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| State of Florida  pscSEAL | | Public Service Commission  Capital Circle Office Center ● 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850  -M-E-M-O-R-A-N-D-U-M- | |
| DATE: | December 22, 2020 | | |
| TO: | Office of Commission Clerk (Teitzman) | | |
| FROM: | Division of Engineering (Wooten, Doehling, Ellis, King)  Division of Accounting and Finance (Brown, Higgins, Mouring, Richards)  Division of Economics (Coston, Kunkler, Wu)  Office of the General Counsel (Stiller, Lherisson) | | |
| RE: | Docket No. 20200176-EI – Petition for a limited proceeding to approve clean energy connection program and tariff and stipulation, by Duke Energy Florida, LLC. | | |
| AGENDA: | 01/05/21 – Regular Agenda – Post-Hearing Decision – Participation is Limited to Commissioners and Staff | | |
| COMMISSIONERS ASSIGNED: | | | All Commissioners |
| PREHEARING OFFICER: | | | Polmann |
| CRITICAL DATES: | | | None |
| SPECIAL INSTRUCTIONS: | | | None |

Case Background

On July 1, 2020, Duke Energy Florida, LLC (Duke or Company) filed a petition for approval of a Stipulation entered into by several parties regarding the Clean Energy Connection (CEC) Program and associated tariffs. Duke’s CEC Program is a voluntary community solar program that allows participating customers to pay a subscription fee in exchange for receiving bill credits related to the solar generation produced by the CEC Program solar facilities. The Company plans to build 10 projects totaling 750 MW of solar generation as part of the CEC Program, which will be placed in-service between 2022 and 2024. Duke has allocated the capacity of the CEC Program solar facilities among commercial, residential and local government customer groups with approximately 27.7% of the residential allocation carved out for low-income customers.

The Stipulation and proposed tariffs contain a series of compromises from signatories regarding the structure, funding, construction, and operation of the CEC Program and is attached hereto, as Attachment A. The signatories to the Stipulation are Duke, Vote Solar, Southern Alliance for Clean Energy (SACE) and Walmart Inc. (Walmart). The League of United Latin American Citizens of Florida, (LULAC) objects to the Stipulation, The Office of Public Counsel (OPC) does not actively object to the Stipulation, and Florida Industrial Power Users Group (FIPUG) takes no position regarding the Stipulation.

On November 17 and 18, 2020, the Florida Public Service Commission (Commission) conducted a hearing on Duke’s petition. At the hearing, counsel for Duke, Walmart, Vote Solar and SACE presented arguments in favor of the Stipulation. Duke introduced into evidence the testimony of witnesses Lon Huber, Matthew G. Stout, Thomas G. Foster, and Benjamin M. H. Borsch. Walmart introduced into evidence the testimony of witness Steve W. Chriss. Counsel for OPC and LULAC presented arguments in opposition to the Stipulation. LULAC introduced into evidence the testimony of witness Karl Rabago. Duke also entered into evidence the rebuttal testimony of witnesses Foster, Huber, and Borsch. FIPUG and OPC counsel presented no witness testimony at the hearing. The parties had the opportunity to cross-examine each of the witnesses. A number of exhibits, consisting of exhibits sponsored by the witnesses and responses to discovery requests, were admitted without objection into the record.

At the conclusion of the hearing, the Commission established December 1, 2020, later extended to December 9, 2020, as the deadline for parties wishing to file a post-hearing brief. Duke, SACE, Walmart, Vote Solar, OPC, LULAC, and FIPUG timely filed post-hearing briefs.

In its brief and at the hearing, Duke argues that the Stipulation to approve the CEC Program is in the public interest. Duke asserts that the CEC Program is a voluntary solar program that is designed such that 87.3% of the cumulative net present value revenue requirement benefits will go to the general body of ratepayers. Duke further argues that the CEC Program costs are reasonable, and that the associated solar generation is cost effective and is in response to customer demand to increase renewable energy.

In their briefs, SACE, Walmart, and Vote Solar support the Stipulation, arguing that the Stipulation is in the public interest and its execution improved the CEC Program. The signatories of the Stipulation further argue that the CEC Program provides economic benefits to all Duke customers, meets system need, and addresses customer demand for solar power in Florida.

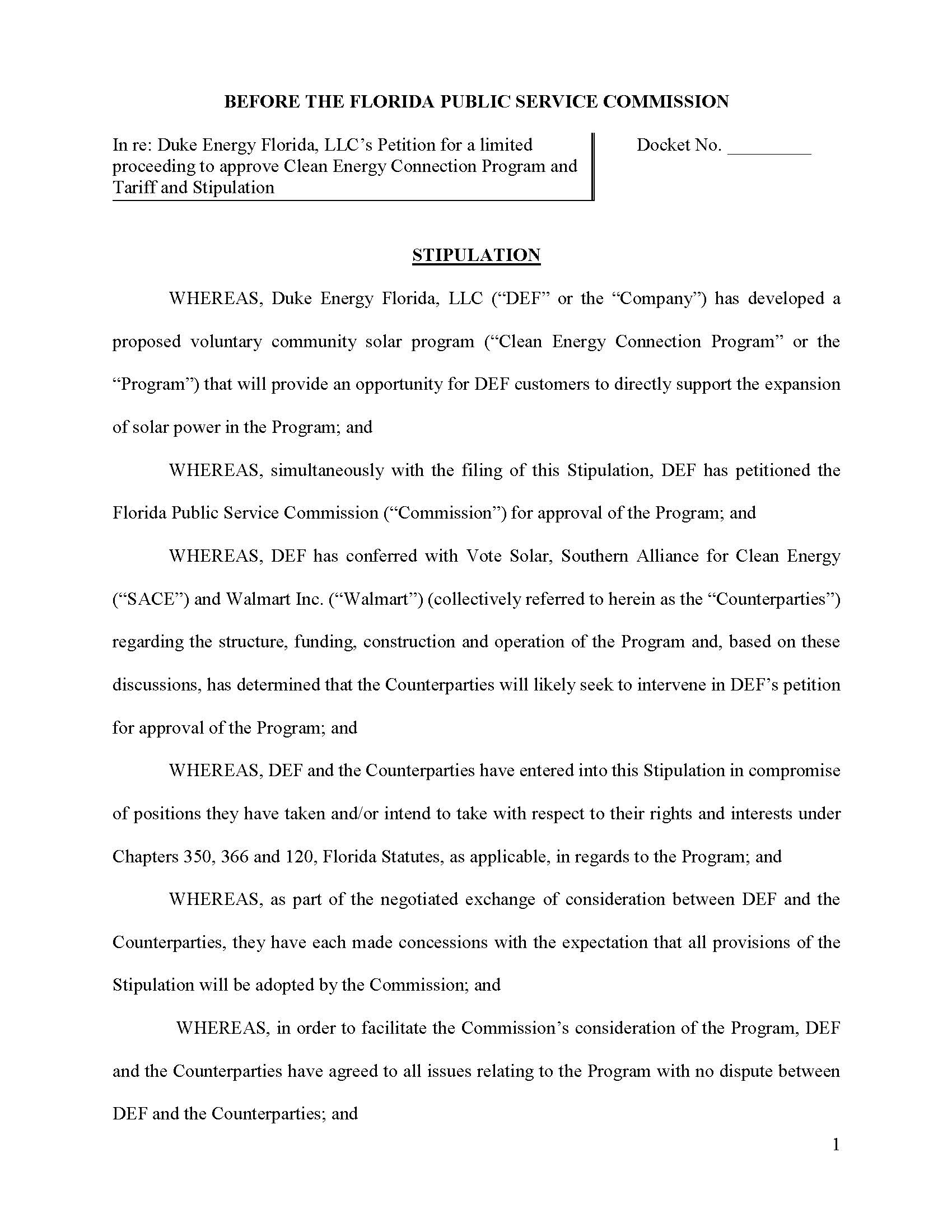
In its brief and at the hearing, LULAC counters that the CEC Program will provide the majority of benefits to the large commercial and industrial users who participated in the negotiations to the Stipulation, while costs and risks are shifted to the general body of ratepayers. LULAC argues that the CEC Program will result in increased rates for non-participants, including low income customers, which LULAC asserts are underrepresented in the program allocation. LULAC notes it supports solar generation if cost effective, but the associated solar facilities should be constructed without the CEC Program and with a determination of need under the Power Plant Siting Act.[[1]](#footnote-1) LULAC also avers that the Stipulation does not represent a proper legal settlement and the public interest standard does not apply.

