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DeAnn T. Walker
Chairman

Arthur C. D'Andrea
Commissioner

Shelly Botkin
Commissioner

John Paul Urban
Executive Director



Greg Abbott
Governor

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PUBLIC UTILITY COMMISSION
CLERK

Public Utility Commission of Texas

TO: DeAnn T. Walker, Chairman
Arthur C. D'Andrea, Commissioner
Shelly Botkin, Commissioner

All Parties of Record

FROM: Christopher Oakley ✓
Office of Policy and Docket Management

RE: **Open Meeting of July 18, 2019**
Docket No. 49285 – *Application of Duke Energy Renewables Solar, LLC under § 39.158 of the Public Utility Regulatory Act*

DATE: June 28, 2019

The Commission will consider this docket at an open meeting presently scheduled to begin at 9:30 a.m. on Thursday, July 18, 2019, at the Commission's offices, 1701 North Congress Avenue, Austin, Texas. The parties may file corrections or exceptions to the Proposed Order on or before Monday, July 15, 2019.

If there are no corrections or exceptions, no response is necessary.

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DOCKET NO. 49285

**APPLICATION OF DUKE ENERGY § PUBLIC UTILITY COMMISSION
RENEWABLES SOLAR, LLC UNDER §
§ 39.158 OF THE PUBLIC UTILITY § OF TEXAS
REGULATORY ACT §**

PROPOSED ORDER

This Order addresses the application of Duke Energy Renewables Solar, LLC, for approval of its acquisition of the indirect membership interests in 226HC 8me LLC. The Commission approves the acquisition.

I. Findings of Fact

The Commission makes the following findings of fact.

Applicant and Interested Parties

1. Duke Energy Renewables Solar, a wholly-owned subsidiary of Duke Energy Corporation, is a Delaware limited liability company that, along with its affiliated entities, own electric generation facilities that are interconnected to the Electric Reliability Council of Texas (ERCOT) system.
2. Duke Energy Corporation is a Delaware corporation.
3. 226HC 8me is a Delaware limited liability company indirectly owned by 8me Investment Holdings SPV9, LLC and 1st Mabel Avenue, LLC.
4. 226HC 8me is constructing a 200-megawatt (MW) solar photovoltaic electric generation facility located in Nolan County that will be interconnected to the ERCOT system.
5. 8me Investment Holdings SPV9 is a Delaware limited liability company.
6. 1st Mabel Avenue is a Delaware limited liability company.
7. Duke Energy Renewables Solar, 226HC 8me, and their respective affiliated entities also own whole or partial equity interests in generation facilities in adjacent power regions.

Application

8. On March 4, 2019, Duke Energy Renewables Solar filed an application for approval of the purchase of 100% of the membership interests in 226HC 8me from 8me Investment Holdings SPV9 and 1st Mabel Avenue.
9. In Order No. 2 issued on March 21, 2019, the administrative law judge (ALJ) deemed the application sufficient for further review.
10. On April 30, 2019, Duke Energy Renewables Solar filed a supplement to its application, stating that prior to closing, 8me Investment Holdings SPV9 and 1st Mabel Avenue will create a chain of four special purpose entities as follows: (a) DER Holstein Holdings, LLC, directly owned by 8me Investment Holdings SPV9 and 1st Mabel Avenue; (b) DER Holstein TX Holdings, LLC, directly owned by DER Holstein Holdings; (c) DER Holstein, LLC, directly owned by DER Holstein TX Holdings; and (d) Holstein Solar Holdings, LLC, directly owned by DER Holstein.
11. 8me Investment Holdings SPV9 and 1st Mabel Avenue will transfer the membership interests of 226HC 8me to Holstein Solar Holdings once the chain of four special purpose entities is created.
12. In the proposed transaction of the present docket, Duke Energy Renewables Solar will acquire the first-in-chain entity, DER Holstein Holdings. As a result, Duke Energy Renewables Solar will acquire the indirect membership interests in 226HC 8me.

