURT SITTING IN RALEIGH, NORTH CAROLINA OR THE NORTH CAROLINA BUSINESS COURT.
- g) IN THE CASE OF A SETTLING INTERCONNECTION CUSTOMER WITH A PROJECT LOCATED IN SOUTH CAROLINA, THIS AGREEMENT AND ALL DOCUMENTS REFERENCED HEREIN SHALL BE GOVERNED AND

INTERPRETED UNDER THE LAWS OF THE STATE OF SOUTH CAROLINA AND IS SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE SC PSC UNDER THE SC GIP AND THE PARTIES SHALL BE REQUIRED TO EXCLUSIVELY UTILIZE THE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE SC GIP TO RESOLVE ANY DISPUTES ARISING UNDER THE SETTLEMENT AGREEMENT. HOWEVER, SHOULD A PARTY SEEK RELIEF THAT INVOLVES MONETARY DAMAGES, THE PARTIES AGREE THAT SUCH PARTY MUST FIRST UTILIZE THE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE SC GIP AND THEN PROCEED TO PETITION THE SC PSC TO ISSUE AN ORDER ESTABLISHING THE RIGHTS AND OBLIGATIONS OF THE PARTY AND DETERMINING WHETHER A BREACH OF THE AGREEMENT HAS OCCURRED AND, IF SUCCESSFUL IN OBTAINING SUCH ORDER, SHALL BE PERMITTED TO THEN SEEK MONETARY DAMAGES IN A STATE COURT IN SOUTH CAROLINA.

- h) The provisions of this Agreement shall be interpreted in a manner consistent with each other to carry out the purposes and intentions of the Parties. The Parties acknowledge that reaching this Agreement involved substantial compromise on the part of each Party and, as a result, the various terms and provisions of this Agreement are interdependent and cannot be read or enforced independently without materially adversely affecting the benefit of a Party's bargain. Consequently, this Agreement is not severable and if any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by either the NCUC or SC PSC or any court of competent jurisdiction, (A) the Parties shall negotiate in good faith for not less than thirty (30) days in an attempt to restore, insofar as practicable, the benefits to each Party that were affected by such ruling, and (B) failing restoration under clause (A) above, (1) this Agreement shall terminate in its entirety, and become null and void and of no further force or effect, with respect to any Party who provides written notice of termination to all other parties within thirty (30) days of conclusion of the negotiation period required above, and (2) the terminating Party shall be restored to the *status quo ante* to the greatest extent practicable (including the refunding of any funds paid under or pursuant to this Agreement and the reinstatement of any FAR(s) and/or Complaints/Notice(s) of Dispute).
- i) This Agreement contains the ENTIRE agreement between the parties hereto, and the terms and conditions thereof are contractual in nature and not mere recitals. Each Party acknowledges and agrees that it has read fully and understood this Agreement; that they understand that such document involves substantial legal rights; that they have had the opportunity to review and discuss same with their own counsel; and that each Party enters this Agreement of its own free act, without any measure of duress.
- j) This Agreement may be executed in counterparts, including facsimiles and by .pdfs hereof, and each such executed document will be deemed to be an original document and together will complete execution of this Agreement.
- k) Any notice, demand, or request required or authorized in connection with this Agreement shall be deemed properly given if delivered via email to, in the case of an Interconnection Customer, the email identified in the applicable Interconnection Request, in the case of Duke, DERContracts@duke-energy.com with a copy to [jack.jirak@duke-energy.com](mailto:jack.jirak@duke-energy.com) and in the case of the Settling Developers to the email address set forth on such Settling Developer's signature page attached to this Agreement.

- l) A Settling Developer and Duke shall be permitted by mutual written agreement to amend the Sponsored Interconnection Customers of such Settling Developer in **Attachment A**, **Attachment C**, **Attachment E**, and **Attachment F** and, for the avoidance of doubt, such amendment shall not require the agreement or consent of the other Settling Developers. With respect to all other terms and conditions of this Agreement, no other amendments shall be permitted except by an instrument in writing signed on behalf of Duke and all of the Settling Developers. Any amendment shall not require the approval of NCUC or SC PSC unless it would require or result in any action or circumstance contrary to applicable law or unless otherwise directed by the NCUC or the SC PSC.
- m) **Additional Settling Developers and Settling Interconnection Customers**
  - i) On or before the thirtieth (30<sup>th</sup>) calendar day after the Final Effective Date, any entity that owns, controls, or represents an Interconnection Customer that satisfies one or both of the following criteria) may elect to become a Party to this Agreement as a Settling Developer:
    - (1) is an Eligible True-Up Settlement Interconnection Customer; or
    - (2) Has an Interconnection Request dated on or before November 30, 2018 that is on-hold (whether due to a transmission constraint or due to being a Project C<sup>21</sup> or later (from a distribution perspective)) (an entity satisfying either or both of the foregoing criteria, a “***Potential Settling Developer***.”).
  - ii) Any Potential Settling Developer shall be required to provide to Duke written notice of its intent to become a Settling Developer. Upon Duke’s receipt of such written notice, Duke and the Settling Developer shall promptly collaborate in good faith to identify the relevant Interconnection Customers that are to be included in the Agreement and the applicable Attachment(s) on which such Interconnection Customer should be included.
  - iii) Upon finalization of such information, the Potential Settling Developer shall deliver to Duke an execution page along with summary documentation identifying the relevant Interconnection Customers and appropriate Agreement Attachments.
  - iv) Upon receipt by Duke of such execution page and summary information, such Potential Settling Developer shall become a Settling Developer, and its designated Interconnection Customers shall become Settling Interconnection Customers, under this Agreement and thereby become subject to all of the applicable rights and obligations under this Agreement.

