

# **Carolinas Transmission Planning Collaborative**

## **SEVENTH REVISED**

### **CAROLINAS TRANSMISSION PLANNING COLLABORATIVE PARTICIPATION AGREEMENT**

This Participation Agreement ("Agreement") dated this 20th day of May, 2005, as first revised on the 11th day of February, 2008, subsequently revised on the 12th day of January, 2010, and the 26<sup>th</sup> day of November, 2012, and the 16th day of June, 2014, and the 1st day of December, 2014, and the 27th day of March, 2018, as revised on this xx of xxxxxxx, 2023 is entered into by and among: Duke Energy Carolinas, LLC (DEC); Duke Energy Progress, Inc. (DEP); North Carolina Electric Membership Corporation ("NCEMC"); and ElectriCities of North Carolina, Inc. ("ElectriCities"), each of which may hereinafter be referred to singularly as a "Participant" and collectively as "Participants".

#### **RECITALS**

**WHEREAS**, the Participants, desire by entering into this Agreement implement the collaborative electric transmission Local Planning Process for their respective service territories in North Carolina and South Carolina defined in Attachment N-1 of the DEC and DEP Joint Open Access Transmission Tariff ("Joint OATT") (the "Process"); and

**WHEREAS**, in order to create and implement the Process each Participant is willing to: (i) share confidential and proprietary transmission, load forecasts and other information with other Participants to the extent required to implement the Process; (ii) protect all such confidential and proprietary information from disclosure to the public as required by Attachment N-1 of the Joint OATT ; (iii) pay its fair share of the administrative costs to implement the Process; and (iv) cooperate in good faith with all other Participants to accomplish the goals of the Process and reach mutually acceptable resolution of transmission planning issues so as to minimize the need to initiate regulatory proceedings to resolve transmission adequacy issues; and

**WHEREAS**, the Participants desire to create an Oversight Steering Committee ("OSC") and a Planning Working Group ("PWG"), each of which will be organized and operated pursuant to the provisions of Attachment N-1 of the Joint OATT to perform much of the work to create and implement the Process; and

**WHEREAS**, the Participants, through the OSC, desire to select an Administrator to act as a facilitator for the development and conduct of the Process, including the solicitation of input from other stakeholders through the Transmission Advisory Group; and

**WHEREAS**, the Participants desire that the functions of the OSC and PWG be carried out consistent with the requirements of Attachment N-1 of the Joint OATT and the requirements of FERC's rules and regulations;

**NOW THEREFORE**, in consideration of the foregoing, the undertakings set forth herein and such other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Participants agree as follows:

1. Intent of the Participants. The Participants will exert reasonable best efforts to implement the Process described in Attachment N-1 of the Joint OATT.
2. Additional Participants. Annually during the fourth quarter of the calendar year Load-Serving Entities taking transmission service from DEC or DEP can petition through request sent to the CTPC Administrator to become a Participants in the CTPC. Before the end of each calendar year, the OSC will vote on approving each LSE's petition to become a participant. The LSE(s) will become Participants at the start of the following calendar year planning cycle. Upon additional Participant(s) being approved by the OSC, this document shall be revised to reflect inclusions of such additional Participant(s).
3. The Oversight/Steering Committee: The OSC will consist of eight (8) appointed members plus ex officio members as approved by the OSC. Duke, Progress, Electricities and NCEMC shall each appoint two (2) members to the OSC and may each appoint up to two (2) alternate members, all of whose qualifications shall be materially consistent with the guidelines for OSC membership set forth in the OSC Scope Document. The alternates shall act in the absence of the appointed members, including participating in voting. The appointed members of the OSC shall select a chair and vice-chair pursuant to the procedures contained in the OSC Scope Document. Additionally, the appointed members of the OSC shall select the Administrator to be an ex officio member of the OSC. The Administrator shall act as a facilitator for the OSC and shall assist the chair and vice-chair in the performance of their duties as reasonably requested.