Notice

13. In Order No. 2 issued on March 21, 2019, the ALJ required Duke Energy Renewables Solar to provide notice to 8me Investment Holdings SPV9 and 1st Mabel Avenue. The ALJ also stated that no further notice is required.
14. On April 11, 2019, Duke Energy Renewables Solar filed the affidavit of Casey A. Bell, attorney for Duke Energy Renewables Solar, attesting to provision of notice on March 21, 2019, to 8me Investment Holdings SPV9 and 1st Mabel Avenue.

Evidence

15. On June 4, 2019, Duke Energy Renewables Solar and Commission Staff filed a motion to admit evidence.

16. In Order No. 3 issued on June 21, 2019, the ALJ admitted the following evidence into the record of this proceeding: (a) Duke Energy Renewables Solar's application and all attachments, filed on March 4, 2019; (b) proof of notice, filed on April 11, 2019; (c) supplement to the application, filed on April 30, 2019; (d) Commission Staff's final recommendation and all attachments, filed on May 16, 2019; and (e) Commission Staff's amended final recommendation and all attachments, filed on June 3, 2019.

Generation Capacity Installed In, or Capable of Delivery Into, ERCOT

17. It is appropriate to use nameplate capacity to calculate the share of installed generation capacity because no data was provided to support actual capacity as provided in 16 Texas Administrative Code (TAC) § 25.91(f).
18. Upon closing of the transaction, Duke Energy Renewables Solar, either directly or indirectly through subsidiaries or affiliated entities, will own and control 1,931.4 MW of installed generation capacity or generation capacity that will be installed within the next 12 months in ERCOT.
19. The combined installed generation capacity in adjacent power regions that is capable of delivering electricity into ERCOT via the direct current ties is 820 MW.
20. The combined installed generation capacity owned by Duke Energy Renewables Solar and its affiliated entities, in the adjacent power regions that is capable of being delivered into ERCOT is 820 MW.
21. The total installed generation capacity in or capable of delivery into ERCOT is 89,348 MW.
22. The combined direct and indirect generation ownership of Duke Energy Renewables Solar and its affiliated entities will equal 2,751.4 MW, or approximately 3.08% of the installed generation capacity in ERCOT or capable of delivery into ERCOT.
23. After the transaction, the total installed generation capacity into ERCOT owned and controlled by Duke Energy Renewables Solar and its affiliated entities located in or capable of delivering electricity into will not exceed 20% of the total installed generation capacity in ERCOT.

Informal Disposition

24. More than 15 days have passed since the completion of notice provided in this docket.
25. No person filed a protest or motion to intervene.
26. Duke Energy Renewables Solar and Commission Staff are the only parties to this proceeding.
27. No party requested a hearing and no hearing is needed.
28. Commission Staff recommended approval of the application.
29. This decision is not adverse to any party.

II. Conclusions of Law

The Commission makes the following conclusions of law.

1. The Commission has jurisdiction over the proposed transaction under PURA¹ §§ 39.154 and 39.158.
2. Notice of the application complies with 16 TAC § 22.55.
3. The Commission must approve the transaction unless it finds that the proposed transaction results in a violation of PURA § 39.154.
4. A power generation company may not own and control more than 20% of the installed generation capacity located in or capable of delivering electricity to a power region under PURA § 39.154.
5. The relevant power region under PURA § 39.154(a) is ERCOT.
6. The analysis performed to determine compliance with the 20% standard meets the requirements of PURA § 39.154(a) and 16 TAC § 25.401(d)(2).
7. The proposed transaction will not result in a violation of PURA § 39.154 because Duke Energy Renewables Solar and its affiliated entities will not own and control more than 20% of the installed generation capacity located in or capable of delivering electricity to ERCOT.

¹ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.

8. The proposed closing date complies with the 120-day requirement in PURA § 39.158.
9. The application does not constitute a major rate proceeding as defined in 16 TAC § 22.2(27).
10. The requirements for informal disposition in 16 TAC § 22.35 have been met in this proceeding.

III. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders.

1. The Commission approves Duke Energy Renewables Solar’s acquisition of the indirect membership interests in 226HC 8me.
2. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the _____ day of July, 2019.

PUBLIC UTILITY COMMISSION OF TEXAS

DEANN T. WALKER, CHAIRMAN

ARTHUR C. D’ANDREA, COMMISSIONER

SHELLY BOTKIN, COMMISSIONER