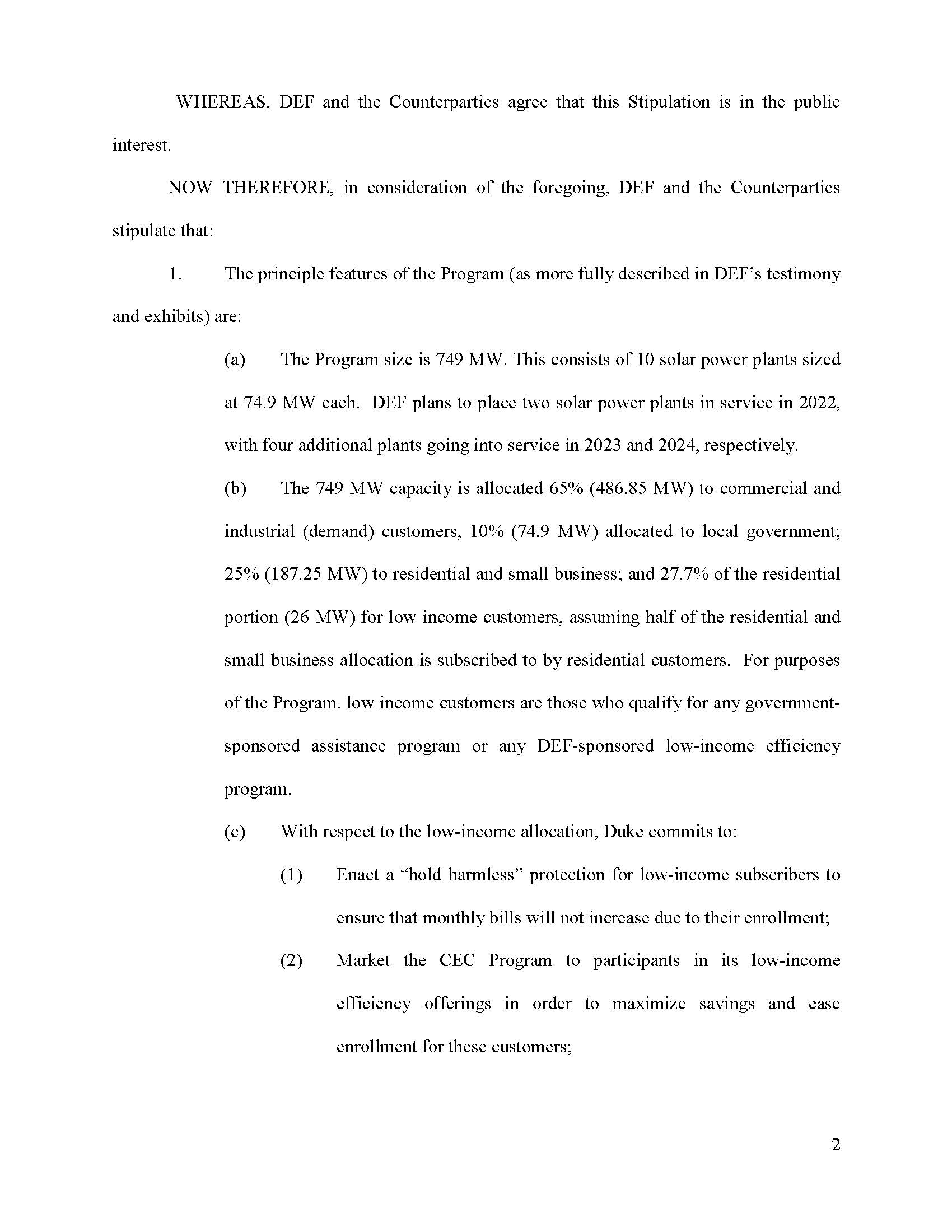
In its brief, OPC takes no position regarding the Clean Energy Connection Program, but states that it does not support the Stipulation, which it describes as “friendly.” OPC attaches this label to the Stipulation because it was filed with the petition, prior to discovery and issue identification, and, therefore, allegedly does not reflect agreement among demonstrated adversaries. On these bases, OPC argues that the Stipulation is not a proper legal settlement of a litigated docket and the public interest standard is not applicable. OPC further states its lack of active opposition to the Clean Energy Connection Program on the merits is based solely on the result of the SolarTogether docket, in which the Commission entered an Order[[2]](#footnote-2) rejecting arguments raised by OPC in opposition to a proposal by the Florida Power & Light Company that is similar in many respects to CEC. While maintaining its position that Solar Together Order is contrary to the law, OPC “accept[s] that it is final and therefor facially precedent for a similar outcome in this case.”

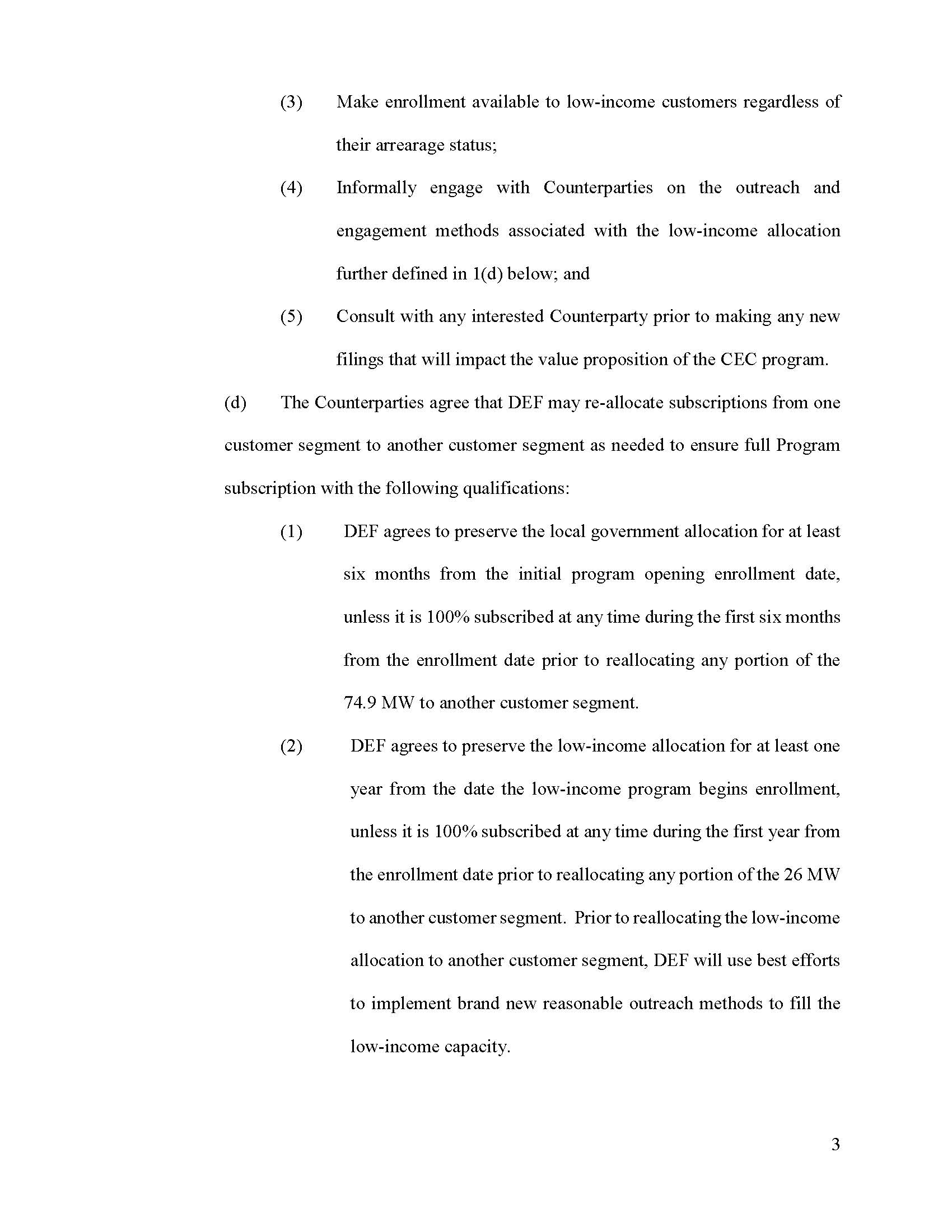
In its brief, FIPUG takes no position regarding the Clean Energy Connection Program and Stipulation, except noting that it is Duke’s responsibility to demonstrate that it is in the public interest and that the CEC Program is cost-effective and needed.