The members of the OSC shall use reasonable good faith efforts to reach decisions via consensus. However, in the event that the OSC is unable to reach a decision by consensus then a decision will be reached by majority vote. When voting is conducted, each of the OSC members (or designated alternates) except the ex officio members shall have one vote. In the event of a tie vote, the OSC shall retain an independent third party who will provide a recommended decision based on a review of the issue in dispute. The independent third party will be selected by the OSC from a list of potential candidates, which may include the Administrator. The list of potential candidates shall include no less than three qualified individuals or firms that

are mutually acceptable to all Participants. However, notwithstanding any other provisions herein, the investor-owned utilities shall not be bound by decisions of the OSC to the extent each of the investor-owned utilities reasonably determine such decisions, as related to reliability planning, are inconsistent with good utility practice or SERC and NERC established criteria or least-cost integrated resource planning principles. The investor-owned utilities shall each retain decision making authority for such decisions related to reliability planning consistent with their statutory responsibilities for reliability, subject to normal regulatory oversight.

4. OSC Duties: The duties of the OSC shall be those defined in Attachment N-1 of the Joint OATT and the OSC Scope Document. For avoidance of doubt, the OSC Scope Document must be consistent with Attachment N-1 of the Joint OATT and may only be amended in accordance with the decision-making protocol defined in Paragraph 3.
5. Planning Working Group: The PWG will consist of up to twelve (12) members. DEC, DEP, Electricities and NCEMC shall each nominate at least one and up to three members to the PWG by written notice to the OSC. The OSC shall approve the nominations of the PWG members so long as they materially meet the guidelines described in the PWG Scope Document. The appointed members of the PWG shall select a Chairman, a Vice-Chairman, and a secretary pursuant to the procedures contained in the PWG Scope Document. The PWG shall use reasonable good faith efforts to reach decisions via consensus. However, in the event the PWG is unable to reach a decision by consensus, the decision will be referred to the OSC for resolution.
6. PWG Duties: The duties of the PWG shall be those defined in Attachment N-1 of the Joint OATT and the PWG Scope Document. For avoidance of doubt, the PWG Scope Document must be consistent with Attachment N-1 of the Joint OATT and may only be amended in accordance with the decision making protocol defined in Paragraph 3.
7. Decisions of the OSC: Subject to the provisions of Paragraphs 3 and 4 above, the Participants will abide by the decisions of the OSC. . Dispute resolution shall be in accordance with Attachment N-1 of the Joint Open Access Tariff
8. Definition of Confidential Information: For purposes of this Participation Agreement, the term "Confidential Information" means any and all information designated by a Participant as proprietary and confidential that is provided to another Participant, the OSC and/or the PWG, and confidential and proprietary information developed by the OSC, the PWG and/or the Administrator, whether printed, written, oral, electronic or on software. All transmission information shall be considered "Confidential Information" regardless of whether a Participant has specifically

designated it as confidential or proprietary. Notwithstanding the preceding provisions of this paragraph, the term "Confidential Information" shall not include any information that a Participant can demonstrate (a) is or has been independently developed by that Participant, or is lawfully received by that Participant from another source having the right to furnish such information to either; (b) has become generally available to the public without breach of this Participation Agreement by that Participant; or (c) that Participant was rightfully in possession of for some other lawful purpose and without restrictions on its use prior to the time the Participant became involved in the Process.

