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July 3, 2019

Via Electronic Filing

Hon. Jocelyn G. Boyd
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Drive, Suite 100
Columbia, SC 29210

Re: Johnson Development Associates, Incorporated's Comments on Consolidation and Scheduling for Docket Numbers 2019-176-E, 2019-184-E, 2019-185-E, 2019-186-E, 2019-194-E, 2019-195-E, 2019-196-E, 2019-197-E, 2019-207-E, 2019-208-E, 2019-209-E, 2019-224-E, 2019-225-E, 2019-226-E, and 2019-227-E.

Dear Ms. Boyd:

Pursuant to Directive Order No. 2019-457 issued on June 26, 2019, Johnson Development Associates, Incorporated ("JDA") submits a concise statement of comments on the above referenced Dockets, provides a chart[1] as to scheduling on the dockets to which JDA is a party or plans to become a party, and provides the Public Service Commission of South Carolina ("Commission") with a Proposed Scheduling Order[2] specific to Docket Numbers 2019-176-E, 2019-184-E, 2019-185-E, 2019-186-E that is consistent with Act No. 62 of 2019 ("the Act").

Docket No. 2019-176-E was opened by this Commission on May 23, 2019. On May 29, 2019, the Commission opened dockets under the Act for Dominion Energy South Carolina[3], Duke Energy Carolinas[4], and Duke Energy Progress[5] as well as various other dockets to handle interconnection[6], commercial and industrial renewable energy programs[7], and integrated resource plans for each electrical utility[8]. Commissioners correctly expressed opinions that numerous issues should be

[1] Attached as Appendix A.
[2] Attached as Appendix B.
[3] Docket No. 2019-184-E.
[4] Docket No. 2019-185-E.
[5] Docket No. 2019-186-E.
[6] Docket Nos. 2019-194-E, 2019-195-E, 2019-196-E, 2019-197-E.
[7] Docket Nos. 2019-207-E, 2019-208-E, 2019-209-E.
[8] Docket Nos. 2019-224-E, 2019-225-E, 2019-226-E, 2019-227-E.

consolidated for judicial economy. JDA maintains and renews the positions proffered in its Letter Regarding Consolidation in Docket No. 2019-176-E filed with the Commission on June 18, 2019. JDA also reasserts the recommendations and requests put forth in the filings jointly submitted with the South Carolina Solar Business Alliance, Incorporated ("SCSBA"): Joint Comments Relevant to Code Section 58-41-20 filed on June 18, 2019, Joint Petition to Set Consolidated Schedule filed on June 24, 2019, and in the Response to Proposed Procedural Schedule[9] filed on June 25, 2019. Copies of those filings are attached as Appendix C and JDA craves reference to the facts and opinions contained within.

"The cardinal rule of statutory interpretation is to ascertain and effectuate the intent of the legislature." *Sloan v. Hardee,* 371 S.C. 495, 498, 640 S.E.2d 457, 459 (2007). In doing so, the court must give the words found in the statute their "plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation." *Id.* at 499, 640 S.E.2d at 459. Thus if the words are unambiguous, the court must apply their literal meaning. *Id.* at 498, 640 S.E.2d at 459. SC Code § 58-41-20(A) states, in part, that "the commission shall open **a docket** for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section."(Emphasis added). The Act further provides that the decisions reached in these proceedings shall be "just and reasonable to the ratepayers"[10] and in compliance with the express mandate that is South Carolina's "policy of encouraging renewable energy."[11] The Commission shall first establish the methodology for each utility.[12] Then the utilities must make their avoided cost filing that is "reasonably transparent so that underlying assumptions, data, and results can be independently reviewed and verified by the parties and the [C]ommission."[13]

JDA sees consolidation of all issues where practicable and a transparent hearing process to set avoided cost methodology as being consistent the legislative intent of the Act. The prior avoided cost proceedings were skewed in favor of protecting the utilities and the legislature sought to remedy this through the Act. Previously, each utility would file its methodology and proposed avoided cost rate contemporaneously. Intervenors would automatically be placed at a disadvantage by having to opine on both methodology and rate simultaneously for each utility with limited resources and time. There is no ambiguity in the wording of the Act. The Act requires the methodology for each utility to be set with input guidelines and transparency prior to hearings on the actual rate. The methodology established by the Commission must ensure transparency so that the parties and Commission can independently review and verify the avoided cost rate.

