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August 17, 2020

VIA ELECTRONIC DELIVERY

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: Docket No. 2019-182-E – South Carolina Energy Freedom Act (H.3659) Proceeding Initiated Pursuant to S.C. Code Ann. Section 58-40-20(C): Generic Docket to (1) Investigate and Determine the Costs and Benefits of the Current Net Energy Metering Program and (2) Establish a Methodology for Calculating the Value of the Energy Produced by Customer-Generators

Dear Ms. Boyd:

Dominion Energy South Carolina, Inc. ("DESC") hereby requests that the Public Service Commission of South Carolina ("Commission") reconsider and modify the current procedural schedule in the above-referenced docket to reflect the schedule established by the Notice of Filing and Hearing and Prefile Testimony Deadlines issued by the Clerk's Office on July 29, 2020 ("July 29 Notice").

By way of background, this docket was established pursuant to the provisions of South Carolina Energy Freedom Act ("Act 62") which require the Commission to "open a generic docket to . . . investigate and determine the costs and benefits of the current net energy metering program . . . [and] establish a methodology for calculating the value of energy produced by customer generators." S.C. Code Ann. §§ 58-40-20(C)(1) and (C)(2). By Order No. 2020-487, dated July 15, 2020, the Commission requested comments on the following proposed schedule pursuant to which it would consider such issues via a generic docket (the "Initial Schedule"):

- Last Day to File a Petition to Intervene: Thursday, September 17, 2020
- All Interested Persons Direct Testimony Due: Thursday, October 8, 2020

- All Responses to Direct Testimony Due: Thursday, October 29, 2020
- Hearing Date: Tuesday, November 17, 2020, at 10:00 a.m.

In response, the South Carolina Office of Regulatory Staff ("ORS"), Duke Energy Carolinas, LLC ("DEC"), Duke Energy Progress, LLC ("DEP"), DESC, and Vote Solar each filed comment letters on July 27, 2020.

The ORS indicated that it did not object to the Commission's proposed schedule.

DEC and DEP proposed an abbreviated schedule that would not only address the items required by the generic docket, but would also include DEC's and DEP's "applications for successor tariffs." DEC and DEP comment letter, dated July 27, 2020, at p. 2. DEC and DEP proposed a procedural schedule for the collective Duke companies, which was, in relevant part, as follows:

- September 3, 2020 – DEC and DEP file their application, tariffs and direct testimony
- October 15, 2020 – ORS and intervenors file testimony
- October 29, 2020 – DEC and DEP file rebuttal testimony
- November 5, 2020 – DEC and DEP file surrebuttal testimony
- November 17, 2020 – Evidentiary hearing begins
- March 3, 2021 – Final order issued

See id.

DESC indicated that the Initial Schedule was "acceptable to DESC with one exception"—namely, that the October 29, 2020, deadline for responsive comments from all parties be extended by one week to November 5, 2020. DESC comment letter, dated July 27, 2020, at p. 1. DESC further stated its intent to "present its position on the cost and benefits of its current net metering program[,] . . . propose a methodology for calculating the value of the energy produced by customer-generators[, and] . . . present to the Commission for approval DESC's 'solar choice metering tariff' in furtherance of S.C. Code Ann. § 58-40-20(F)(2)" when it filed its testimony on October 8, 2020. *Id.* at pp. 1-2.

DESC was also careful to state that:

> In the event that the Commission adopts a procedural schedule that requires DESC to file direct testimony prior to October 8, 2020, then <u>the Company will not have sufficient time to prepare and present to the Commission for approval its "solar choice metering tariff."</u>

Id. at p. 2 (emphasis added).

Vote Solar expressed no objection to either the DEC/DEP proposal or the DESC proposal, but, like DESC, expressed concern about an abbreviated timeline

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for the DESC docket, and urged the Commission to provide "at least a four-week buffer between the procedural dates set for DEC/DEP and DESC" because it had not yet conducted extensive discovery with DESC. Vote Solar comment letter, at p. 2 (emphasis added). As such, Vote Solar indicated it and other intervenors "would likely face significant challenges in completing necessary discovery and analyses for DESC if required to do so according to the DEC and DEP proposed dates." *Id.* (emphasis added).

On July 29, 2020—after the parties' comments were filed—the Commission's Clerk's Office issued the July 29 Notice, which established and adopted the Initial Schedule as controlling for the docket. No party filed any further comments in response to or objecting to the July 29 Notice.

