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Clerk's Office
N.C. Utilities Commission

24 September 2014

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: Verified Joint Notice and Request for Approval to Transfer CPCN*
(Docket Nos. E-2, Sub 1054; SP-2302, Sub 0)

Honorable Clerk and Commissioners:

I serve as counsel and policy director for the North Carolina Sustainable Energy Association ("NCSEA"). On 22 September 2014, DD Fayetteville Solar NC, LLC and Duke Energy Progress, Inc. ("DEP") filed a joint notice and request for approval to transfer Fayetteville Solar's certificate of public convenience and necessity ("CPCN") for a 16.4 MW solar photovoltaic generating facility, located on the site of the DuPont Fayetteville Works plant in Bladen County, to DEP ("*Transfer Request*"). NCSEA is not a party to this proceeding but recognizes that the Transfer Request "is the first of its kind in this State and represents another step in the evolution of solar resource development to meet long-term REPS and energy and capacity needs for [DEP]." *Transfer Request* at ¶ 1. Given the unique nature of this proceeding, NCSEA is filing this letter to express that **NCSEA supports issuance of an order approving the *Transfer Request*.**

<u>Background on Utility-Owned Solar in NC</u>

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). However, as utilities increasingly participate as owners, NCSEA is keenly interested in ensuring that real "opportunities are 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 an order approving the *Transfer Request*.** 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.

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

[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.

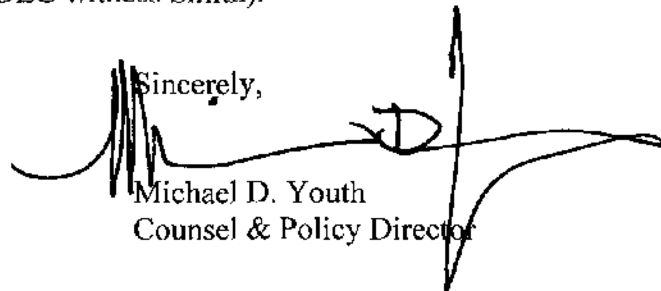
complacency. The 2008 PVDG proceeding was initiated in part because DEC was concerned that it would not be able to meet the REPS solar set-aside; DEC indicated that an inadequate level of non-utility-owned solar development in the State jeopardized its ability to comply with the set-aside and so, it argued, utility-owned solar was needed. Since the 2008 proceeding, North Carolina's non-utility clean energy entrepreneurs have innovated mightily, driving maturation of a variety of solar technologies and ownership structures. These entrepreneurs – together with, more recently, an increasing number of out-of-state entrepreneurs drawn to our maturing marketplace – have innovated to the point that North Carolina utilities, like DEP, are now being prompted to move off the sideline and onto the solar ownership playing field. It is important to note that, unlike DEC six years ago, DEP has not approached the Commission seeking to rate-base solar out of a concern about set-aside compliance; rather, DEP has approached the Commission seeking to rate-base solar to seize an opportunity for low cost compliance with its *general* REPS obligation and to further diversify its least cost generation portfolio. This is a paradigmatic example of how an appropriate level of competition can help stave off complacency and advance the public interest.

As the Commission considers the *Transfer Request*, 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 *Transfer Request* is an important milestone for the North Carolina clean energy marketplace. It provides proof of concept: Appropriate levels of competition in the clean energy marketplace spur innovation, stave off utility complacency, and ultimately serve the public interest. As such, **NCSEA supports issuance of an order approving the *Transfer Request***, 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,



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