JDA's Proposed Scheduling Order reflects the legislature's intent to stage this process. The Proposed Scheduling Order allows the Commission to hold a hearing on the establishment of

[9] The Response Letter was to comments filed by Dominion Energy South Carolina, Inc. Duke Energy Carolinas, LLC, and Duke Energy Progress, LLC.
[10] SC Code § 58-41-20(A).
[11] SC Code § 58-41-20(F)(2).
[12] SC Code § 58-41-20(A).
[13] SC Code § 58-41-20(j).

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avoided cost methodology and associated guidelines that ensures transparency, accuracy, independent review, and verification. The Commission subsequently will issue an order which establishes the methodology and guidelines. The schedule then allows adequate time for all parties to review the data and formulate sound opinions concerning avoided cost rate through independent verification.

In conclusion, it is imperative that the independent expert retained by the Commission, the personnel at the Office of Regulatory Staff ("ORS"), and all parties of record have before them the methodology and associated guidelines for each utility early in this process so that ample time exists to engage in discovery, file testimony, file responsive testimony, and possible surrebuttal filings on the issues of avoided cost rate, term of length of the power purchase agreements, and the other items identified in the Act. JDA respectfully requests that this Commission grant its Joint Petition to Set Consolidated Schedule and adopt the schedule contained in the enclosed Proposed Scheduling Order.

Very truly yours,

s/ James H. Goldin
James H. Goldin

JHG:jc
Enclosure

Cc: Nanette S. Edwards, ORS (via email)
Jeffrey M. Nelson, ORS (via email)
Carri Grube Lybarker, S.C. Department of Consumer Affairs (via email)
K. Chad Burgess (via email)
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APPENDIX A

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Johnson Development Associates, Inc.
Proposed Deadlines and Hearing Dates

	Standard Offer, Avoided Costs, Etc. Docket Nos. 2019-176-E, 2019-184-E, 2019-185-E, 219-186-E	Voluntary Renewable Energy Program Docket No. 2019-209-E	Review of Interconnection Standards Docket Nos. 2019-194-E, 2019-195-E, 2019-196-E, 2019-197-E	Integrated Resource Plan Each Utility Docket Nos. 2019-224-E, 2019-225-E, 2019-226-E, 2019-227-E
Opening of Docket / Filing Date / Other Procedural Dates	See JDA Proposed Scheduling Order	Sept. 13, 2019	June 4, 2019	February 2020 (IRP Filed) Adequate time for Intervention and Discovery per State's Policy of Encouraging Renewable Energy
IOU Direct Testimony Filings		April 15, 2020	Feb. 14, 2020	June 2020
Other Parties Direct Testimony		April 31, 2020	Mar. 13, 2020	July 2020
IOU Rebuttal		May 14, 2020	Mar. 27, 2020	August 2020
Other Parties Surrebuttal		May 21, 2020	Apr. 13, 2020	September 2020
Hearing Date		May 25, 2020	Week of Apr. 27, 2020	October 2020
PSC Vote		June 3, 2020	May 20, 2020	December, 2020
Order Date		TBD	TBD	

APPENDIX B

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STATE OF SOUTH CAROLINA

BEFORE THE PUBLIC SERVICE COMMISSION

Docket No. 2019-176-E

In re: South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Each Electrical Utility's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, and Any Other Terms or Conditions Necessary (Includes Small Power Producers as Defined in 16 United States Code 796, as Amended)	)))))))))))))	**JOHNSON DEVELOPMENT ASSOCIATES, INCORPORATED'S PROPOSED SCHEDULING ORDER**

Pursuant to SC Code of Regs. 103-837 and Rule 16 of the South Carolina Rules of Civil Procedure, Johnson Development Associates, Inc. ("JDA") hereby moves the Public Service Commission of South Carolina ("Commission") to enter this Proposed Scheduling Order[1] as follows:

1. **Parties' Briefs on Avoided Cost Methodology.** Parties shall file briefs and comments on the establishment of the avoided cost methodology requirements and guidelines that ensure transparency, accuracy, independent review, and verification by **July 24, 2019.**

2. **Hearing on Avoided Cost Methodology.** A hearing on the establishment of avoided cost methodology or methodologies and associated guidelines that ensure transparency, accuracy, independent review, and verification shall take place by **July 30, 2019.**

[1] Applicable to Docket Nos. 2019-176-E, 2019-184-E, 2019-185-E, and 2019-186-E.