9. Obligation of Confidentiality: The Participants shall not discuss among themselves specific products and/or services made available to them or offered by them, or prices or terms of such products and/or services. If the identity of or other information about specific generation resources is required in order to conduct studies required by Attachment N-1 of the Joint OATT, such information may be disclosed among the Participants, but shall be masked to the extent reasonably possible. Each Participant shall ensure that all Confidential Information to which it has access shall be kept confidential by the Participant and by its employees, attorneys, accountants, financial advisors, consultants, and in the case of the municipalities and electric co-ops, representatives or members (collectively, "Representatives"), to the extent permitted by law. Among other things, each Participant shall ensure that the Confidential Information shall not: (a) be used for any purpose or proceeding whatsoever other than performing duties and/or actions directly related to the Process; (b) be distributed or disclosed in any manner whatsoever except as required by law or as permitted by this Participation Agreement; or (c) be distributed to any Representatives of a Participant who are not, consistent with this Participation Agreement, normally involved with the Process (except to the extent said Representatives require access to the Confidential Information to perform duties or obligations directly related to the Process); or (d) be distributed to any third party except as required by law or FERC rules or regulations, or as provided in accordance with the procedures for obtaining Confidential Information described in the Joint OATT and/or the CTPC procedures for obtaining Confidential Information. However, the receiving Participant may transmit Confidential Information to such Representatives who need to know the Confidential Information for the purposes of the receiving Participant performing its duties and obligations associated with the Process, provided that the Participant and said Representatives comply with the provisions of Paragraph 11 below.
10. Obligations of Participants and Representatives: To meet its confidentiality obligations under this Participation Agreement, particularly those set out in Paragraph 10, above, each Participant shall maintain a list of each of its Representatives who have access to Confidential Information. Each such

Representative on the list shall be informed of and instructed in the terms of this Participation Agreement by the Participant, instructed by the Participant that they are to comply with those terms and shall acknowledge in writing that they have read this Participation Agreement and understand its terms prior to receiving access to any Confidential Information. If a Representative of a Participant acts in a manner that results in the Representative breaching the confidentiality terms of this Participation Agreement, the Participant will (a) immediately upon learning of such breach notify the OSC; (b) review its internal policies and procedures to determine the cause of such breach; (c) implement actions reasonably designed to prevent a recurrence of such breach; and (d) promptly notify the OSC as to the cause of such breach and actions taken pursuant to (c).

11. Ownership of Confidential Information: All Confidential Information developed or furnished by a Participant shall be and will remain the property of such Participant. All Confidential Information developed or produced by the OSC and/or the PWG shall be and will remain the property of all Participants. Nothing contained in this Participation Agreement shall be construed as granting or conferring upon any Participant any rights by license or otherwise, express or implied, to the Confidential Information.
12. Disclosures Required by Court Order or Law: In the event that any Participant receives a request to disclose any or all of the Confidential Information under the terms of (a) a state freedom of information act, public records act or similar statute, (b) the Federal Freedom of Information Act, (c) a valid and effective subpoena or order issued by a court or governmental body or agency having jurisdiction over a Participant, or (d) pursuant to an appropriate request for production of documents in any proceeding before an administrative agency or court having jurisdiction over a Participant, such Participant shall notify all other Participants and the OSC immediately of the existence, terms and circumstances surrounding such a request so that one or more of the Participants may seek an appropriate protective order or take such other action as it deems appropriate to protect against the release of Confidential Information. If the Participant is compelled to disclose any of the Confidential Information, only that portion thereof compelled to be disclosed will be disclosed, and the Participant shall use reasonable best efforts to obtain an order or other reliable assurance that confidential treatment shall be accorded to the Confidential Information so disclosed.
13. Disclosures Required by FERC. In the event that the Administrator or any Participant receives a request to disclose any or all of the Confidential Information pursuant to Section 9 of Attachment N-1 of the Joint OATT, the Administrator will be responsible for informing all Participants and abiding by the provisions of Section 9 of Attachment N-1 of the Joint OATT with regard to the disclosure of Confidential

Information.