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<sup>21</sup> As defined in NCIP and SC GIP.

### Attachments

<b>Attachment A</b>	True-Up Settlement Interconnection Customers
<b>Attachment B</b>	NC/SC DEC and DEP Administrative Overhead and Commissioning Costs- February 2019
<b>Attachment C</b>	Pending Distribution Projects
<b>Attachment D</b>	Initial Allocated MW Projects and Projects Targeted for Interconnection in 2021
<b>Attachment E</b>	Under-Construction Interconnection Customers
<b>Attachment F</b>	Business as Usual Interconnection Customers and BAU Projects
<b>Attachment G</b>	Pending Distribution Projects not permitted to be Transmission Interdependent Allocated MW Projects
<b>Attachment H</b>	Eligible Smart Inverter Pilot Projects

[Signature on Following Page]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the Execution Date by their respective duly authorized representative as follows:

**Duke Energy Progress, LLC:**

  
\_\_\_\_\_

By: Stephen De May

Title: North Carolina President

**Duke Energy Carolinas, LLC:**

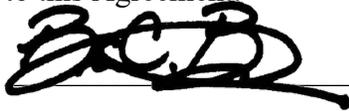
  
\_\_\_\_\_

By: Stephen De May

Title: North Carolina President

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the Execution Date by their respective duly authorized representative as follows:

Birdseye Renewable Energy, LLC, on its own behalf  
and on behalf of its Sponsored Interconnection  
Customers identified in the Attachments  
to this Agreement:



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By: Brian C. Bednar

Title: Manager

Settling Developer

Email Contact: BBednar@birdseyeenergy.com

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the Execution Date by their respective duly authorized representative as follows:

**DEPCOM Power, Inc.**, on its own behalf  
and on behalf of its Sponsored Interconnection  
Customers identified in the Attachments  
to this Agreement:



By: Johnnie Taul

Title: President of DEPCOM Power, Inc.

Settling Developer

Email Contact: [legal@depcompower.com](mailto:legal@depcompower.com)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the Execution Date by their respective duly authorized representative as follows:

**Ecoplexus Inc.**, on its own behalf  
and on behalf of its Sponsored Interconnection  
Customers identified in the Attachments  
to this Agreement:

 \_\_\_\_\_

By: John Gorman

Title: CEO

Settling Developer  
Email Contact: johng@ecoplexus.com

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the Execution Date by their respective duly authorized representative as follows:

Pine Gate Renewables, LLC, on its own behalf and on behalf of its Sponsored Interconnection Customers identified in the Attachments to this Agreement:



By: Ben Catt

Title: CEO

Settling Developer

Email Contact: [pwright@pgrenewables.com](mailto:pwright@pgrenewables.com)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the Execution Date by their respective duly authorized representative as follows:

**Southern Current LLC**, on its own behalf  
and on behalf of its Sponsored Interconnection  
Customers identified in the Attachments  
to this Agreement:



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By: Paul Fleury

Title: Manager

Settling Developer

Email Contact: [pfleury@southerncurrentllc.com](mailto:pfleury@southerncurrentllc.com)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the Execution Date by their respective duly authorized representative as follows:

**Cypress Creek Renewables, LLC**, on its own behalf  
and on behalf of its Sponsored Interconnection  
Customers identified in the Attachments  
to this Agreement:

DocuSigned by:  
  
FA1FD5809B40485...

By: Noah HYTE

Title: Authorized Person

Settling Developer peter.stein@ccrenew.com,  
Email Contact: lindsay.broughel@ccrenew.com,  
leibach@ccrenew.com

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the Execution Date by their respective duly authorized representative as follows:

**National Renewable Energy Corporation**, on its own behalf  
and on behalf of its Sponsored Interconnection  
Customers identified in the Attachments  
to this Agreement:

  
\_\_\_\_\_

By: Jesse Montgomery

Title: President, Development

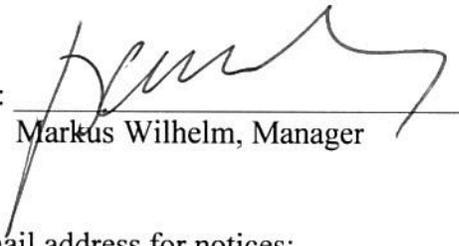
Settling Developer

Email Contact: jesse.montgomery@narenco.com

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the Execution Date by their respective duly authorized representative as follows:

STRATA SOLAR, LLC and STRATA SOLAR DEVELOPMENT, LLC,  
each on its own behalf and on behalf of its Sponsored Interconnection  
Customers identified in the Attachments to this Agreement:

By: Strata Manager, LLC, the Manager of each

By:   
Markus Wilhelm, Manager

Email address for notices:

[development@stratasolar.com](mailto:development@stratasolar.com)

with a copy to:

[legal@stratasolar.com](mailto:legal@stratasolar.com)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as the Execution Date by their respective duly authorized representative as follows:

Carolina Solar Energy LL and Carolina Solar Energy II, LLC, on its own behalf and on behalf of its Sponsored Interconnection Customers identified in the Attachments to this Agreement:

A handwritten signature in black ink, appearing to read "Richard Harkrader", written over a horizontal line.