3. **Order on Avoided Cost Methodology and Guidelines.** The Commission shall issue an Order which establishes the avoided cost methodology or methodologies and the associated guidelines that ensure transparency, accuracy, independent review, and verification by **August 8, 2019.**

4. **Utilities File Proposed Avoided Cost Rates Pursuant to the Order on Avoided Cost Methodology and Guidelines.** The utilities shall file proposed avoided cost rates pursuant to the Order issued on this matter and in compliance with SC Code Section 58-41-20(j) by **August 30, 2019.**

5. **Intervenors File Responsive Testimony and Propose Terms of PPA Length.** Intervenors shall file responsive testimony and propose terms of length for Power Purchase Agreements in accordance with Section 58-41-20 by **September 27, 2019.**

6. **Utilities' Rebuttal Testimony.** Utilities shall file rebuttal testimony by **October 11, 2019.**

7. **Intervenors' Surrebuttal Testimony.** Intervenors shall file surrebuttal testimony by **October 18, 2019.**

8. **Hearing Dates.** Week of **October 28, 2019.**

9. **Commission Vote.** The Commission shall vote in accordance with the Act by **November 18, 2019.**

10. **Submission of Proposed Orders.** Parties shall submit proposed orders by **December 2, 2019.**

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11. **Final Order Issued.** The Commission shall issue its final order by **December 18, 2019**.

BY ORDER OF THE COMMISSION:

Comer H. Randall, Chairman

Justin T. Williams, Vice Chairman

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APPENDIX C

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June 18, 2019

Via Electronic Filing

Hon. Jocelyn G. Boyd
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Drive, Suite 100
Columbia, SC 29210

Re: Johnson Development Associates, Incorporated's Position on Keeping Open Docket No. 2019-176-E South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Each Electrical Utility's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, and Any Other Terms or Conditions Necessary (Includes Small Power Producers as Defined in 16 United States Code 796, as Amended)

Dear Ms. Boyd:

Johnson Development Associates, Incorporated ("JDA") respectfully requests that the Public Service Commission of South Carolina ("Commission") keep open Docket No. 2019-176-E in accordance with Act No. 62 of 2019 ("the Act"). Docket No. 2019-176-E was opened by this Commission on May 23, 2019. On May 29, 2019, the Commission subsequently instructed staff to open dockets under the Act for Dominion Energy South Carolina[1], Duke Energy Carolinas[2], and Duke Energy Progress[3]. Commissioners expressed opinions that numerous issues involved in the proceedings under the Act should be consolidated for judicial economy. Docket No. 2019-176-E is the proper procedural tool for such consolidation.

The Commission was correct to open Docket No. 2019-176-E in accordance with the Act. SC Code § 58-41-20(A) states, in part, that "the commission shall open **a docket** for the purpose of establishing each electrical utility's standard offer, avoided cost

[1] Docket No. 2019-184-E.
[2] Docket No. 2019-185-E.
[3] Docket No. 2019-186-E.

methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section." The Act further provides that the decisions reached in these proceedings shall be "just and reasonable to the ratepayers"[4] and in compliance with the express mandate that is South Carolina's "policy of encouraging renewable energy."[5] JDA sees the Commission's action in opening Docket No. 2019-176-E as effectuating the legislative intent of the Act. It is JDA's belief that there will be substantial commonality of law and fact in issues including, but not limited to, power purchase agreement term of length, form contract power purchase agreements, commitment to sell forms, and a potential South Carolina standard avoided cost methodology.

Consolidation of common issues into Docket 2019-176-E is the proper avenue to promote efficiency which will serve to protect ratepayers, avoid unnecessary costs or delay, and further the state's explicit policy of encouraging renewable energy. For these reasons and for those interpretations of the Act which will be presented on June 26, 2019, during JDA's Allowable *Ex Parte* Briefing, we respectfully request that this Commission keep open Docket No. 2019-176-E and use it for consolidation where appropriate.