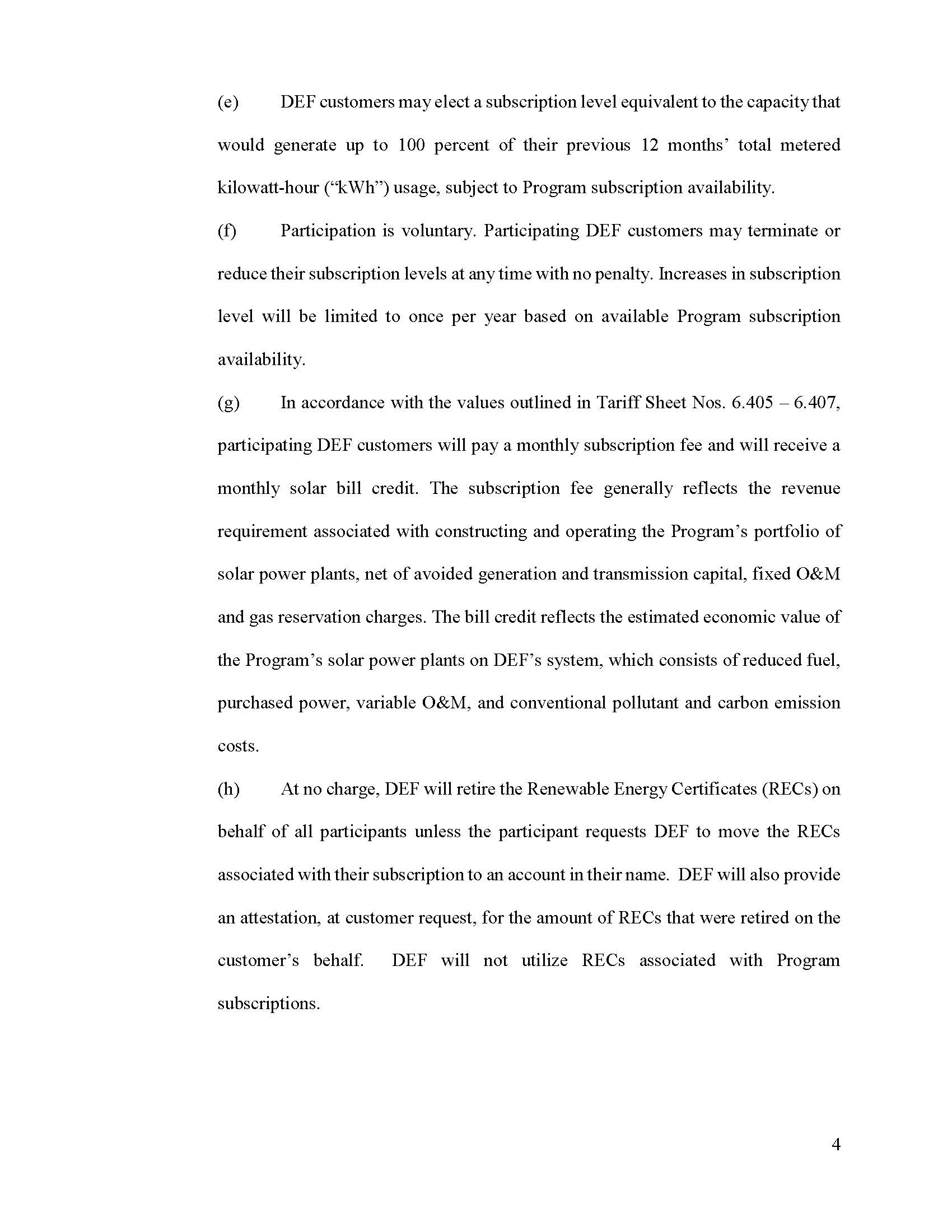
The Commission should vote on whether or not to approve the Stipulation filed July 1, 2020, requesting approval of Duke’s Clean Energy Connection Program and Tariff.

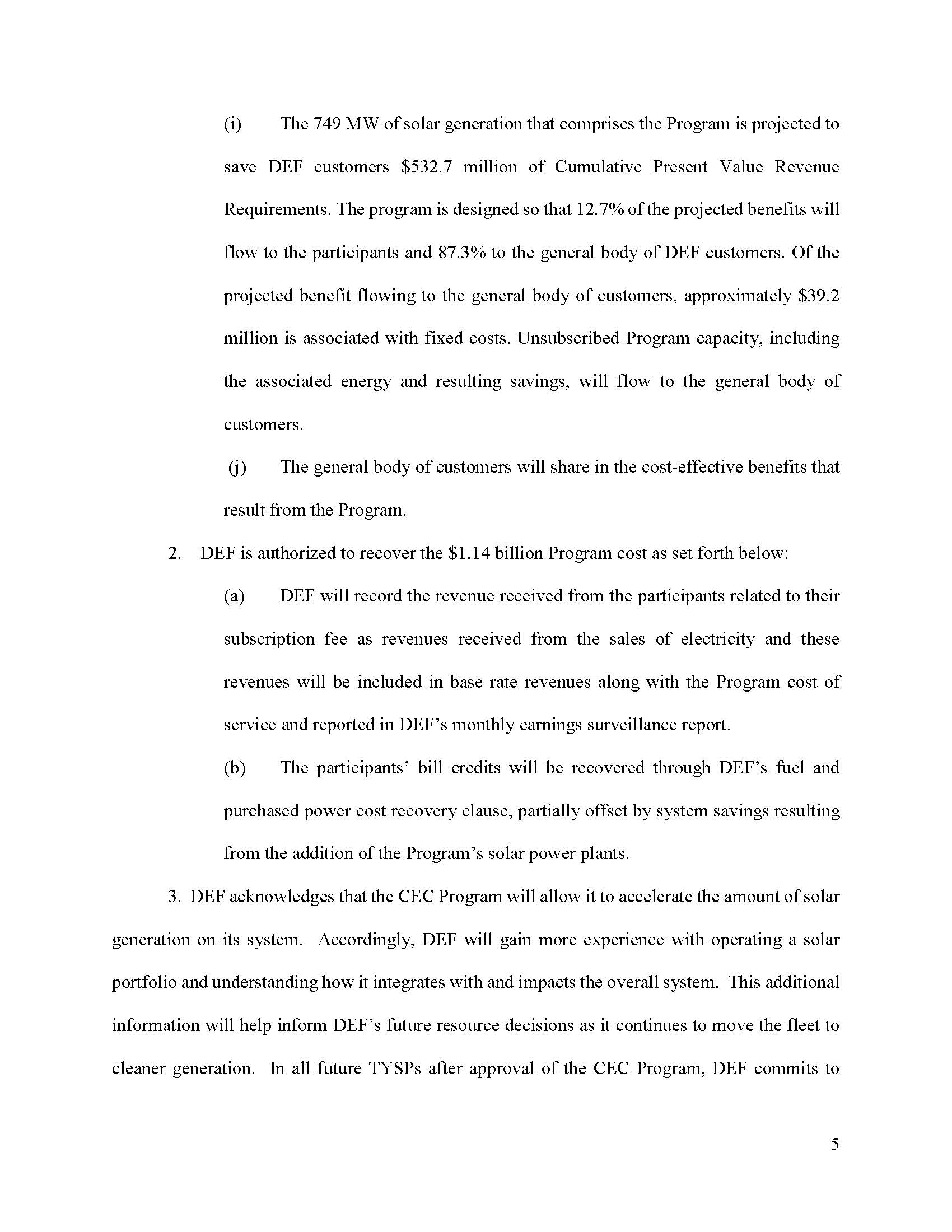
The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.05, and 366.06, Florida Statutes.

