

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 180

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Investigation of Proposed Net)	ORDER DENYING JOINT MOTION
Metering Policy Changes)	FOR AN EVIDENTIARY HEARING
)	AND REQUIRING THE FILING OF
)	PROPOSED ORDERS AND BRIEFS

BY THE PRESIDING COMMISSIONER: On November 29, 2021, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively, Duke or the Companies) filed with the Commission a Joint Application for Approval of Revised Net Energy Metering Tariffs (Joint Application) in Docket Nos. E-7, Sub 1214, E-2, Sub 1219, and E-2, Sub 1076. In the Joint Application, Duke petitioned the Commission to issue an order approving Duke's proposed net energy metering tariffs (NEM tariffs) for customers who submit applications on or after January 1, 2023.

On January 10, 2022, the Commission established this docket and issued an Order directing all parties to file comments addressing the Joint Application. Through various orders, the Commission recognized the interventions of interested third parties, and the Commission received several rounds of comments on a number of contested issues related to Duke's proposed NEM tariffs.

On May 19, 2022, Duke filed a Stipulation of Settlement (Stipulation) between Duke and Sundance Power Systems, Inc., Southern Energy Management, Inc., and Yes Solar Solutions (the North Carolina Rooftop Solar Installers).

On June 16, 2022, the Environmental Working Group, 350 Triangle, 350 Charlotte, North Carolina Alliance to Protect Our People and the Places We Live, NC WARN, North Carolina Climate Solutions Coalition, and Sunrise Movement Durham Hub (collectively, Joint Movants) filed a Joint Motion for an Evidentiary Hearing.

On June 20, 2022, the Commission issued an Order, which allowed the parties to file responses to the Joint Motion for an Evidentiary Hearing no later than June 24, 2022. On June 23, 2022, Duke filed its Reply in Opposition to the Joint Motion for an Evidentiary Hearing. On June 24, 2022, the Southern Alliance for Clean Energy (SACE), Vote Solar, and the North Carolina Sustainable Energy Association (NCSEA) also filed a Joint Response to the Joint Motion for an Evidentiary Hearing.

Joint Motion for an Evidentiary Hearing

Joint Movants cite to House Bill 589, which provides that revised net metering rates “shall be nondiscriminatory and established only after an investigation of the costs and benefits of customer-sited generation.” N.C. Gen. Stat. § 62-126.4(b). The statute further provides that the Commission “shall establish net metering rates under all tariff designs that ensure that the net metering retail customer pays its full fixed costs of service.” *Id.* Joint Movants contend that the statutorily mandated investigation has not been conducted.

Joint Movants assert there are several material issues of fact that should be resolved through an evidentiary hearing, including whether Duke’s embedded and marginal cost studies evaluated the benefits of customer-sited generation or rooftop solar; whether the Rate Design Study considered the benefits of rooftop solar; and whether Duke proposed net metering rates for all tariff designs. Joint Movants state that there are also disputes of fact regarding the impact that Duke’s NEM proposal would have on the value of rooftop solar systems, the rooftop solar industry, applicable carbon emission goals, and legacy customers in North Carolina. Joint Movants further state that an evidentiary hearing would allow a meaningful evaluation of the proposed bridge rate included in Stipulation between Duke and the North Carolina Rooftop Solar Installers. Joint Movants recommend that an evidentiary hearing be held after a Commission-led Value of Solar Study or similar investigation of costs and benefits of customer-sited solar generation is completed.

Duke’s Response

In its reply, Duke argues that Joint Movants did not provide the Commission with sufficient grounds for a hearing. Duke asserts that the primary purpose of the Joint Motion is to require another investigation of customer-sited generation — not a hearing. Duke contends that its marginal and embedded cost studies examined a wide range of costs and benefits of customer-sited generation and fulfilled the mandate of House Bill 589. Duke notes that the Public Staff acknowledged this point by stating “the analysis contained within the embedded and marginal cost studies captures the majority, if not all, of the known and verifiable benefits of solar generation.”

Duke further states that its proposal for revised NEM rates reflects input from numerous parties and achieves the mandates handed down by the General Assembly through collaborative efforts of Duke and various stakeholders. Duke argues that it is uncontested that the Rate Design Study accounted for several different interests, and it is uncontested that Duke provided participants with an opportunity to submit feedback and review Duke’s data. Duke asserts that the Company provided data and responded to feedback on NEM topics until there were no questions left, including from the Joint Movants.

Duke contends that once its Joint Application was filed, parties were afforded additional time and opportunity to request information, discuss options, and address any

concerns. Duke states that volumes of informed comments were submitted in this docket that analyze the studies, their inputs, and the information presented during the Rate Design Study and through discovery. Duke also states there are no outstanding discovery requests and notes that the parties had the opportunity to present all relevant arguments to the Commission across three sets of comments. According to Duke, the record is fully developed and ripe for Commission decision. Finally, Duke asserts that the material issues of fact listed in the Joint Motion largely reiterate questions posed by the Joint Movants in prior comments and do not represent bona fide disputes among the parties.

SACE, Vote Solar, and NCSEA's Response

In their response to the Joint Motion for an Evidentiary Hearing, SACE, Vote Solar, and NCSEA (MOU Parties) state the paper record provides the Commission with the information it needs to approve the settlements between Duke, the North Carolina Rooftop Solar Installers, solar energy industry representatives, and environmental advocates. In addition, the MOU Parties point out that they participated in the Comprehensive Rate Review meetings where Duke provided extensive information to stakeholders regarding its analyses of the benefits and costs of net metering and the reasons Duke planned to propose revised NEM rates. The MOU Parties stated that although they have no objection to further study of the benefits and costs of rooftop solar, they remain concerned about the potential for undue delay in this proceeding. In sum, the MOU Parties state they do not require an evidentiary hearing to ensure that their perspectives are heard in this docket and do not support delaying consideration of these matters pending the completion of another study.

Discussion and Conclusions

Joint Movants seek an order from the Commission establishing a hearing on Duke's proposal for revised NEM tariffs. Joint Movants state there are several material issues of fact concerning Duke's proposal. Primary among the issues listed by Joint Movants are (1) whether the statutory requirements to N.C.G.S. § 62-126.4(b) are satisfied by Duke's marginal and embedded cost studies conducted as part of its Comprehensive Rate Design Study and (2) whether the statutory language "under all tariff designs" requires Duke to continue to provide a flat-rate NEM tariff. These are issues of law, and Joint Movants have raised no material issues of fact that require an evidentiary hearing for the Commission to resolve these issues. In addition, the record contains sufficient detail to allow the Commission to decide all contested issues without the need for an evidentiary hearing. While the Commission fully supports the use of evidentiary hearings in situations where warranted, no reasonable basis for convening an evidentiary hearing has been demonstrated in this proceeding. Accordingly, the Joint Motion for an Evidentiary Hearing is denied. The Commission will proceed to decide this matter based upon the written record compiled to date.

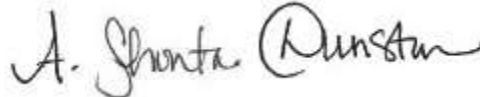
The Presiding Commissioner does, however, find good cause to direct the parties to file proposed orders and any additional legal briefing they may wish to submit before the Commission renders its final decision. Proposed orders and briefs shall be filed on or before Friday, December 2, 2022. Proposed orders and briefs shall include all substantive issues raised in this proceeding, including the issues discussed above.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of November, 2022.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "A. Shonta Dunston". The signature is written in a cursive, flowing style.

A. Shonta Dunston, Chief Clerk