

Antonia Hover

From: Antonia Hover on behalf of Records Clerk
Sent: Monday, November 2, 2020 4:58 PM
To: 'eentsuah@aee.net'
Cc: Consumer Contact
Subject: FW: AEE Comments for Docket No 20200176-EI
Attachments: AEE+AEBG Duke CEC Comments_FINAL.pdf

Good Afternoon, Principal Entsuah.

We will be placing your comments below in consumer correspondence in Docket No. 20200176, and forwarding them to the Office of Consumer Assistance and Outreach.

Thank you!

Toni Hover
Commission Deputy Clerk I
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399
Phone: (850) 413-6467

From: Ebo Entsuah <eentsuah@aee.net>
Sent: Monday, November 2, 2020 4:51 PM
To: Records Clerk <CLERK@PSC.STATE.FL.US>
Cc: Leah Rubin Shen <lrubinshen@aee.net>; Matt Stanberry <mstanberry@aee.net>; JR Tolbert <jtolbert@aee.net>; Jennifer Green <jennifer@libertypartnersfl.com>; Caitlin Marquis <cmarquis@aee.net>; Liberty Office <office@libertypartnersfl.com>; Melanie Bostick <Melanie@libertypartnersfl.com>
Subject: AEE Comments for Docket No 20200176-EI

To Whom It May Concern,

Good Afternoon,

Please see submitted comments for Docket No. 20200176.

Thank you

Ebo Entsuah
Principal
ADVANCED ENERGY ECONOMY
Transforming Policy. Expanding Markets.

e: eentsuah@aee.net
m: 352.255.2436

1010 Vermont Ave. NW, Suite 1050, Washington, D.C. 20005
www.AEE.net @AEEnet

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**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition by Duke Energy Florida, LLC for
Approval of DEF Clean Energy Connection
Program and Tariff and Stipulation

Docket No. 20200176-EI
Filed: July 1, 2020

**COMMENTS OF ADVANCED ENERGY ECONOMY AND THE ADVANCED
ENERGY BUYERS GROUP**

November 2, 2020

Advanced Energy Economy (AEE) and the Advanced Energy Buyers Group (AEBG) appreciate the opportunity to provide comment to the Florida Public Service Commission (PSC or Commission) in response to the Clean Energy Connection (CEC) program proposed by Duke Energy Florida (DEF or Duke) in the above-captioned docket. Advanced Energy Economy represents a diverse set of businesses in the advanced energy industry, including developers of large-scale renewable energy projects for customers seeking 100% renewable energy purchasing options across the United States. The Advanced Energy Buyers Group represents large customers with experience participating in utility renewable energy programs across the country, including several companies with an interest in purchasing renewable energy in Florida. Our companies are evidence of the importance of utility renewable energy purchasing options in meeting the needs and preferences of commercial and industrial (C&I) customers in states with vertically integrated electricity markets. Such programs have proliferated across the country, and the proposed Clean Energy Connection program is an exciting and necessary step forward for Florida customers.

Given our interest in cost-effective renewable energy purchasing options, AEE and AEBG previously offered comments in response to the Florida Power & Light (FPL) SolarTogether program, which we viewed as an important step forward in Florida despite areas for improvement—in particular, we recommended that future programs should make use of a competitive solicitation process to take advantage of cost-competitive, independently developed projects. CEC follows largely the same structure and format as SolarTogether, and our comments here touch on many of the same positive and negative aspects of the CEC program. Overall, we support the CEC program and encourage the Public Service Commission to approve the program; however, we acknowledge that there are opportunities to improve aspects of the program as proposed. Our comments provide recommendations to bring the CEC program and other future utility offerings into better alignment with customer needs and preferences.