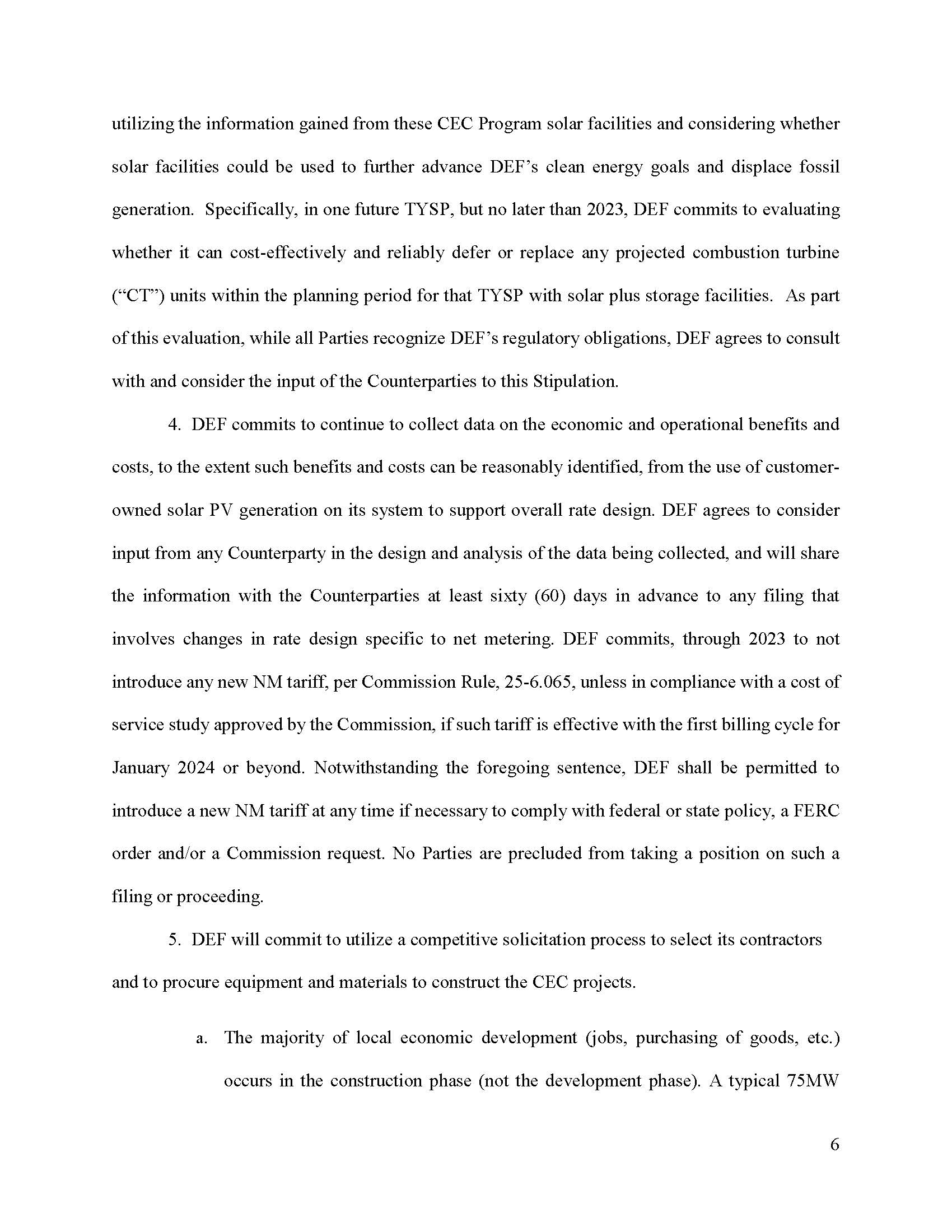


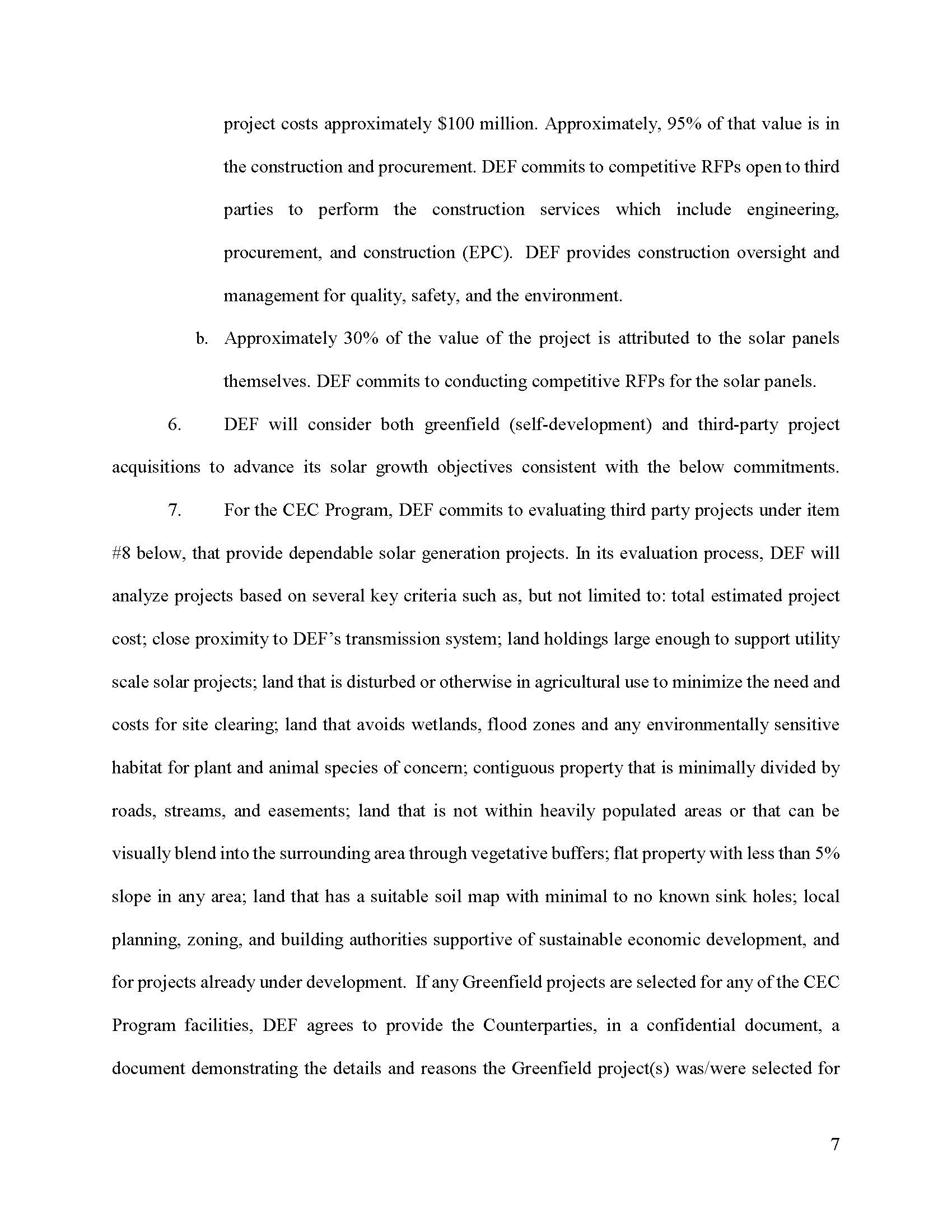


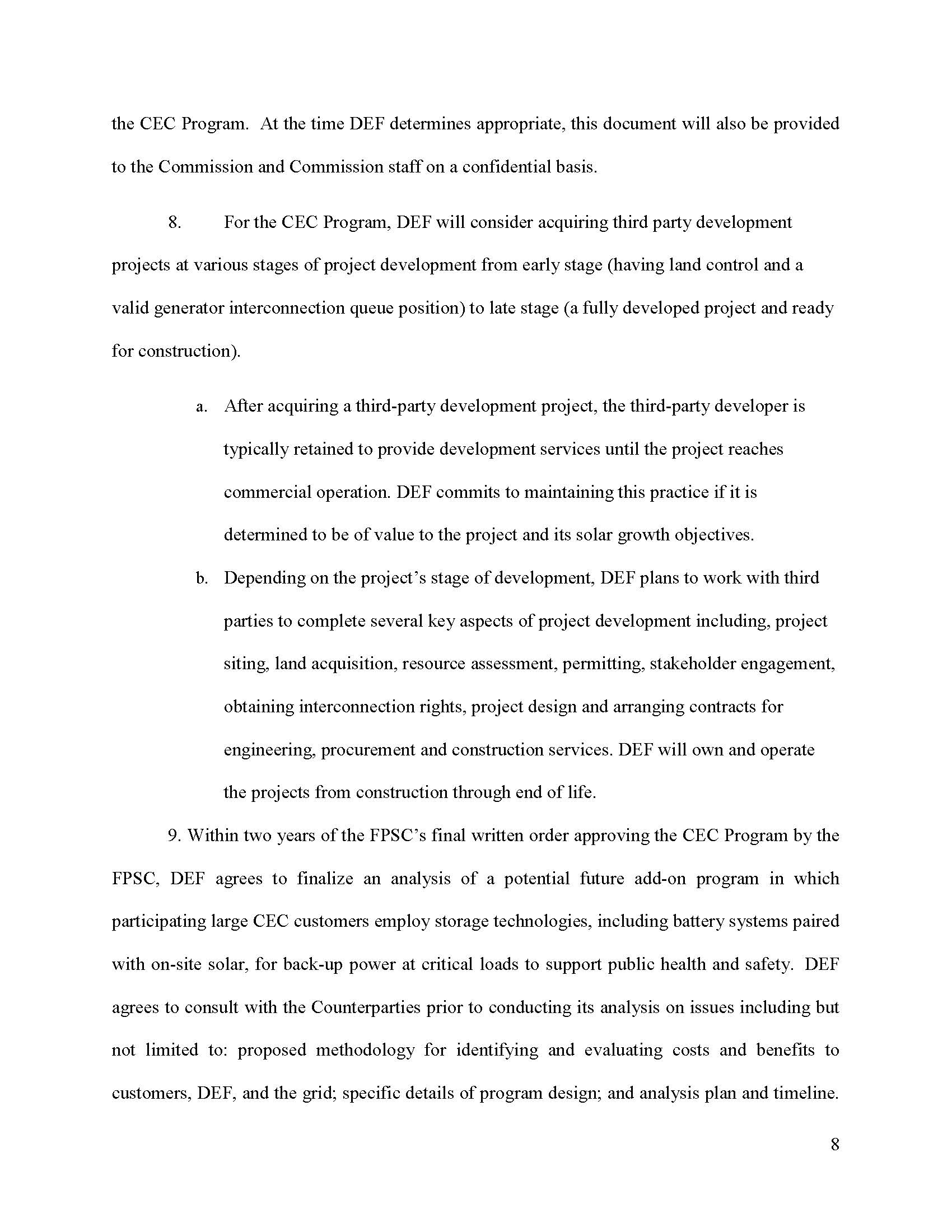


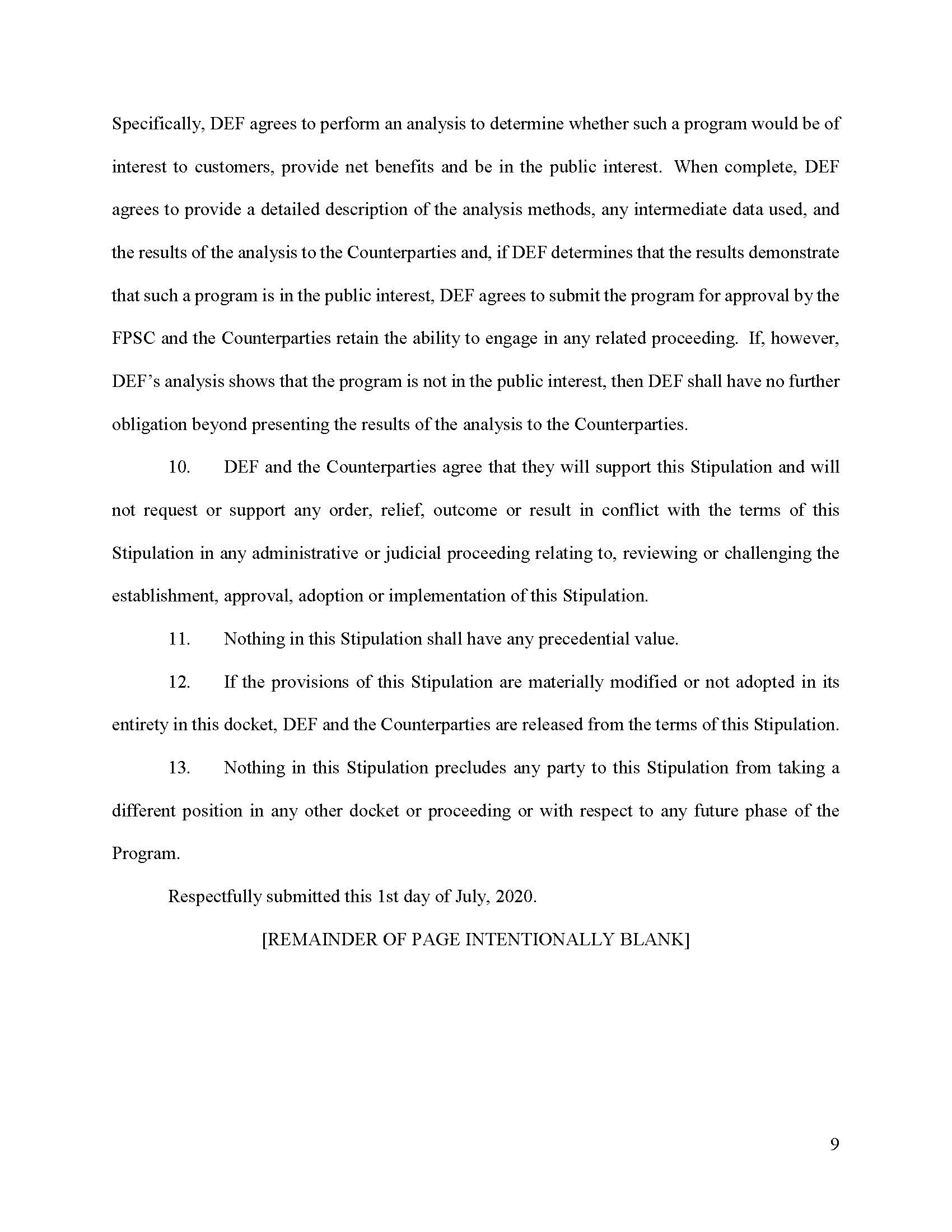


