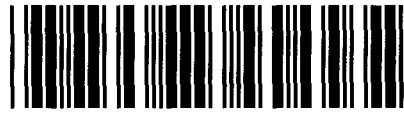




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Addendum StartPage: 0

RECEIVED

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

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PUBLIC UTILITY COMMISSION
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FILING CLERK
OF TEXAS

COMMISSION STAFF’S AMENDED FINAL RECOMMENDATION

COMES NOW the Staff of the Public Utility Commission of Texas (Staff), representing the public interest, and files this Amended Final Recommendation and would show the following:

I. BACKGROUND

On March 4, 2019, Duke Energy Renewables Solar, LLC (DER or Applicant) filed an application (Application) for approval of the purchase of 100% of the membership interests in 226HC 8me LLC (Project Company) from 8me Investment Holdings SPV9, LLC and 1st Mabel Avenue, LLC (collectively, Sellers). DER is a wholly owned indirect subsidiary of Duke Energy Corporation. The Project Company is developing a 200 megawatt solar photovoltaic electric energy project in Nolan County. The 226HC 8me project will be interconnected to the Electric Reliability Council of Texas (ERCOT) power region and is projected to commence commercial operations on June 1, 2020.

Order No. 2, issued March 21, 2019, found the application sufficient, required notice to the Sellers, which DER provided on April 11, 2019, and adopted a procedural schedule, setting May 16, 2019, as the deadline for Staff to request a hearing on the merits or make a final recommendation. On May 16, 2019, Staff filed its final recommendation recommending approval of the application.

II. AMENDED RECOMMENDATION ON FINAL DISPOSITION

Staff files this amended recommendation in order to correct errata in the memorandum attached to the final recommendation filed on May 16, 2019. A redlined version of the amended memorandum is attached to this pleading. This correction does not change Staff’s ultimate

recommendation that the application be approved, since the number originally included in the original memorandum was a typographical error.

III. CONCLUSION

For the reasons discussed above, Staff respectfully recommends that Applicant's application be approved.

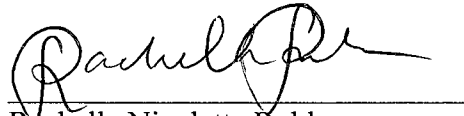
Date: June 3, 2019

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

Margaret Uhlig Pemberton
Division Director

Stephen Mack
Managing Attorney



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**DOCKET NO. 49285
CERTIFICATE OF SERVICE**

I certify that a copy of this document will be served on all parties of record on June 3, 2019, in accordance with 16 TAC § 22.74.



Rachelle Nicolette Robles

Public Utility Commission of Texas

Memorandum

TO: Rachelle Robles, Attorney
Legal Division

FROM: Werner Roth, Market Economist
Competitive Markets Division

DATE: June 3, 2019

RE: Docket No. 49285 - Application of Duke Energy Renewables, LLC for Approval Pursuant to Section 39.158 of the Public Utility Regulatory Act

On March 4, 2019, Duke Energy Renewables Solar, LLC (DER) submitted an application (Application) with the Public Utility Commission of Texas (Commission) for approval of a transaction where DER will acquire from 8me Investment Holdings SPV9, LLC and 1st Mabel Avenue LLC (collectively, Seller) 100% of the membership interests in 226HC 8me LLC (Project Company) (the sale hereinafter referred to as the Transaction). On April 30, 2019, DER filed a supplement to the Application (Supplement) to clarify that Seller's ownership of the Project Company will become indirect prior to the closing of the Transaction.

Section 39.158(a) of the Public Utility Regulatory Act (PURA)¹ requires that:

An owner of electric generation facilities that offers electricity for sale in the state and proposes to merge, consolidate, or otherwise become affiliated with another owner of electric generation facilities that offers electricity for sale in this state shall obtain the approval of the [C]ommission before closing, if the electricity offered for sale in the power region by the merged, consolidated, or affiliated entity will exceed one percent of the total electricity for sale in the power region.

PURA requires the Commission “[to] approve the transaction unless the [C]ommission finds that the transaction results in a violation of [PURA] Section 39.154,”² which prohibits a power generation company from “own[ing] and control[ing] more than 20 percent of the installed generation capacity located in, or capable of delivering electricity to, a power region.”³

The Project Company is developing a solar PV facility with a proposed total installed nameplate capacity of 200 MW (the Project). The Project is expected to commence commercial operation on June 1, 2020. The Project will be located in Nolan County, Texas and

¹ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001–66.016 (PURA).

² PURA § 39.158(a).

³ PURA § 39.154(a).

interconnected into the Electric Reliability Council of Texas (ERCOT) power region. Through the Transaction, DER will purchase from Seller 100% of the membership interests in the Project Company, which is indirectly 100% owned by Seller. DER is a wholly-owned indirect subsidiary of Duke Energy Corporation.

The methodology used to calculate the percentage share of installed generation capacity located in ERCOT, or capable of delivering electricity into ERCOT, accounts for the capacity of the wind and solar generation facilities owned by DER and its affiliates at full nameplate value. The methodology used to calculate the total installed capacity in ERCOT discounts all wind and solar generation facilities across the ERCOT footprint based on the ERCOT CDR methodology, which applies a capacity credit for these resources based on the average capacity available during the 20 highest system-wide peak load hours for the previous summer peak load seasons.

As shown in Exhibit A of the Application, DER and its affiliates own approximately 1,000,412.89 MW of installed generation capacity that is located in ERCOT, including the capacity from the Project. In addition, DER and its affiliates also own interests in generation assets in power regions capable of delivering electricity into ERCOT. In the Application, DER sets the value of the combined generation capacity owned in other power regions capable of being delivered into ERCOT equal to the maximum capacity of the direct current (DC) ties between ERCOT and the Eastern Interconnection, which total 820 MW. Combined with the total capacity located in the ERCOT region, the installed generation capacity owned by DER and its affiliates that is located in or capable of delivering energy into ERCOT is 2,751.4 MW. Based on the total installed capacity in ERCOT of 89,348 MW,⁴ the calculated combined share of capacity is approximately 3.08%.⁵

Staff has reviewed the Application and determined that the input numbers used in the calculation are in compliance with the Commission's Substantive Rules. In addition, the calculation of the percentage value appears to be in accordance with PURA § 39.154. Therefore, Staff has concluded that DER and its affiliates have a combined percentage share of installed generation capacity in ERCOT, or capable of delivery to ERCOT, that does not exceed the 20% threshold set by PURA § 39.154.

Staff recommends that the Application is in compliance with applicable Commission rules and statutes, and therefore that it should be approved.

⁴ See *Estimate of Installed Generation Capacity in ERCOT*, Project No. 39870, AIS Item 11 (January 25, 2019).

⁵ $2,751.4 \text{ MW} / 89,348 \text{ MW} = 3.08\%$.