NC SUSTAINABLE ENERGY ASSOCIATION

25 February 2015

To: Chief Clerk Gail Mount
The North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4325

From: The North Carolina Sustainable Energy Association
P.O. Box 6465
Raleigh, NC 27628

Re: *Letter re: Duke Energy Progress, Inc.'s Application for Certificate for 12.8 MW Solar Facility Located at the Camp Lejeune Marine Corps Base in Onslow County*
(Docket No. E-2, Sub 1063)

Honorable Clerk and Commissioners:

I serve as counsel and director of regulatory affairs for the North Carolina Sustainable Energy Association ("NCSEA"). On 2 February 2015, Duke Energy Progress, Inc. ("DEP") filed an application for a certificate of public convenience and necessity ("CPCN") for a 12.8 MW solar generating facility located at the Camp Lejeune Marine Corps Base in Onslow County ("*Application*"). NCSEA is not a party to this proceeding but **NCSEA supports issuance of a CPCN.**

Background on Utility-Owned Solar in NC

In 2008, Duke Energy Carolinas, LLC ("DEC") applied for Commission authorization to rate-base solar in connection with its photovoltaic distributed generation ("PVDG") program. *See, generally,* Commission Docket No. E-7, Sub 856. At that time, DEC stated that it supports "a portfolio approach to renewables[.]" *Transcript of Testimony Volume 1 (Heard 10-23-08)* ("Tr. Vol. 1 at p. __"), p. 70, Commission Docket No. E-7, Sub 856 (29 October 2008) (testimony of DEC witness Owen Smith). DEC explained: "We consider purchased power agreements and the purchase of RECs from customer-owned resources, as well as utility-owned resources to be appropriate resources within the portfolio." Tr. Vol. 1 at p. 87 (DEC witness Smith).

As to utility-owned resources, DEC correctly understood, in 2008, NCSEA's position both as it existed then and as it continues to exist today: NCSEA is not in favor of "artificially limiting the NC solar market" by excluding utilities from solar ownership. Tr. Vol. 1 at p. 63 (DEC witness Smith). NCSEA re-affirmed this position as recently as September 2014 when it supported three DEP requests to transfer CPCNs from third-

party developers to DEP so that DEP could develop and own three utility-scale solar facilities. *See, generally,* Commission Docket Nos. E-2, Subs 1054, 1055 & 1056. However, as utilities increasingly participate as owners, NCSEA is keenly interested in ensuring that real "opportunities [remain] available for other solar ownership models as well." *Id.*

In response to NCSEA's expressed interest in continued opportunities for non-utility ownership, DEC indicated in the 2008 PVDG proceeding that it "should be clear that Duke Energy Carolinas supports a market for a variety of solar technologies and ownership structures[,]" Tr. Vol. 1 at pp. 61 & 87, and DEC articulated "its commitment to other business models, including power purchase agreements and programs to promote customer investments in solar energy." Tr. Vol. 1 at p. 72 (DEC witness Smith).[1]

Continuing a "Portfolio Approach" to Renewables

As stated at the outset, **NCSEA supports issuance of a CPCN.** At the same time, NCSEA continues to support ongoing cultivation of a market that supports a variety of solar technologies and ownership structures, including customer- and third-party-owned solar as well as utility-owned solar.

NCSEA believes continued commitment by Duke Energy's North Carolina operating companies[2] to opportunities for *non-utility* ownership aligns with the public interest. In 1974, the North Carolina Supreme Court made the following observation regarding the public interest:

> The primary purpose of [oversight of monopoly utilities] . . . is to assure the public of adequate service at a reasonable charge. It became evident long ago that the attainment of this primary objective is endangered both by unrestrained competition and by the creation of a "complacent monopoly" in the public utility business.

State ex rel. Utilities Com. v. General Tel. Co., 285 N.C. 671, 680, 208 S.E.2d 681, 687 (1974). North Carolina's electric utilities do not face "unrestrained competition." In fact, North Carolina's electric utilities face little enough competition that utility complacency, if anything, is the more imminent threat to the public interest.