By: Richard Harkrader

Title: CEO

Settling Developer

Email Contact: [rharkrader@carolinasolarenergy.com](mailto:rharkrader@carolinasolarenergy.com)

ATTACHMENT A  
TRUE-UP SETTLEMENT  
INTERCONNECTION CUSTOMERS

FILED UNDER SEAL

DOCKET NO. E-100, SUB 101

## NC/SC DEC and DEP Administrative Overhead and Commissioning Costs - February 2019 - Non-Fast Track

Duke Energy is incorporating appropriate interconnection-related administrative overhead and commissioning costs into Interconnection Agreements and the Final Accounting True-Up of existing Interconnection Agreements. In summary, the appropriate pro-rata share of costs not already direct-charged or covered by fees includes, but is not limited to:

- Costs to manage the interconnection application process
- Non-direct charged Distribution or Transmission study-related costs
- Duke Energy costs to support and manage the integration and construction of distributed generation projects
- Software costs required to support the interconnection and on-going support of distributed generation projects
- Commissioning costs (Currently applies to Distribution projects only)

*This table is intended to cover most scenarios; however, Duke Energy reserves the right to address situations on a case by case basis.*

Study-Related Costs Applied by Trigger	Trigger for Administrative Charges
\$500	Interconnection Request Application Form & Study Deposit received, but project is withdrawn prior to Queue Number assignment
\$2,500	Queue Number is assigned
\$3,000	System Impact Study Agreement executed
\$6,000	System Impact Study completed
\$6,000	Facility Study completed
<b>\$18,000 Subtotal of Above</b>	<b>Study-Related Costs represent total aggregate administrative costs plus actual direct-charged study costs</b>

Construction-Related Costs Applied	Trigger for Administrative Charges
\$20,000	IA Executed and project with construction required begins
<b>Construction-Related Cost is \$20,000 Administrative plus actual direct-charged construction costs</b>	

Commissioning-Related Costs Applied	Trigger for Charges
\$24,000 Estimated Cost	Distribution connected projects only – interconnection inspection and commissioning testing required prior to facilities generating continuously at full output
<b>Total study, construction and commissioning costs are matched against total payments received from the Customer with invoice or refund based on calculated difference</b>	

Table illustrates that Administrative charges increase as a project moves through the stages of processing. True Up will occur following the final stage for each project.

- If project is withdrawn / cancelled during study, study-related administrative and direct-charged costs are matched against the study deposit received and an invoice or payment is issued for the difference.
- If project constructs & interconnects, total actual study costs are summed with total actual construction and commissioning costs and matched against total payments received. An invoice or payment will be issued for the difference. Estimated interconnection facilities costs to be paid monthly will also be adjusted up or down based on actual costs.
- Duke Energy DET began including construction-related administrative and estimated commissioning costs in Interconnection Agreement (IA) best-estimated costs starting July 1, 2018. Study costs are not included in the IA estimated costs.
- Administrative costs will be reviewed regularly and adjusted based on total costs to be recovered, volume of projects and scope of work.
- Sales tax will be added based on state taxation requirements.

ATTACHMENT C  
PENDING DISTRIBUTION PROJECTS

FILED UNDER SEAL

DOCKET NO. E-100, SUB 101

ATTACHMENT D  
INITIAL ALLOCATED MW PROJECTS  
AND PROJECTS TARGETED FOR  
INTERCONNECTION IN 2021

FILED UNDER SEAL

DOCKET NO. E-100, SUB 101

ATTACHMENT E  
UNDER-CONSTRUCTION  
INTERCONNECTION CUSTOMERS

FILED UNDER SEAL

DOCKET NO. E-100, SUB 101

ATTACHMENT F  
BUSINESS AS USUAL INTERCONNECTION  
CUSTOMERS AND BAU PROJECTS

FILED UNDER SEAL

DOCKET NO. E-100, SUB 101

**ATTACHMENT G**

**PENDING DISTRIBUTION PROJECTS NOT  
PERMITTED TO BE TRANSMISSION  
INTERDEPENDENT ALLOCATED MW  
PROJECTS**

**FILED UNDER SEAL**

**DOCKET NO. E-100, SUB 101**

ATTACHMENT H  
ELIGIBLE SMART INVERTER  
PILOT PROJECTS

FILED UNDER SEAL

DOCKET NO. E-100, SUB 101