I. About Advanced Energy Economy and the Advanced Energy Buyers Group

Advanced Energy Economy (AEE) is a national organization of businesses making the energy we use secure, clean, and, affordable. AEE and its state and regional partner organizations, which are active in 27 states across the country, represent more than 100 companies and organizations that span the advanced energy industry and its value chains. Technologies represented include energy efficiency, demand response, natural gas, solar photovoltaics, solar thermal electric, wind, storage, biofuels, electric vehicles, advanced metering infrastructure, transmission and distribution efficiency, fuel cells, hydro power, nuclear power, combined heat and power, and enabling software. Used together, these technologies and services will create and maintain a higher performing energy system—one that among other things is reliable and resilient, diverse and cost effective —while also improving the availability and quality of customer facing services. AEE promotes the interests of its members by engaging in

policy advocacy at the federal, state, and regulatory levels, by convening groups of CEOs to identify and address cross industry issues, and by conducting targeted outreach to key stakeholder groups and policymakers.

The **Advanced Energy Buyers Group** (AEBG) is a business-led coalition of large energy users engaging on policies to expand opportunities to procure energy that is secure, clean, and affordable.¹ Members of the AEBG are market leaders and major employers spanning different industry segments, including technology, retail, and manufacturing. Our companies are among the 71% of Fortune 100 companies and 43% of Fortune 500 companies that have established renewable and/or climate targets as part of our corporate sustainability commitments. We share a common interest in expanding our use of advanced energy, including renewable energy like wind, solar, geothermal, and hydropower; demand-side resources like energy efficiency, demand response, and energy storage; and onsite generation from solar, advanced natural gas turbines, and fuel cells.

II. AEE and AEBG's Interest in the Clean Energy Connection Program

AEE and AEBG members include companies with a significant footprint in Florida, including in Duke's service territory. Members of AEBG have interests in enabling renewable energy access for other electricity customers in Florida; several AEBG member companies have specifically incorporated into their renewable energy goals an aim to open renewable energy pathways for others to follow. According to a report released earlier this year by Advanced Energy Economy, based on analysis by WoodMackenzie, new demand for renewable energy from commercial and industrial customers alone in Florida will reach a cumulative amount of 3.14 to

¹ These comments represent the consensus view of the Advanced Energy Buyers Group (information and membership available at <https://www.advancedenergybuyersgroup.org/>). However, this document does not necessarily reflect the position of any specific member of the AE Buyers Group, and these comments should not be attributed to any individual company or companies participating in the AE Buyers Group.

6.75 gigawatts over the next ten years.² This range does not account for a variety of variables that may increase renewable energy demand between now and 2030, including market growth, policy changes, and corporate procurement goals. In fact, if renewable energy development within Florida were able to meet corporate renewable energy demand among Florida-based companies by 2030, the state could see 48,000 jobs created and over \$1 billion per year in capital investment.

Duke's CEC program represents an important opportunity to advance AEE's and AEBG's goal of increasing opportunities for Florida customers to choose renewable energy. Successful implementation of this program will benefit prospective customers and build upon the initial success of SolarTogether by instituting some incremental improvements that can continue to be built upon by other utilities and in future phases of both SolarTogether and CEC. AEE and the AEBG therefore have a strong interest not only in ensuring approval of the CEC Program, but in addressing some concerns with the process and design of the program as proposed.

III. AEE and AEBG Comments Draw from Significant Collective Experience Advising on and Participating in Utility Programs Across the Country

Across the country, there are more than 20 utility renewable energy programs that have received regulatory approval in 17 of the 37 states that do not allow retail choice, resulting in nearly 2 GW of renewable energy purchases by C&I customers.³ However, several utility programs have gone unused or underutilized, highlighting the importance of ensuring that program design incorporates customers' needs and preferences. Members of AEE and AEBG have participated in these programs as customers and as project developers, and several AEBG member companies have been deeply involved in the design and development of such programs. AEE and

² Opportunities for Meeting Commercial and Industrial Demand for Renewable Energy in Florida. (December 2019). Retrieved from <https://info.aee.net/commercial-industrial-demand-for-renewables-fl>.

³ Barua, P., Bonugli, C., Etter-Wenzel, C., Shaver, L., Tawney, L., Perera, A., & Melling, D. Emerging Green Tariffs in U.S. Regulated Electricity Markets. (August 2019). Retrieved from <https://www.wri.org/publication/emerging-green-tariffs-us-regulated-electricity-markets>.