14. Remedies. Each Participant agrees that any threatened or existing violation of the confidentiality provisions of this Participation Agreement would cause the other Participants irreparable harm for which they would not have an adequate remedy at law, and that the other Participants shall be entitled to seek immediate injunctive relief prohibiting such violation. In the event that Confidential Information is disclosed in violation of this Participation Agreement, nothing contained herein shall preclude any Participant from pursuing an action for damages or for enforcement of any other rights or remedies available to them at law or in equity.
15. Return of Confidential Information: Upon the written or electronically transmitted request of the Participant from whom the Confidential Information was obtained, all documents, records, materials and similar repositories of Confidential Information, including any and all copies thereof in possession of another Participant obtained by such Participant in the course of performing duties and/or obligations associated with the Process, or obtained by the OSC or PWG, shall be promptly surrendered and delivered to the Participant from whom the Confidential Information was obtained. Confidential Information developed or produced by the OSC and/or the PWG shall be promptly returned to all Participants at such time that the OSC and/or PWG deem it to be appropriate.
16. Prohibition on Sharing with Competitive Duty Personnel: Each Participant shall prohibit the sharing of any Confidential Information with any employee, Representative, and/or organization, including affiliates, directly involved in the sale and/or resale of electricity in the wholesale electricity market ("Competitive Duty Personnel"); prohibit its Competitive Duty Personnel from having access to any Confidential Information; and ensure its Competitive Duty Personnel do not receive preferential treatment nor a competitive advantage through access to Confidential Information. If any Participant acts in a manner contrary to such rules, inadvertently or otherwise, the Participant will (a) immediately upon learning of such incident notify the OSC; (b) review its internal policies and procedures to determine the cause of such incident; (c) implement actions reasonably designed to prevent a recurrence of such incident; and (d) promptly notify the OSC as to the cause of such incident and actions taken pursuant to (c). A breach of this Paragraph 16 may, subject to a majority vote of the OSC, result in the breaching Participant and its employees and Representatives being prohibited from participating in the Process. A Participant's agreement to the provisions of this section is only applicable to its activities conducted in conjunction with the Process, and a Participant not otherwise subject to the Standards of Conduct promulgated by FERC does not, by virtue of this Agreement, voluntarily assent to application of such Standards in all other aspects of its business operations.

17. Cost Responsibility: Each Participant shall bear its individual expenses of participation such as travel expenses. The costs associated with the creation and implementation of the Process, including, but not limited to, the costs associated with the OSC, the PWG, and the Administrator, shall be the responsibility of all Participants as outlined below:
  - a. Costs associated with base reliability studies as defined by the OSC shall be the responsibility of the investor-owned utilities.
  - b. Costs associated with proposed incremental reliability studies which are approved by the OSC shall be the responsibility of the investor-owned utilities as such costs are collected through transmission service charges. If the OSC does not so approve a proposed incremental reliability study, the requesting party may request that the OSC authorize that the study be performed at the cost of the requesting party or parties, and the OSC shall consider such a request.
  - c. Costs associated with the Administrator will be allocated among the Participants. DEC and DEP will each be responsible for one-third of such costs, and NCEMC and ElectriCities will each be responsible for one-sixth of such costs.
  - d. Costs associated with the study process for Local Economic Projects, Public Policy Projects, and Multi-Value Strategic Transmission Projects, as defined in Attachment N-1 of the Joint OATT, including a maximum number of studies for Local Economic Projects and Multi-Value Strategic Transmission Projects that are selected during each planning cycle by the TAG participants, will be shall be the responsibility of the investor-owned utilities as such costs are collected through transmission service charges. If a particular proposed study for Local Economic Projects, Public Policy Projects, and Multi-Value Strategic Transmission Projects is not selected to be studied by the TAG participants, the requesting TAG participants(s) may request that the study be performed at the cost of the requesting TAG participant(s). The OSC shall consider such a request and grant the request if this additional study can reasonably be accommodated.
  - e. The results of studies performed pursuant to this Participation Agreement shall be available to all Participants and to the TAG.
18. Administration of Receipts and Disbursements:
  - a. Pursuant to the OSC Scope Document, the OSC shall appoint a Participant or a third-party to act as treasurer (provided that such Participant or third-party agrees to serve as treasurer), the appointment of which may be changed by the OSC at

any time upon reasonable notice to the Participants. The treasurer may resign upon 90 days written notice to the OSC, and upon such notice the OSC will designate a new treasurer upon reasonable notice to the Participants (provided that such Participant or third-party agrees to serve as treasurer). The treasurer shall receive and disburse funds and carry out such other reasonable responsibilities as the OSC shall establish, including, but not limited to, providing periodic (as defined by the OSC) reports to each of the Participants of all receipts and disbursements.