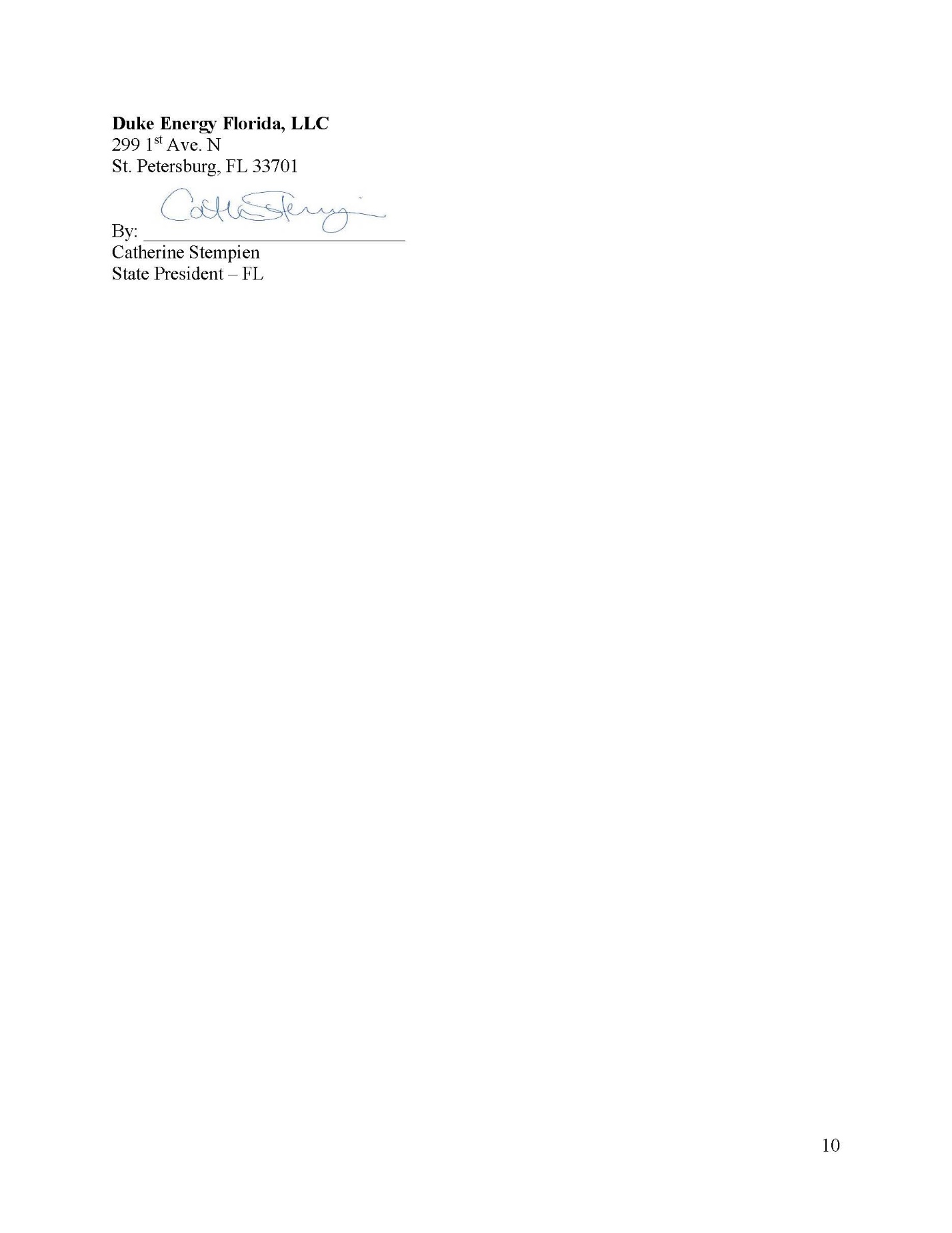


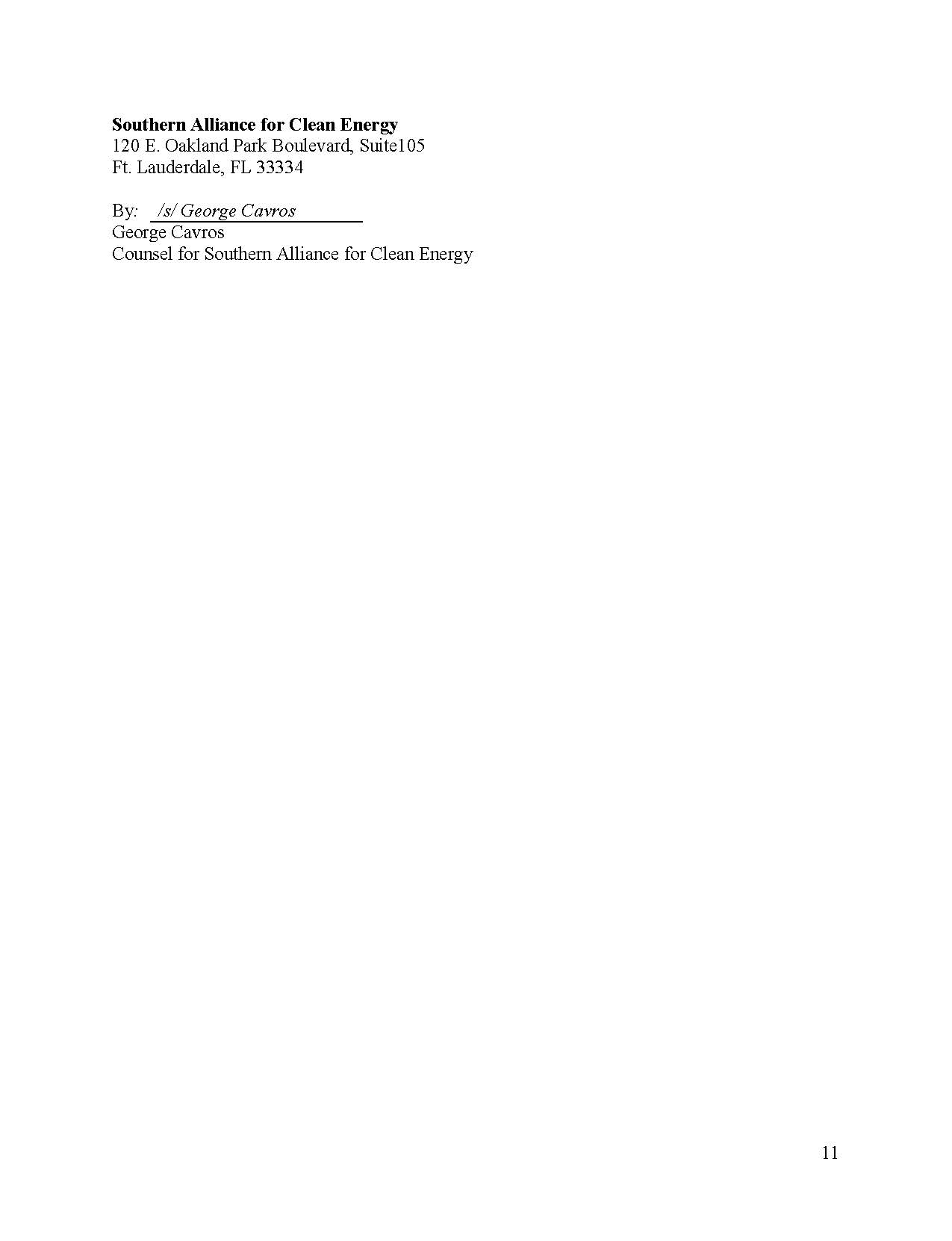


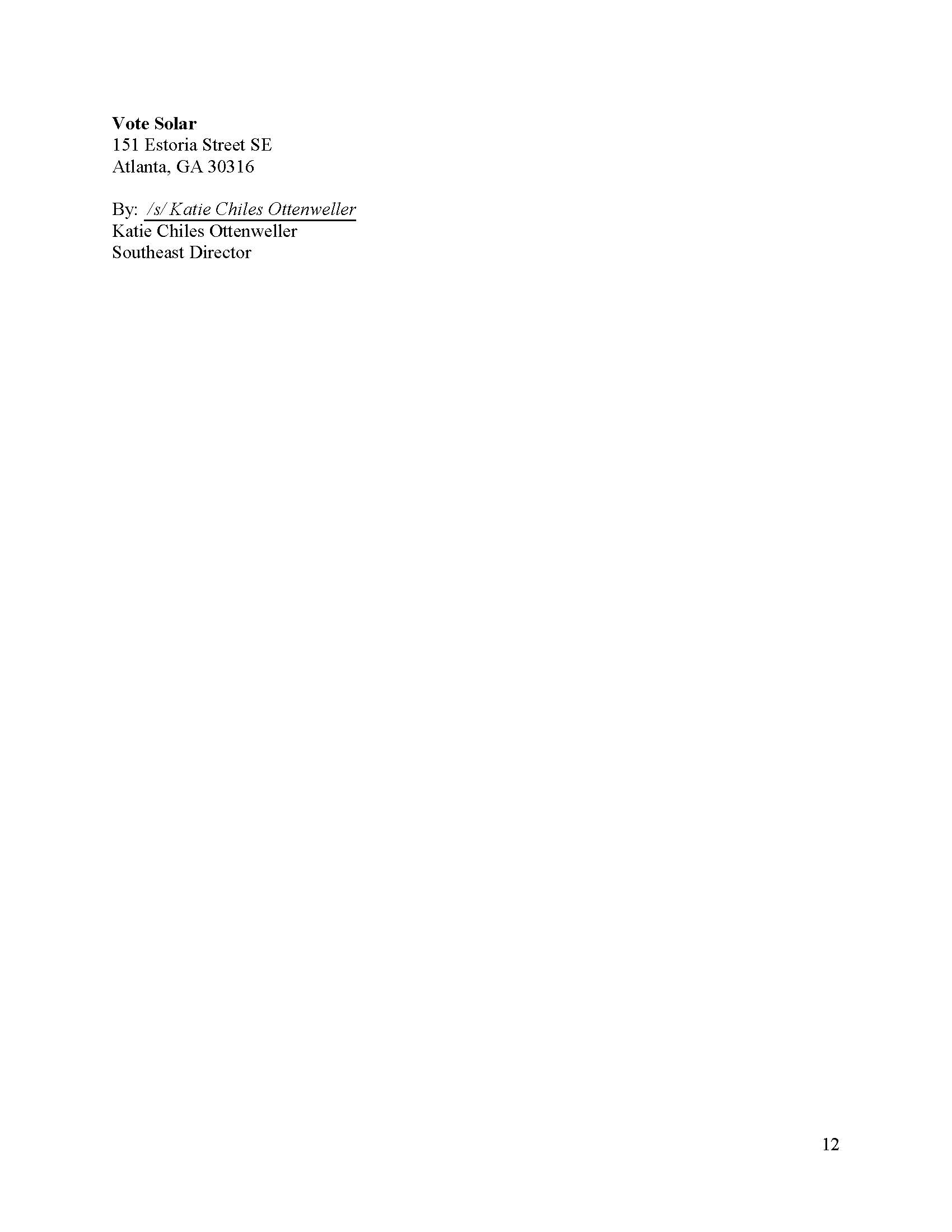




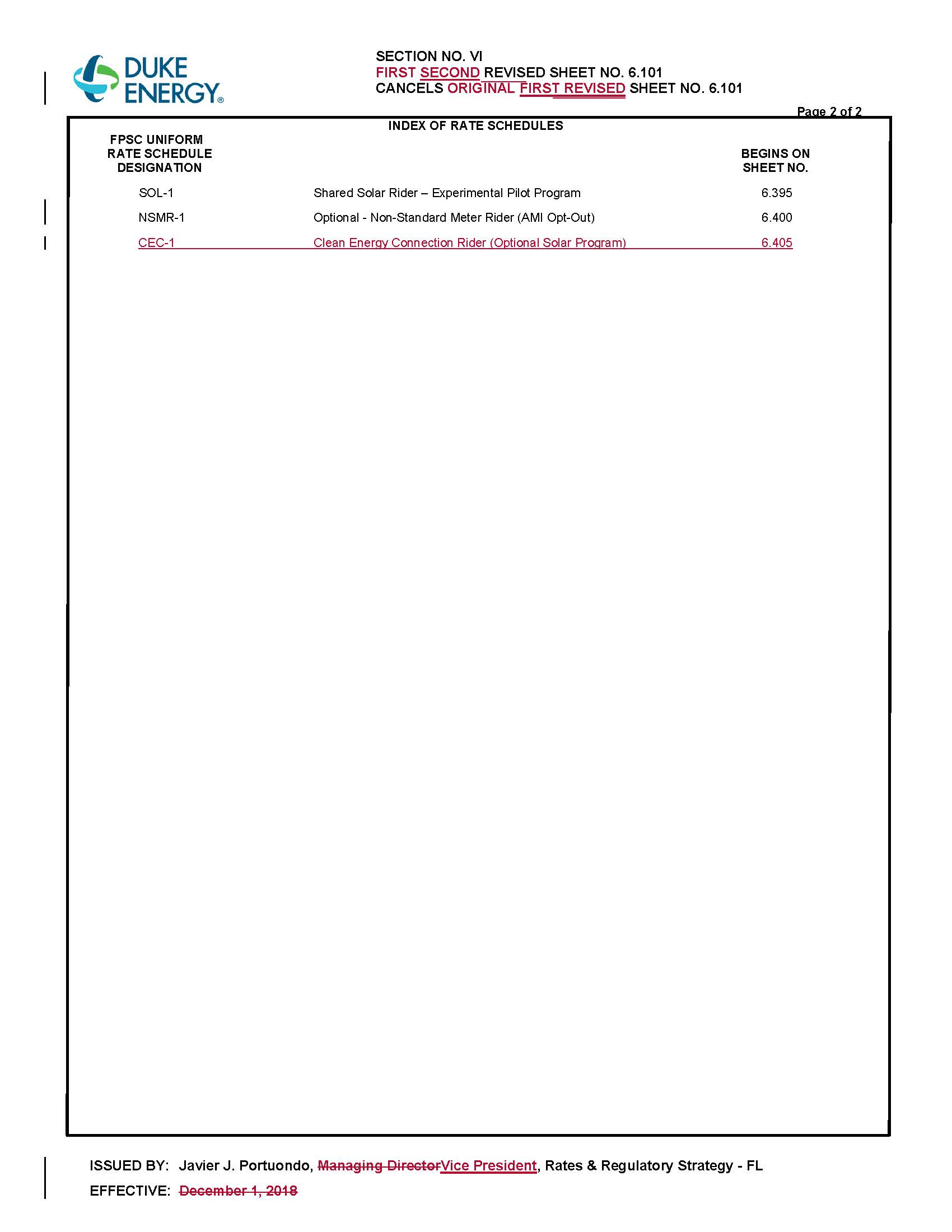