AEBG as organizations have provided advice, comments, and expert witness testimony in response to multiple utility renewable energy programs, and AEBG in 2019 produced a guide to meeting customers' renewable energy needs in vertically integrated states.⁴

Although no two utility programs are alike, successful ones share common design principles and best practices. Specifically, AEE and AEBG recommend that all utility programs follow certain replicable best practices (adapted from 2019 AEBG paper):

- **Rate Structure:** Select the most appropriate rate design from the several models available, taking into account existing rate structures and customer needs and avoiding adverse impacts on nonparticipating ratepayers;
- **Program Cap & Expansion:** Start with an initial offering large enough to enable C&I customers to make meaningful progress toward their renewable energy goals, and include clear mechanisms for expansion;
- **Customer eligibility:** Ensure that all C&I customers are eligible to participate in at least one renewable energy program that aligns with their needs;
- **Resource Selection:** Rely on competitive procurement for resources to meet program needs, and give customers the option to source projects directly;
- **Term Options:** Give customers a range of options, including mid-range (10-15 years);
- **REC Treatment:** Transfer RECs to customers, or retire them on customers' behalf;
- **Administrative Fees:** Adopt reasonable and cost-based administrative fees; and
- **Termination and transferability:** Ensure that customers with multiple meters can move their subscriptions between locations if they relocate a facility within the same utility

⁴ Advanced Energy Buyers Group, *Renewable Energy Offerings That Work* (April 2019), available at <https://info.aee.net/renewable-energy-offerings-that-work>.

service territory, and include clear, fair, and flexible termination provisions that allow for transfer to a different account.

As explained in our comments, Duke's CEC program complies with many, but not all, of these best practices.

IV. Comments on Duke's Clean Energy Connection Program

A review of the CEC program makes clear that DEF has made an effort to address the needs and preferences of C&I customers, while also making the program accessible and attractive to governmental, business, and residential customers. Our comments in Section A below outline briefly the various reasons why AEE and the AEBG support approval of the CEC program; in Section B we describe opportunities to improve CEC; Section C summarizes our recommendations.

A. AEE Supports Approval of the CEC Program for Several Reasons

Drawing upon the best practices outlined above, AEE and the AEBG note that the CEC program reflects customer needs and preferences while also avoiding unfavorable impacts to nonparticipants. Similar to SolarTogether, the CEC program has many favorable characteristics such as: being structured as fair and cost-based, being sized to meet significant customer demand, avoiding restrictions on customer participation, allowing for flexible terms and termination requirements, giving an expedient time for implementation and delivery, and ensuring that there is no harm to nonparticipating customers. Given the positive elements of the CEC program, AEE and AEBG find that the program is overall likely to meet the needs of Florida customers, and therefore support the program. However, as noted below, we do have some concerns with the program, and recommendations for improvement.

B. Despite Overall Support of the Clean Energy Connect program, AEE and the AEBG Have Several Recommended Improvements

While the CEC program has many positive aspects and is overall responsive to customer needs, there are several areas where it could be improved. Specifically, AEE and the AEBG have concerns regarding the pre-registration process and lack of a fully competitive solicitation process to identify CEC projects. These are concerns that we also articulated in response to FPL's similarly structured SolarTogether program; at the time, we had expressed our hope that future programs would borrow from the positive elements of SolarTogether and improve upon its deficiencies. The CEC program does include some improvements with respect to competitive procurement, but we are disappointed that CEC has not comprehensively addressed these concerns.

i. Future Tranches of the Clean Energy Connect Program Could Achieve More Transparency in the Enrollment Process

As with the SolarTogether program, the CEC program took customer pre-enrollment in advance of program filing and approval by the PSC. Given the importance of sizing programs to meet customer demand, AEE and the AEBG understand DEF's instinct to seek pre-enrollment in the CEC program. We also appreciate that Duke chose to allocate subscriptions pro-rata rather than through a first-come-first-serve approach. However, for future tranches of the program, we recommend an approach that does not take customer pre-enrollment prior to filing of the proposal at the PSC. This is feedback that AEE and AEBG also provided in response to Florida Power & Light's SolarTogether program, where we recommended that future programs address this concern.

