

NORTH CAROLINA
UTILITIES COMMISSION
DOCKET NO. E-7, SUB 1276

In the Matter of)	
Application of Duke Energy Carolinas, LLC)	Supplemental Post-Hearing Brief of
For Adjustment of Rates and Charges Applicable)	The Commercial Group
To Electric Service in North Carolina)	

Pursuant to the order reconvening hearing of October 23, 2023, the Commercial Group hereby respectfully submits to the North Carolina Utilities Commission (“Commission”) its supplemental post-hearing brief in the above-captioned proceeding.

In its initial post-hearing brief, the Commercial Group, inter alia, argued that the Commission should move class rates at least 10 percent of the way to cost during the Multi-Year Rate Plan (“MYRP”). In particular, the Commercial Group stated that it supports CIGFUR’s approach of moving class rates at least 25 percent of the way toward cost as was done in past DEC rate cases, but that it also does not oppose in this first MYRP case DEC’s proposal of applying a 10 percent decrease in variance from cost-based rates for the base year and each MYRP year.

Well after the date set for post-hearing briefs, Public Staff filed supplemental testimony of David Williamson proposing a new class revenue apportionment, which necessitated the need for the supplemental hearing and now, supplemental briefs. Along with DEC, CIGFUR, and CUCA, the Commercial Group is troubled by the timing of the Public Staff filing, by the subjective and opaque nature of the Williamson testimony that can’t be replicated, and by how class returns in the Williamson exhibits differ markedly and unexplainably from those in DEC’s testimony.

First, there is no reason why Staff needed to sidestep for its revenue apportionment testimony the procedural schedule that applied to all other parties. Surely, no one expects that the Commission would simply adopt Staff’s proposed revenue requirement (any more than the Commission would

adopt 100 percent of the revenue position of any other party). Therefore, Staff's revenue apportionment testimony always was going to be based on a non-final revenue requirement, and thus, could have been included as part of Staff's direct testimony. Notably, Public Staff does not function in rate proceedings as advisory staff – instead, it is an adversarial party. Clearly, such an adversarial party has every right to proffer and support its positions on revenue apportionment. But to have a fair process, each adversarial party should follow the same procedural schedule. The Commercial Group appreciates that the Commission wants to err on the side of being over rather than under inclusive of potential testimony. However, the Commercial Group is troubled that this could set a dangerous precedent for future proceedings. Simply put, if a procedural schedule only applies to certain adversarial parties, how is the schedule fair to all adversarial parties?

Second, it is as unclear to the Commercial Group as it is to DEC, CIGFUR and CUCA how Staff's "black box" approach to revenue apportionment should, or even could, be applied to the final revenue requirement set by the Commission in this proceeding. As DEC witnesses Beveridge and Byrd put it (Supplemental Rebuttal Testimony pages 7-8):

Public Staff did not define or employ a precise or replicable process that can be applied to any revenue requirement other than the specific result that they recommend. Accordingly, the Company has no clear guidance on how to apply Witness Williamson's allocation principles to any other revenue requirement that the Commission may order.

See also Tr. vol. 17:78. Indeed, it seems the only way witness Williamson's subjective and opaque revenue apportionment approach could be applied is if the Commission appointed witness Williamson as a judicial referee of sorts to determine how the final revenue requirement should be apportioned to each class – which, again, would be patently unfair.

Third, even the starting point for witness Williamson's subjective apportionment approach is shrouded in mystery. When asked to explain how Mr. Williamson's exhibits show the OPT class as

providing a below-average return ($ROR < 1.0$) whereas DEC's exhibits show OPT returns as being above-average ($ROR > 1.0$), DEC pointedly stated it "is unclear to the Company why D. Williamson's results differ." CIGFUR III Byrd & Beveridge Supp. Rebuttal Cross Ex. 1, p.22. This raises serious concerns about Staff's approach.

For all these reasons, the Commission should reject the Williamson approach to revenue apportionment.

WHEREFORE, the Commercial Group respectfully requests that the Commission grant the relief requested herein, in the Commercial Group's initial post-hearing brief, and in the direct testimony and exhibits of Steve W. Chriss.

Respectfully submitted, this 5th day of November, 2023.

/s/ Alan R. Jenkins

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ATTORNEYS FOR INTERVENOR, THE COMMERCIAL GROUP

CERTIFICATE OF SERVICE

I certify that I have on this date served a copy of the foregoing document, *Supplemental Post-Hearing Brief of the Commercial Group*, on all parties of record by electronic delivery, hand delivery or via U.S. mail.

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