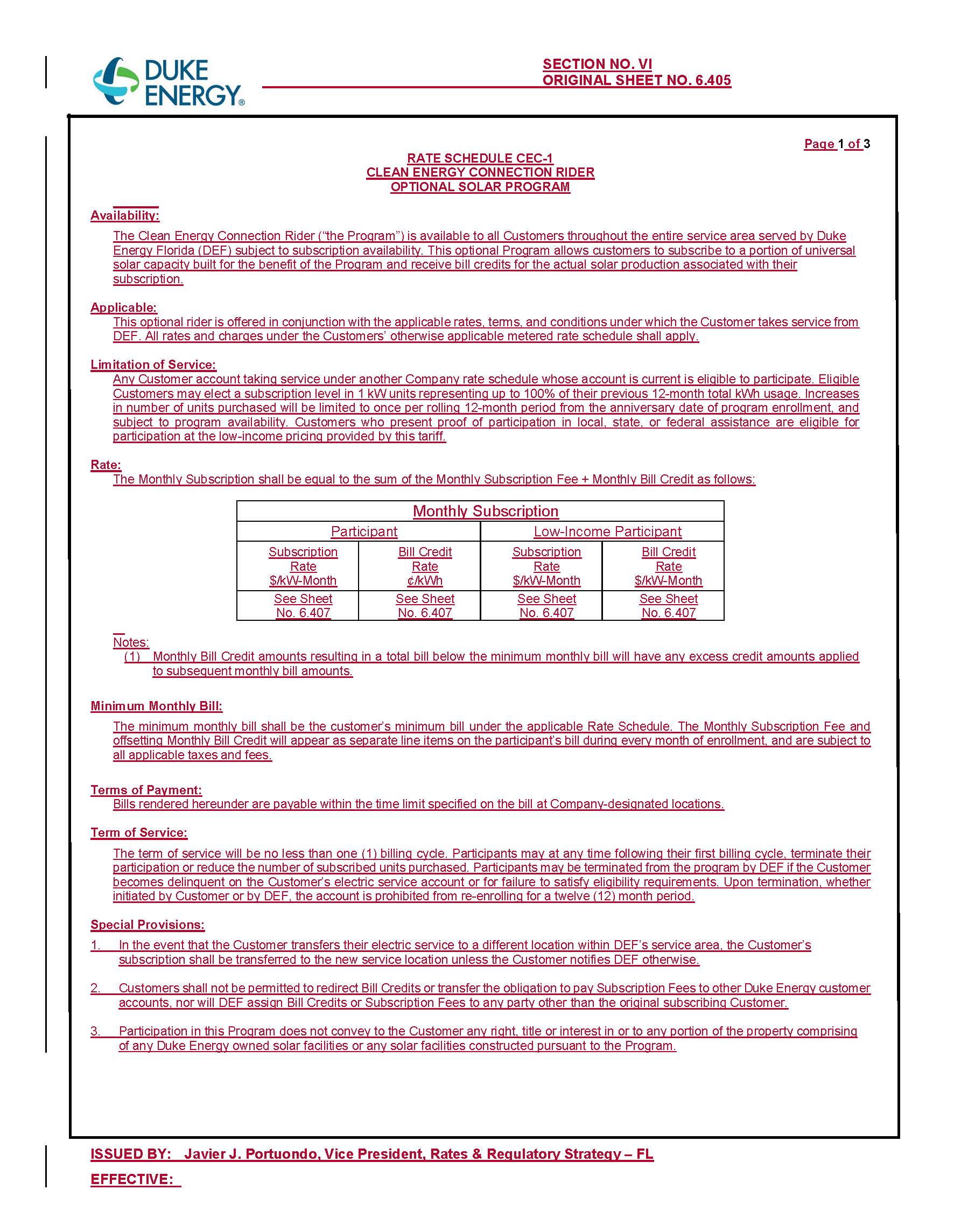


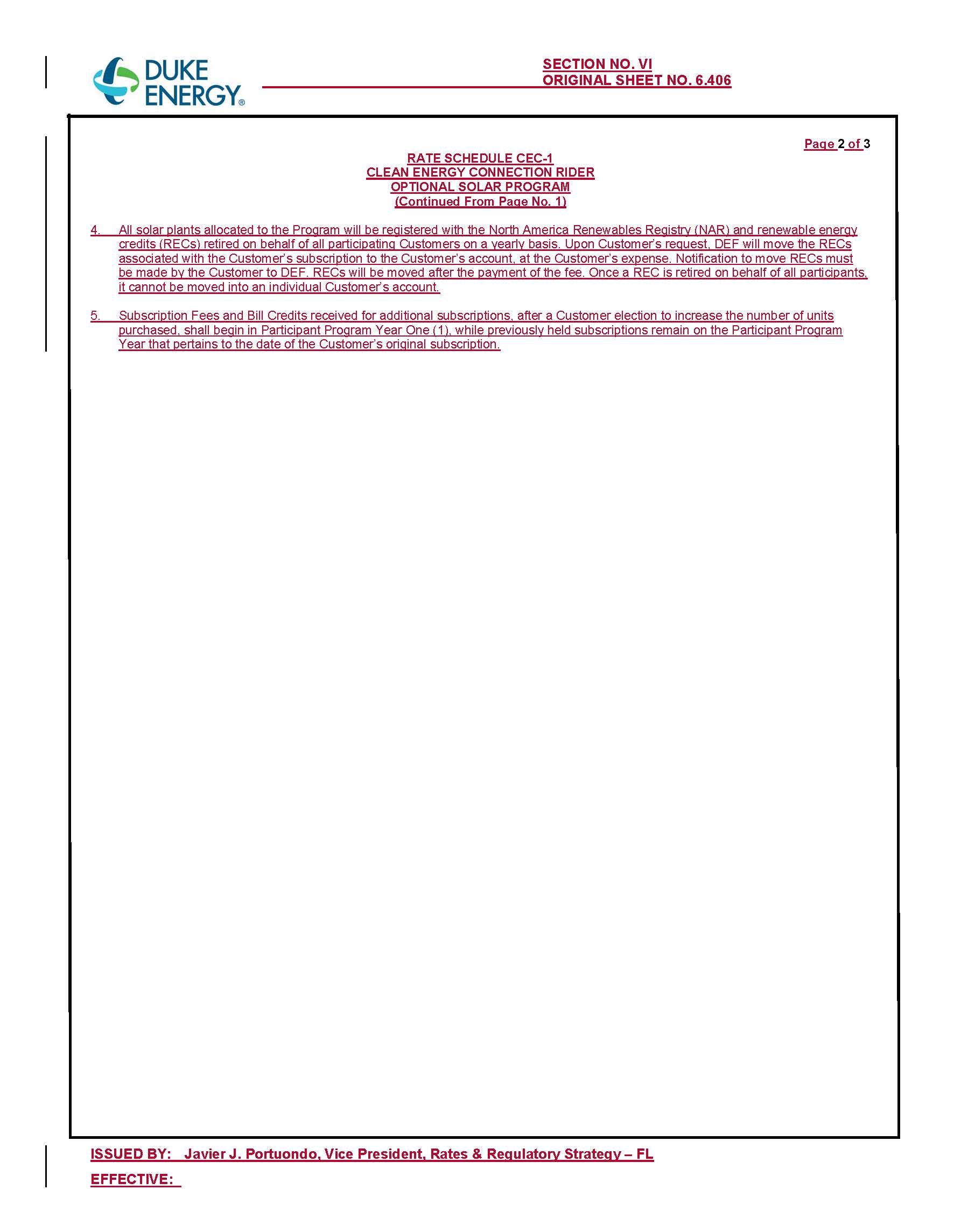


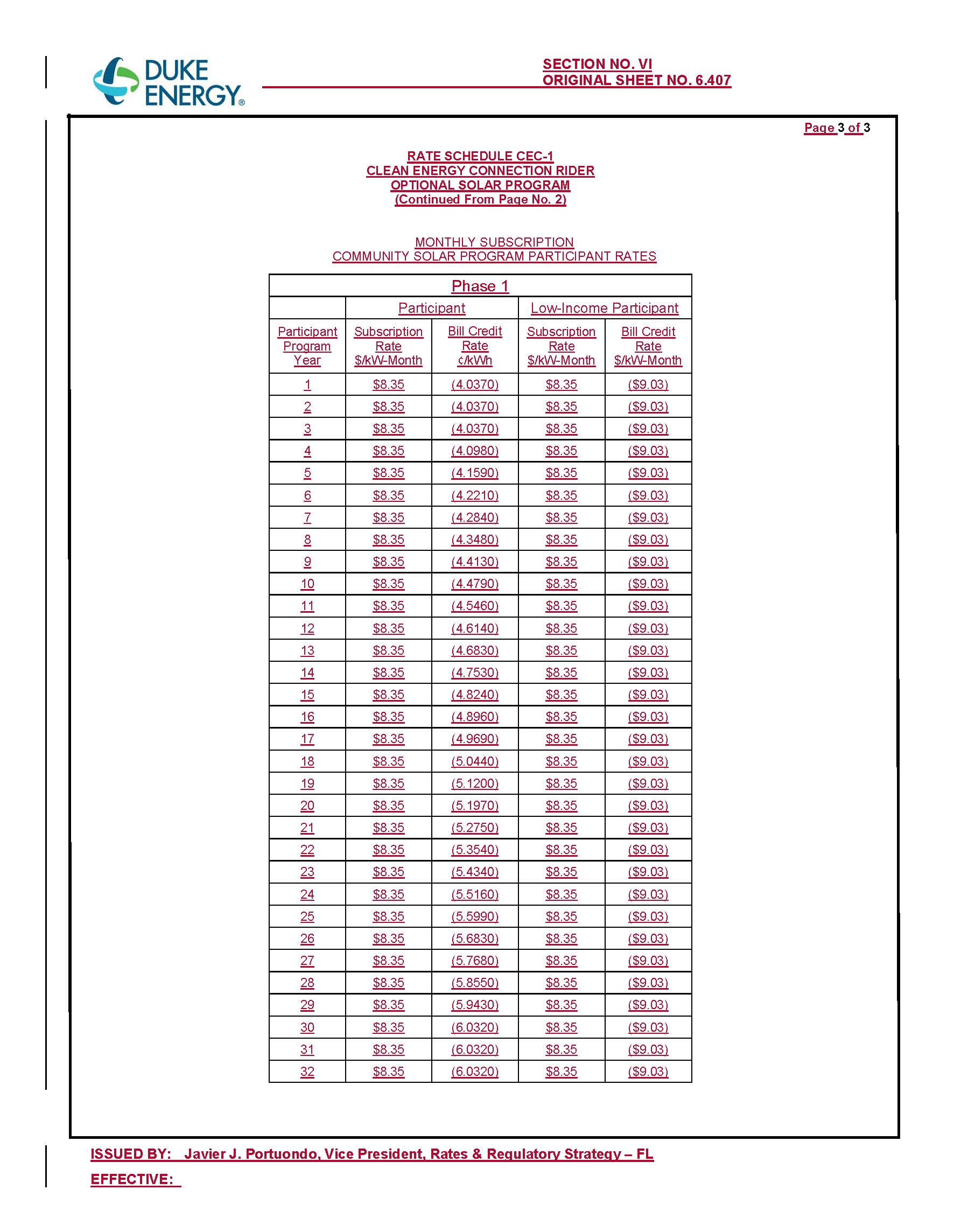












1. The Power Plant Siting Act consists of Sections 403.501 through 403.518, Florida Statutes. [↑](#footnote-ref-1)
2. *See* Order No. PSC-2020-0084-S-EI, issued March 20, 2020, in Docket No. 20190061-EI, *In re: Petition for approval of FPL SolarTogether program and tariff, by Florida Power & Light Company.* [↑](#footnote-ref-2)