The choice to seek pre-enrollment rather than opening enrollment after Commission approval of the program is problematic for two key reasons. First, while AEE and the AEBG appreciate the significant customer outreach that DEF undertook when launching the CEC

program, a full public release is the only way to ensure that *all* potential customers have the opportunity to learn about the program before it becomes fully subscribed. Second, Duke's decision to take customer reservations prior to Commission approval or public announcement of the program put customers in the difficult position of making a decision about a program that had not yet been finalized and approved. Customers should have confidence that the program they are signing up for will not change as it moves through the Commission. Given the current lack of alternative options to meet their renewable energy goals in Florida and the fact that the C&I carve-out was fully subscribed during pre-enrollment, customers may have felt pressure to enroll in the program despite discomfort with this lack of certainty and transparency. The fact that customers have flexibility to back out of their pre-enrollment and to exit the program at any time does somewhat alleviate the implications of this lack of upfront transparency, but the underlying concerns remain.

To resolve these concerns, consistent with our feedback in response to SolarTogether, we recommend that future phases of the Clean Energy Connection program and future offerings from other utilities should not allow enrollment until after such programs undergo a public comment process and Commission review. To address the question of how to size a program appropriately, utilities could either propose a capacity threshold upfront (e.g., on the basis of expected or informally gathered customer interest) prior to requesting Commission approval of the program (the approach taken by Puget Sound Energy, Consumers Energy, and others), or propose the program structure and format and receive approval prior to accepting enrollments, which would then be used to solicit resources (the approach taken by DTE, Dominion, and others).

ii. Clean Energy Connection Program Lacks a Truly Competitive Project Solicitation Process

To ensure that customers are served by the best available resources at the lowest possible project cost, AEE and AEBG recommend that utility renewable energy programs “[r]ely on competitive procurement for resources to meet program needs.” DEF has stated that it will consider third-party developed projects, which would be transferred to DEF ownership, alongside greenfield projects. This approach is certainly preferable to not allowing third party projects to compete at all, but it falls short of ensuring a truly competitive process that puts independently-developed projects on equal footing with Duke’s greenfield projects to meet the needs of the program.

For greenfield projects, Duke states that it will commit to conducting a competitive request for proposals for portions of these projects. While this reliance on competitive solicitation for components of Duke-built projects is important to lower costs for customers, it too falls short of ensuring a truly competitive process. With respect to participation by third-parties, Duke states that if “any Greenfield projects are selected for any of the CEC program facilities, DEF agrees to provide the Counterparties, in a confidential document, a document demonstrating the details and reasons the Greenfield project(s) was/were selected for the CEC Program.”⁵ Duke further states that “[at] the time DEF determines appropriate, this document will also be provided to the Commission and Commission staff on a confidential basis.”⁶ Duke’s commitment to demonstrate that greenfield projects are not given preferential treatment is an improvement over an entirely non-transparent, utility-run competitive solicitation process that offers no guarantee of putting third-party projects on a level playing field. While AEE and AEBG also appreciate that some of the information that Duke has committed to share is confidential, we note that the sharing of this

⁵ *Duke Energy Florida, LLC’s Petition for a limited proceeding to approve Clean Energy Connection Program and Tariff and Stipulation page 7-8*

⁶ *Ibid.*

information with the Commission and Commission staff is at Duke's discretion, offering the public and independent developers no assurances, insight, or recourse in the event of potential concerns with Duke's project selection process. We urge the Commission to ensure that Duke follows through on this commitment and ask that the Commission undertake and publish an evaluation of this document (redacting any confidential information), along with any recommendations to improve the CEC program and/or future renewable energy solicitations.