Very truly yours,

s/ James H. Goldin
James H. Goldin

JHG:jc
Enclosure

Cc: Nanette S. Edwards, ORS (via email)
Jeffrey M. Nelson, ORS (via email)
Carri Grube Lybarker, S.C. Department of Consumer Affairs (via email)
K. Chad Burgess (via email)
Rebecca J. Dulin (via email)
Heather S. Smith (via email)
Richard L. Whitt (via email)

[4] SC Code § 58-41-20(A).
[5] SC Code § 58-41-20(F)(2).

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June 18, 2019

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VIA, ELECTRONIC MAIL
The Honorable Jocelyn Boyd
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: > DOCKET NUMBERS 2019-176-E, 2019-184-E, 2019-185-E, 2019-186-E
> Joint Comments of the South Carolina Solar Business Alliance, Inc. and
> Johnson Development Associates, Inc.

INTRODUCTION

The South Carolina Solar Business Alliance, Inc. (hereinafter, as "SCSBA") and Johnson Development Associates, Incorporated, (hereinafter, as "JDA") both have Petitions to Intervene pending approval by this Commission in each of the four Commission Dockets listed above. Accordingly, SCSBA and JDA submit the following Joint Comments in light of their pending Interventions.

COMMENTS

As the Commission continues to consider the most appropriate procedural and scheduling approach to meeting the requirements of new code section 58-41-20, the South Carolina Solar Business Alliance, Inc. and Johnson Development Associates, Incorporated respectfully submit these comments for consideration, which will serve judicial economy and advance the legislative intent of Act No. 62 of 2019 ("The Act").

The Act requires this Commission, "as soon as is practicable," to open a docket

> for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section. **Within six months after the effective date of this chapter, and at least once every twenty-four months thereafter, the commission shall approve each electrical utility's standard offer, avoided cost methodologies, form contract power**

purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section.

The term "standard offer" is defined to include the avoided cost rates, standard power purchase agreement ("PPA"), and terms and conditions applicable to purchases of energy and capacity from qualifying facilities two (2) megawatts or less.

Including the items in the definition of "Standard offer," the items that the Commission must approve within six months include avoided cost methodologies and rates; standard offer PPAs as well as form PPAs for larger projects; commitment to sell forms; and any other terms or conditions necessary to implement Section 58-41-20. Contract term lengths are also required to be addressed by this Commission according to 58-41-20(F)(1) and (2).

The SCSBA and JDA maintain that there will be a substantial overlap of issues and a need for consistency amongst all three utilities as it relates to 1) form contract power purchase agreements, 2) commitment to sell forms, and 3) contract term length. Therefore, the undersigned recommend that, for purposes of judicial economy and the efficient use of Commission and intervenor resources, a consolidated docket be established to consider these three sets of issues.

Additionally, although the Act does not prohibit each utility from adopting its own Commission-approved avoided cost methodology to calculate avoided cost rates, the chosen methodologies should contain certain minimum levels of consistency, and each methodology should be guided by certain fundamental requirements. Therefore, the undersigned recommend that the Commission adopt the following procedural approach in a second consolidated docket – additional to the consolidated docket described above – considering the distinct requirements of: 1) updating avoided cost methodologies and 2) setting avoided cost rates within the timeline prescribed by statute.

The undersigned highlight for the Commission the distinction between avoided cost "methodologies"—the term invoked by the statute—and avoided cost "rates." Commonly-accepted *methodologies*, for instance, include the proxy methodology, the peaker methodology, and the differential revenue requirements (DRR) methodology. Each of these methodologies can be implemented in various specific ways (for instance, by different assumptions about peaker costs and efficiencies, or different assumptions about what type of proxy power plant accurately reflects marginal costs). Avoided cost *rates* are determined by applying a specific methodology to updated data and cost assumptions.

Proposed Procedural Schedule for Avoided Cost:

The SCSBA and JDA propose that the Commission consolidate the individual utility avoided cost dockets for purposes of conducting an expedited preliminary proceeding to establish guidelines for avoided cost methodologies. All parties would be permitted to file comments proposing avoided cost methodologies or proposed guidelines for key avoided cost methodology issues that the parties believe are necessary and appropriate to implement these methodologies in compliance with the requirements of the Act. The Commission would then hold a technical conference to discuss these comments with the Parties, and Parties would have the opportunity to file supplemental comments after the technical conference. The Commission would then issue an order in the consolidated proceeding establishing such guidelines for avoided cost methodologies, based on the comments and the technical conference.