In reliance on the Initial Schedule, DESC quickly developed a comprehensive case plan for this docket in order to commit the resources necessary for DESC to comply with the Initial Schedule, but also maintain DESC's ability to address other pending matters before the Commission with less resources than previously allocated. This is consistent with DESC's statement to the Commission explaining it could not meet a deadline earlier than October 8, 2020. This case plan necessarily included DESC's deployment of its resources, both internal and external, to begin responding to discovery propounded by ORS and jointly by Vote Solar, Southern Alliance for Clean Energy, South Carolina Coastal Conservation League, and Upstate Forever and to conduct the analyses and studies necessary to prepare its direct testimony setting forth the cost and benefits of its current net metering program, proposing a methodology for calculating the value of the energy produced by customer-generators, and presenting its "solar choice metering tariff" to culminate in the initial filing on October 8, 2020. DESC re-allocated resources and operated under this case plan for approximately two weeks.

Then, in Order No. 2020-532, dated August 12, 2020, the Commission seemingly abandoned the Initial Schedule and adopted the following schedule (the "Revised Schedule") for Docket No. 2019-182-E:

- Applications for successor tariffs due date: September 3, 2020
- Companies' direct testimony due date: September 24, 2020
- Intervenors'/ORS's direct testimony due date: November 5, 2020
- Rebuttal testimony due date: November 19, 2020
- Surrebuttal testimony due date: December 1, 2020
- Virtual hearing date: December 14, 2020
- Final order date: March 3, 2021

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The Revised Schedule added more responsive testimony deadlines and included additional items required of the "applications" to be submitted, but also significantly shortened the timeframes under the Initial Schedule.[1] Given the comments from the various parties and the reliance to date by the collective parties and their consultants, the shortened timeframe appears unnecessary and unfair—particularly since the Initial Schedule already provided ample time to comply with Act 62's timing requirement and provided adequate time for all parties to intervene and prepare their cases. Therefore, DESC requests that the Commission consider the impact of its August 12 Order and the Revised Schedule on all parties, not just the utilities.

Additionally, DESC respectfully requests that the Commission reconsider or clarify the "application" requirement given that the Initial Schedule only set one deadline for direct testimony and one deadline for rebuttal testimony and required all parties to meet these common deadlines.

As discussed above, Act 62 requires the Commission to establish a generic docket only to "investigate and determine the costs and benefits of the current net energy metering program; and (2) establish a methodology for calculating the value of the energy produced by customer-generators." S.C. Code Ann. §§ 58-40-20(C)(1) and (2). Act 62 contemplates the Commission investigating and all interested parties putting forward proposals. As such, DESC avers that an "application" is not required. Rather, DESC planned in accordance with the Initial Schedule to proffer direct and responsive testimony along with the other interested parties pursuant to the Initial Schedule.[2] This procedural approach would also promote judicial economy by simply setting two deadlines—one for direct testimony and one for responsive—for all parties. The Commission could address the issues common to all parties, while affording the utilities the option of filing their proposed solar choice net metering tariff concurrently or at a subsequent time in a utility-specific docket.

In conclusion, DESC respectfully requests that the Commission modify the current schedule to reflect the deadlines in the Initial Schedule, which will provide all parties one opportunity to provide direct testimony and one opportunity to file responsive testimony. DESC believes that the procedural approach in the Initial

[1] Specifically, the Commission indicated that each application must include the following information related to the costs and benefits of the current net energy metering program, including the information outlined in Section 58-40-20(D); a methodology for calculating the value of the energy produced by customer generators; improvements to procedures/methodology in Order No. 2015-194; best practices from other jurisdictions; and a cost benefit analysis.

[2] DESC's planned approach was plainly set forth in its comment letter, and no party objected in their comments or in the almost three weeks since the July 29 Notice. And, the Commission's Initial Schedule comports with Vote Solar's recommendation. Vote Solar comment letter, at p. 2.

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Schedule[3] promotes judicial economy and would ensure that all parties have ample time to conduct discovery, provide a cost benefit analyses of the current net energy metering program, and develop and propose their methodology for the value of solar, and would allow the utilities to develop and propose their solar choice net metering tariff at the same time if they so choose.[4] Likewise, given that prior to the issuance of the July 29 Notice, DESC informed the Commission and all intervenors in the docket that it would be unable to prepare and present a solar choice net metering tariff earlier than October 8, 2020, and given that after the issuance of the July 29 Notice, DESC has proceeded in reliance on the Initial Schedule, it is now impossible for DESC to meet the deadlines set forth in the Revised Schedule.

For these reasons, DESC respectfully requests that the Commission adopt the Initial Schedule to address the items required of the generic docket by Act 62 and permit the utilities the option of presenting the solar choice metering tariff either in this filing or a subsequent filing. Thank you for your consideration of this request. Please let me know if you have any questions.

Very truly yours,

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[3] This procedural approach was supported by both DESC and ORS (rather than the four separate testimony deadlines proposed by DEC and DEP).

[4] DESC notes that Act 62 does not exclusively impose this burden on the utilities. Rather, Act 62 only instructs the Commission to open this "generic docket" and fulfill Act 62's mandate via participation of the parties to such generic docket.

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