For future programs, we urge reliance on a fully competitive solicitation process, or at least a process to ensure that a minimum percentage of renewable energy procured to meet program needs is closed off from projects developed by a utility and/or a utility affiliate. For example, Michigan law requires utilities to procure at least 50% of RPS resources must come from projects that are not utility owned, which also excludes both utility affiliates and build-transfer projects.⁷ Similarly, Virginia law requires utilities to procure at least 35% of RPS resources from non-utility owned projects and must be owned by an entity other than the utility.⁸ For any procurements that allow participation by utility affiliates, we also urge independent third-party oversight of utility renewable energy solicitations, as has occurred in North Carolina, where out of 14 projects totaling 602 MW of new solar slated to be built, Duke selected 55% third-party developed renewable energy.⁹ Allowing for independent third-party oversight helps to ensure that third-party providers are able to compete fairly, resulting in the selection of the best projects available with respect to both price and performance.

⁷ <https://mi-psc.force.com/s/case/500t0000008efN6AAI/in-the-matter-on-the-commissions-own-motion-to-implement-2008-pa-295-through-issuance-of-a-temporary-order-as-required-by-mcl-4601191>

⁸ 2020 VCEA: <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1194+hil&201+ful+CHAP1194+hil>

⁹ <https://news.duke-energy.com/releases/competitive-process-yields-carolinas-biggest-one-day-collection-of-solar-projects-ever-significant-savings-for-duke-energy-customers>

Although Florida law does not require Duke to rely on a competitive solicitation process given the size of the projects (an exemption that would go away if the projects were just 0.5 MW larger),¹⁰ AEE and the AEBG believe a balance can be struck to prioritize expedient project development while also allowing for a competitive procurement process. AEE and the AEBG recognize that larger projects may trigger additional requirements under the Power Plant Siting Act, and appreciate the benefits of avoiding time delays in the buildout of solar resources. However, if third-party developed projects are not able to fully compete to meet customer needs, programs such as Duke's CEC will fall short of their potential to help foster what should be a strong in-state solar industry. Allowing for a true competitive process would also help to guarantee that customers are receiving the best available projects at the best possible price. In contrast, renewable energy programs offered by Georgia Power, Dominion Energy, NV Energy, DTE, and many others have either allowed or entirely relied upon a competitive solicitation process that includes participation by independent power producers. If renewable energy tariffs are to live up to their potential to not only meet customer needs but also facilitate the growth of a solar energy industry in Florida, it is important for independent developers to have a clear and fair pathway to participate in the market.

C. Summary of Recommendations

AEE and the AEBG applaud DEF's effort to build upon the example set by SolarTogether to create a renewable energy offering that meets the needs of C&I customers while also creating opportunities for governmental, business, and residential customers. While we have some concerns with the design of the program, many elements of the program are responsive to customer needs and preferences, and overall we view the CEC program as a significant step forward and a vital

¹⁰ Florida Power Plant Siting Act.

tool to ensure that Duke continues to meet the needs of its customers. We therefore encourage the Commission to approve this program, with an annual performance report from Duke that would provide an update of customer participation and enrollment. This update would also contain recommendations for future phases of the program to meet additional customer demand.

We also urge the Commission to pay careful attention to Duke's explanation of why it has selected any greenfield projects, and respectfully ask that the Commission offer the public its evaluation of Duke's explanation, along with any recommendations to improve the project selection process under the CEC program and/or for future programs.

Finally, for future tranches of the CEC program and for future renewable energy offerings from other Florida utilities, the Commission should require that such programs:

- Undergo a public comment process and receive Commission approval through a docketed proceeding prior to pre-registration and/or registration of prospective participants; and
- Rely on a fully competitive project solicitation process to source renewable energy projects to serve customer needs, as described above.

This recommended approach will preserve the many positive elements of the CEC program, avoid delay or disruption for customers that have already agreed to participate, and ensure that future programs avoid some of the shortcomings of DEF's initial CEC program proposal.

V. Conclusion

AEE and AEBG applaud DEF's effort to meet customer demand for renewable energy through the Clean Energy Connection program. We therefore strongly urge the Commission to approve this program in a way that maintains its many positive elements while ensuring that future

programs in Florida will be even better suited to meet the needs of all customers moving forward. AEE and AEBG look forward to working with DEF, the Commission, and other Florida utilities to advance and secure Florida's emerging role as a leader in customer renewable energy options.