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The utilities would then file proposed avoided cost rates, based on their chosen avoided cost methodology, consistent with the guidelines established by the Commission in the consolidated proceeding. Intervenors would file testimony responsive to the utilities' filings, the utilities would file rebuttal testimony, and parties would file surrebuttal testimony. The Commission would then hold an evidentiary hearing, vote on the respective avoided cost rates by November 18, 2019, and subsequently issue a final order on the avoided cost rates.

- Proposed Tentative Schedule
  - PSC Issues Scheduling Order establishing parameters for comments on avoided cost methodologies: **TBD**
  - Parties file comments on avoided cost methodology requirements: **July 24, 2019**
  - Technical Conference: **July 30, 2019**
  - Post-Technical Conference Supplemental Comments: **Aug. 1, 2019**
  - Methodology Guidelines Order: **Aug. 8, 2019**
  - Utilities file proposed avoided cost rates pursuant to the Guidelines Order: **Aug. 30, 2019**
  - Intervenors file Responsive Testimony: **Sept. 27, 2019**
  - Utilities file Rebuttal Testimony: **Oct. 11, 2019**
  - Intervenor Surrebuttal: **Oct. 18, 2019**
  - Hearing Date: **Oct. 23, 2019**
  - PSC Vote: **Nov. 13, 2019**
  - PSC Order: **TBD**

Respectfully Submitted,

/s/Richard L. Whitt
Richard L. Whitt,
Austin and Rogers, P.A.
508 Hampton Street, Suite 203
Columbia, South Carolina 29201
As Counsel for the South Carolina Solar
Business Alliance, Inc.

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As Counsel for Johnson Development Associates, Incorporated.

cc: All Parties of Record via electronic mail

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STATE OF SOUTH CAROLINA

BEFORE THE PUBLIC SERVICE COMMISSION

Docket No. 2019-176-E

In re: South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Each Electrical Utility's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, and Any Other Terms or Conditions Necessary (Includes Small Power Producers as Defined in 16 United States Code 796, as Amended)	)))))))))))))	**JOHNSON DEVELOPMENT ASSOCIATES, INC. AND SOUTH CAROLINA SOLAR BUSINESS ALLIANCE, INC'S JOINT PETITION TO SET CONSOLIDATED SCHEDULE**

Petition of Johnson Development Associates, Inc. and South Carolina Solar Business Alliance, Inc. to Set Consolidated Schedule

Johnson Development Associates, Inc. ("JDA") and South Carolina Solar Business Alliance ("SCSBA") (collectively "Joint Petitioners"), in accordance with SC Code of Laws § 58-41-20 and SC Code Regs. 103-825, submit this Petition to Set a Consolidated Procedural Schedule in Docket No. 2019-176-E[1]. Joint Petitioners are intervenors in this proceeding.

On May 23, 2019, the Public Service Commission of South Carolina ("Commission") filed an application to open this Docket in accordance with South Carolina's Energy Freedom Act ("The Act"). On May 30, 2019, the Commission instructed staff to open dockets specific to Dominion Energy South Carolina ("Dominion"), Duke Energy Carolinas, LLC ("DEC"), and Duke Energy

[1] Inasmuch as the Commission grants the relief requested in this Petition, Joint Petitioners request that Order be made applicable to Docket No. 2019-184-E, Docket No. 2019-185-E, and Docket No. 2019-186-E.

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Progress, LLC ("DEP") (collectively "Duke").[2] The Commission has not yet established a procedural schedule for any of the dockets.

In recognition of the accelerated timeline established by The Act for Commission approval of avoided cost methodologies and rates, and consistent with the comments filed by Joint Petitioners with this Commission on June 18, 2019 ("Joint Comment Letter"), the Joint Petitioners hereby petition this Commission to establish a consolidated procedural schedule in Docket No. 2019-176-E that includes the following issues:

1. The filing of Initial Comments by all Parties on avoided cost methodology requirements;
2. The holding of a technical conference, or other appropriate proceeding as determined by the Commission, held to directly solicit additional information from Parties regarding the avoided cost methodologies and principles presented in Initial Comments;
3. The filing of Supplemental Comments by all Parties following the technical conference; and
4. A Commission Order establishing avoided cost methodological guidelines.