- b. Any Participant may, in good faith, challenge before the OSC the correctness or appropriateness of any costs to be allocated among the Participants or any allocations thereof. Any Participant or third party submitting a bill for which costs are to be allocated shall provide reasonable and customary documentation with the bill. Any revisions or adjustments may be in the form of an adjustment of subsequent bills or refund requests.

19. Term and Withdrawal from Process. This Participation Agreement shall become effective on the date first above written and shall continue in effect unless terminated upon mutual agreement of the Participants. The Participants shall periodically review the terms of the Participation Agreement, and shall agree on changes, as appropriate. Additionally, NCEMC and ElectriCities shall be free to withdraw from this Participation Agreement at any time for any reason upon 180 days' prior written notice to the other Participants, provided, however, that any Participant withdrawing from this Participation Agreement shall continue to be responsible for the payment of all costs of the Process properly allocable to such Participant pursuant to Paragraph 16 that were incurred prior to the effective date of withdrawal, and shall complete all actions and tasks which the Participant is either performing or has agreed to perform as a result of the Process as of the date of such Participant's notice of withdrawal. Additionally, any Participant shall be free to withdraw from this Participation Agreement at any time upon written notice to the other Participants, if the withdrawing Participant's continued participation is rendered illegal, impossible or inappropriate by action of any regulator of said Participant. Neither Duke nor Progress shall have the right to withdraw from the CTPC unless required by law, or by order or rule of a federal or state regulatory agency.

20. Entire Agreement. The following documents set forth the entire agreement: Attachment N-1 of the Joint OATT, the Participation Agreement; the scope documents for the OSC, PWG and TAG. and the CTPC Transmission Cost Allocation Summary. These documents set forth the entire agreement and understanding of the Participants concerning the subject matter hereof, and no representation, promise, inducement or statement of intention not set forth in these documents has been made by or on behalf of any Participant hereto. In the event this



Participation Agreement conflicts with the Joint OATT, the Joint OATT shall control. In the event this Participation Agreement conflicts with the scope documents for the OSC, PWG, and TAG or the CTPC Transmission Cost Allocation Summary, this Participation Agreement shall control unless otherwise unanimously agreed upon by the OSC.

21. Severability. Subject to the provisions of Paragraph 18 hereof, if any provision of this Participation Agreement is held to be illegal, invalid or unenforceable, such provisions shall be fully severable and this Participation Agreement shall be construed as if the illegal, invalid and unenforceable provision had never been a part of this Participation Agreement and the remaining provisions of this Participation Agreement shall be given full force and effect.
22. Amendment for New Participants. In the event that new load-serving entities within the footprint of DEC and DEP seek to join the CTPC as Participants, DEC, DEP, NCEMC, and Electricities agree this Participation Agreement shall be amended to include such new load-serving entities as Participants and agree to negotiate in good faith to ensure an equitable allocation of cost responsibility under Paragraph 16. DEC, DEP, NCEMC, and Electricities also agree that the addition of new load-serving entities as Participants shall not reduce DEC's and DEP's combined share of the OSC vote below 50 percent.
23. Survival. The restrictions and obligations of this Participation Agreement shall survive any expiration, termination or cancellation of this Participation Agreement and shall continue to bind the Participants and their successors and permitted assigns.
24. Assignment. No Participant shall assign any of its rights or delegate any of its duties hereunder to a third party without the prior written consent of all other Participants, such consent not to be unreasonably withheld.
25. Governing Law. This Participation Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

IN WITNESS WHEREOF, each of the Participants, intending to be legally bound by the provisions of this Participation Agreement, has caused its duly authorized representatives to execute this Participation Agreement as of the date set forth above.

DUKE ENERGY  
PROGRESS, INC.

DUKE ENERGY  
CAROLINAS, LLC

By: John S. Holeman III

By: John S. Holeman III

Title: VP, Transmission Planning &  
Operations

Title: VP, Transmission Planning &  
Operations

NORTH CAROLINA ELECTRIC  
MEMBERSHIP CORPORATION

ELECTRICITIES OF NORTH  
CAROLINA, INC.

By:

By:

Title: Senior VP & Chief Operating  
Officer

Title: Chief Operating Officer