



## Duke Energy's CPRE Program Approved (with Modifications) for First Solicitation under H.B. 589

**02.28.2018**

On February 21, 2018, the North Carolina Utilities Commission (the "NCUC") issued an order (the "Order") approving, with numerous required modifications, the application of Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP" and, together with DEC, "Duke") for a joint competitive procurement for renewable energy program ("CPRE Program"). With the NCUC's Order, Duke's first solicitation for competitive procurement of 680 MW of energy and capacity from renewable energy facilities is expected to begin in May 2018.

### **Background**

On November 27, 2017, DEC and DEP jointly filed a petition for approval of their proposed CPRE Program (pursuant to N.C. Gen Stat. § 62-110.8 and NCUC Rule R8-71). Along with the proposed initial CPRE Program guidelines, Duke's petition requested approval of (i) a pro forma power purchase agreement, (ii) initial CPRE Program plan, and (iii) waivers of regulatory conditions and code of conduct requirements. In the CPRE Program filing, Duke proposed four solicitations, or tranches, to allocate its obligation to procure 2,660 MWs of renewable energy, with Tranche 1 to begin in 2018. For the Tranche 1 CPRE RFP Solicitation, Duke proposes to allocate 600 MWs for the DEC service territory and a maximum of 80 MWs for the DEP service territory.

Following the NCUC's order on December 1, 2017 requiring the Public Staff to file a report concerning Duke's proposed CPRE Program and allowing intervention by interested persons, in January 2018, Public Staff submitted its report and comments, and other stakeholders, including the North Carolina Sustainable Energy Association (NCSEA), the North Carolina Clean Energy Business Alliance (NCCEBA) and Duke Energy Renewables, Inc., also filed comments on Duke's proposal.

### **NCUC Order**

In its Order, the NCUC summarized and addressed numerous comments and issues, including: grid locational guidance; contracting period; acceleration of Tranche 4 to July 2020; reasonableness of the market participant requirements; elimination of asset transfer proposal cost structure; clarification on

how avoided cost rate will be used; clarification on application of 30% limit; grouping study proposal; cost recovery; curtailment provisions of the PPAs; waiver of regulatory conditions and code of conduct requirements; and reasonableness of the provisions of the PPAs.

The Order requires Duke to modify its initial CPRE Program guidelines and initial CPRE Program plan to conform to the conclusions reached by the NCUC. Once modified in compliance with the Order, Duke's initial CPRE Program guidelines for the Tranche 1 CPRE RFP Solicitation and its initial CPRE Program plan are approved by the NCUC. Although the NCUC also approved Duke's proposed pro forma PPA (notably for the Tranche 1 CPRE RFP Solicitation only), the NCUC requires Duke to continue its discussions with NCCEBA, NCSEA, the Public Staff and other interested parties regarding potential revisions to the pro forma PPA or to offer limited opportunity for negotiations on the PPA's terms and conditions. Finally, the Order approved Duke's requested waivers, regulatory conditions and code of conduct requirements.

### **Next Steps**

With Accion Group, LLC already selected by Duke as the Independent Administrator (the "IA"), and approved by the NCUC on January 9, 2018, the pre-solicitation process for Tranche 1 of the CPRE Program is expected to begin shortly. Prior to the initial CPRE RFP Solicitation, Duke is required to provide the IA with a list of potential market participants that have expressed an interest, in writing, to participate in the CPRE RFP Solicitation or those that have participated in recent renewable energy resource solicitations issued by Duke.

The IA is required to take several steps prior to release of the CPRE RFP Solicitation, including release of pre-solicitation information. As contemplated by Duke's proposed CPRE Program guidelines, it is expected that the IA will conduct a pre-issuance conference with market participants to discuss the draft CPRE RFP Solicitation guidelines and documents. It is unclear at this stage whether Duke will use the IA process to continue its discussions regarding revisions to the pro forma PPA or allow a limited opportunity for market participants to negotiate PPA terms and conditions.

Based on these comments and IA's recommendations for changes to the CPRE RFP Solicitation documents, the IA will prepare a report and submit it to Duke at least 20 days prior to the RFP release. Duke targets release of the Tranche 1 RFP in May 2018.

For more information or to request a copy of the NCUC's Order, please email [solar@williamsmullen.com](mailto:solar@williamsmullen.com) or contact any member of the Williams Mullen Solar Energy Team.

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