After the Commission issues an order establishing guidelines on avoided cost methodologies, the Commission would (either in this docket or in utility-specific dockets) consider specific avoided cost and other proposals, allowing for intervention, discovery, filed comments or testimony, and an evidentiary hearing as required by the Act.

The Joint Petitioners consider the Proposed Tentative Schedule recommended in the Joint Comment Letter to be reasonable, but also do not oppose the Commission soliciting input from any interested Party regarding an appropriate and reasonable procedural schedule for the four items described above. The Joint Petitioners also request that the Commission solicit input from

[2] Opened in Docket No. 2019-184-E, Docket No. 2019-185-E, and Docket No. 2019-186-E, respectively.

interested Parties regarding scheduling and consolidation details related to avoided cost rate proceedings that would take place after the Commission's Order on avoided cost methodology guidelines.

The South Carolina Office of Regulatory Staff ("ORS") does not object to the approach subject to this Petition or to the proposed schedule contained in the Joint Comment Letter.

WHEREFORE, Joint Petitioners pray that this Commission establish a consolidated procedural schedule in Docket No. 2019-176-E that includes the issues enumerated in this Petition.

Respectfully submitted this 21st day of June, 2019.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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June 25, 2019

VIA ELECTRONIC FILING

Hon. Jocelyn G. Boyd
Chief Clerk and Administrator
The Public Service Commission of South Carolina
101 Executive Drive, Suite 100
Columbia, SC 29210

Re: DOCKET NUMBERS 2019-176-E, 2019-184-E, 2019-185-E, 2019-186-E
Joint Response of the South Carolina Solar Business Alliance, Inc. and Johnson Development Associates, Inc.

Dear Ms. Boyd:

Intervenors the South Carolina Solar Business Alliance, Inc. ("SCSBA") and Johnson Development Associates, Incorporated ("JDA")(together, "Intervenors") hereby submit the following Joint Response to the June 20, 2019 letter of Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP," and together with DEC, "Duke") and the June 24, 2019 letter of Dominion Energy South Carolina ("DESC") regarding Intervenors' proposed procedural schedule for the implementation of S.C. Code Section 58-41-20(A) ("the Proposed Schedule"), as newly enacted by the General Assembly in Act No. 62 of 2019 ("The Act").

The Proposed Schedule is consistent with S.C. Code Ann. Section 58-41-20(A)(2).

Contrary to Duke's and DESC's assertions, the Proposed Schedule is entirely consistent with Section 58-41-20. That section requires the Commission to open a docket "for the purpose of establishing each electrical utility's standard offer, avoided cost methodologies," and other related items; and to issue a decision within six months after the effective date of the statute "approv[ing] each electrical utility's standard offer, avoided cost methodologies, form contract power purchase agreements, commitment to sell forms, and any other terms or conditions necessary to implement this section." The statute further provides that "Proceedings shall include an opportunity for intervention, discovery, filed comments or testimony, and an evidentiary hearing." Sec. 58-41-20(A)(2).

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The Proposed Schedule complies with all of these requirements. It includes a consolidated preliminary phase in which intervening parties could file comments and argument regarding critical aspects of avoided cost methodologies on which it would be useful to obtain guidance from the Commission before the utilities file proposed rates. To expedite proceedings, the Proposed Schedule does not contemplate discovery or prefiled testimony in this preliminary phase. In the next phase, the utilities would, informed by guidance from the Commission, present for approval specific proposals for avoided cost methodologies, form PPAs, commitment to sell forms, etc. This phase would allow for intervention, discovery, filed comments or testimony, and an evidentiary hearing, in satisfaction of the statutory requirement.[1] There is simply no basis in the statute to suggest, as Duke does, that no aspect of this proceeding can be conducted without providing for all of these procedural requirements at every stage.

The Proposed Schedule provides adequate time to consider the issues required by the Act.