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[1] To be clear, DEC has made a commitment to non-utility solar ownership models but opposes imposition of strict requirements about the use of non-utility solar for REPS compliance. Specifically, DEC stated: "Duke Energy Carolinas is supportive of solar investments by customers and other third parties, but does not believe it is reasonable to set aside a specific amount of its [REPS] compliance obligation to be met through this mechanism." Tr. Vol. 1 at p. 69 (DEC witness Smith).

[2] NCSEA recognizes that DEP and DEC are legally distinct operating companies and that DEP has not expressly made the commitments that DEC has. NCSEA also recognizes, however, that the two operating companies share a common business *ethos*, likely attributable to overlapping leadership within the two companies.

There is no better case study than solar itself to illustrate how an appropriate level of competition within a marketplace can spur innovation and stave off utility complacency.

- The 2008 PVDG proceeding was initiated in part because DEC was concerned that it would not be able to meet the REPS solar set-aside; DEC indicated that an inadequate level of non-utility-owned solar development in the State jeopardized its ability to comply with the set-aside and so, it argued, utility-owned solar was needed. Responding to the critique, North Carolina's non-utility clean energy entrepreneurs innovated mightily, driving maturation of a variety of solar technologies and ownership structures, such that utilities have not had a problem complying with the solar set-aside each year.
- Moreover, North Carolina's non-utility clean energy entrepreneurs – together with, more recently, an increasing number of out-of-state entrepreneurs drawn to our maturing marketplace – have innovated to the point that solar has become a low cost resource. It is important to note that DEP has approached the Commission in this proceeding seeking to rate-base solar to seize an opportunity for low cost compliance with its *general* REPS obligation (not its solar set-aside obligation) and to further diversify its least cost generation portfolio.

It is because the non-utility clean energy entrepreneurs were afforded the opportunity to compete in the marketplace that North Carolina utilities, like DEP, are now in a position to move off the sideline and onto the solar ownership playing field.

NCSEA appreciates that DEP's movement off the sideline "reflects Duke Energy's commitment to *proactively* support our customers and their energy-related goals and objectives." *Application* at p. 6 (emphasis added).[3] NCSEA particularly appreciates how DEP – after learning of the Marine Corps' "national security initiative aimed at ensuring that strategic military installations can operate during times of emergency when the electrical grid is unable to provide power" – has worked with the Marine Corps to ensure that Camp Lejeune will have "access to the [proposed solar] generating asset in the event of catastrophic grid failure[.]" *Application* at pp. 5, 4.[4] NCSEA would again emphasize, however, that it was the non-utility clean energy entrepreneurs' participation

[3] As already stated, an appropriate level of competition can help stave off utility complacency. It is worth noting that sometimes the mere threat of increased competition can prompt a utility to be more proactive in enabling its customers to meet their energy-related goals and objectives. Specifically, NCSEA believes "The Military Good Neighbor Act" – a bill that was introduced during the 2013 legislative long session as Senate Bill 590 and House Bill 679 and proposed legalizing third-party sales to the Armed Forces of the United States, including the Marine Corps – helped spur DEP's proactivity here.

[4] NCSEA is aware of other DEP customers, including but not limited to local governments, that would likewise appreciate this "access to asset" option as they contemplate their energy futures and emergency planning.

in the marketplace that enabled DEP to now be in a position to proactively meet the Marine Corps' on-site clean energy needs.

For the reasons set out above, solar is a paradigmatic example of how an appropriate level of competition can help stave off complacency and drive customer-centric utility proactivity, and thereby advance the public interest. As the Commission considers the *Application*, NCSEA asks that it be cognizant of what got us here and what will get us back here in the future: an appropriate level of competition in the marketplace.

Conclusion

In many ways, the *Application* provides further proof of concept: Appropriate levels of competition in the clean energy marketplace spur innovation, stave off utility complacency, drive customer-centric utility proactivity, and ultimately serve the public interest. As such, **NCSEA supports issuance of a CPCN**, but couples its support with a call for continued commitment on the part of DEP and DEC "to other business models, including power purchase agreements and programs to promote customer investments in solar energy." Tr. Vol. 1 at p. 72 (DEC witness Smith).

Sincerely,

Michael D. Youth
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