Although the Proposed Schedule is expedited – in keeping with the ambitious schedule established in the Act – it is not infeasible, as suggested by Duke. Rather, because there are several issues that are relevant to <u>any</u> potential avoided cost methodology, the Proposed Schedule represents the most efficient way to achieve the goals of the Act with regard to avoided cost methodologies.

To be clear, Intervenors are not proposing that the preliminary phase of this proceeding address every conceivable issue related to methodologies used to calculate avoided cost by electrical utilities in South Carolina.

Instead, Intervenors intend to request guidance from the Commission on a limited universe of specific methodological issues, which would not necessarily be utility-specific and which would potentially relate to any avoided cost methodology used by the utilities. The goal of requesting such guidance is to establish a transparent and consistent framework and to avoid potential conflicts regarding issues related to avoided cost methodology in the next phase of the proceeding.

These methodological issues would include, for example:

- The level of transparency with regard to underlying assumptions, data and results required in utility avoided cost filings;
- Whether it is appropriate to include solar integration charges in avoided cost rates before ORS and the Commission have any opportunity to conduct the integration study authorized by new Section 58-37-60;
- Seasonal allocation of capacity needs and costs;
- Methodologies for projection of fuel costs as they relate to avoided energy costs;
- Environmental costs avoided by individual or aggregated QFs;

[1] Intervenors did not include dates for intervention and discovery in the Proposed Schedule on the assumption that the Commission will decide on appropriate time frames for those elements of the case.

- How the expiration of existing power purchase agreements should be factored into avoided cost calculations; and
- How the characteristics and value provided by QFs paired with battery storage should be factored into avoided cost calculations.

Intervenors submit that having consistent guidance from the Commission on these types of methodological issues would be fairer and more efficient than having to litigate each of these issues separately, in the context of each utility's avoided cost filings.

Intervenors also note that many of the other issues that must be decided under Section 58-41-20, such as terms and conditions for standard offer projects, form contract power purchase agreements, and commitment to sell forms, could be engaged by the parties prior to the issuance of an Order on methodological issues. Intervenors would therefore be amenable to a procedural schedule that allows the parties to file prefiled testimony and engage in discovery on those issues prior to a decision by the Commission on broader methodological issues.

The Proposed Schedule advances efficiency and judicial economy.

Contrary to DESC's assertion that the Procedural Schedule would "serve to create confusion and unduly burden the limited administrative resources of the Commission and the parties," the Proposed Schedule would promote efficiency and judicial economy in this complex proceeding. Rather than requiring parties to "duplicate their efforts" as alleged by DESC, the Proposed Schedule would allow the Commission to consider and apply overarching concepts, principles, and requirements applicable to Duke and DESC. No doubt, Section 58-41-20 established an expedited timeframe in which the Commission must approve avoided cost methodologies, rates, and associated documents for three major utilities. The Procedural Schedule represents an attempt by the Intervenors to streamline and simplify this complex proceeding and to provide the Commission tools that may be useful in further streamlining this process in the future.

The Proposed Schedule does not deprive any party of Due Process.

Duke's vague objections about "due process" violations implicated by the Proposed Schedule are similarly unfounded. In the first instance, Duke fails to identify any liberty or property interest held by the company that it may be deprived of. Even if Duke had articulated such an interest, due process would unquestionably be satisfied by the Proposed Schedule. Procedural due process contemplates notice, a reasonable opportunity to be heard, and a fair hearing before a legally constituted impartial tribunal. *South Carolina Dep't of Health and Envtl. Control v. Armstrong*, 293 S.C. 209, 359 S.E.2d 302 (Ct. App. 1987). The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner. *South Carolina Dep't of Social Servs. v. Holden*, 319 S.C. 72, 459 S.E.2d 846 (1995). All of these requirements are satisfied here. The expedited time frame to which Duke fundamentally objects was established by the General Assembly, and as discussed above, the Procedural Schedule fully complies with the Act.

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In conclusion, Intervenors maintain that Duke's objections are unfounded, and that the Proposed Schedule represents the fairest and most efficient means of accomplishing the goals required by Section 58-41-20 of the Act.

Very truly yours,

s/ James H. Goldin
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CERTIFICATE OF SERVICE

I hereby certify that I have served the persons listed below a copy of the foregoing filing of Johnson Development Associates, Inc. via electronic mail on this day, July 3, 2019.

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