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Ms. Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Joint Final Report of the Low-Income Affordability Collaborative, Docket Nos. E-2, Sub 1219 and E-7, Sub 1214

To the Commission:

We appreciate the opportunity to participate in the Low-Income Affordability Collaborative (LIAC), which allowed for extensive discussions with Duke Energy, the Public Staff, and a wide range of other stakeholders over the last year. These comments on the Joint Final Report of the LIAC are being submitted on behalf of the North Carolina Justice Center, the Sierra Club, and the Southern Environmental Law Center (SELC).

Energy affordability is a key issue that deeply affects the people who are represented by the NC Justice Center, which has in recent years been represented SELC in general rate cases and energy-efficiency and demand-side management dockets. The NC Justice Center and SELC have worked closely with John Howat at the National Consumer Law Center (NCLC), who was also an active participant in the LIAC and provided input on these comments. The NC Justice Center, SELC, and NCLC, along with the many other stakeholders who participated in this process, attended over 50 meetings, developed more than 20 recommendations, and invested considerable effort in the LIAC because energy affordability is an urgent priority for our low-income and low-wealth neighbors across the state.

Because the Commission has indicated that no direct decisions will be made from the LIAC Report itself, we will keep our comments on the one-year process and the Joint Final Report of the LIAC relatively brief. Our main priority is recommending that the Commission act on the recommendations in the Report as soon as possible. This process produced extensive proposals for new programs that, if implemented, will have profound reach. We hope to have the opportunity to provide more extensive comments around these issues in the pending rate cases and program filings. Finally, we also recommend that the Commission take a more active role in leading the next phase of this process.

Comments on Proposals

The yearlong LIAC process provided a forum for developing a detailed understanding of current affordability challenges facing Duke's customers. But it is the program proposals and policy recommendations that should be the focus of attention moving forward. The NC Justice Center along with SELC, the National Consumer Law Center, Southern Alliance for Clean Energy (SACE), Advance Carolina, Appalachian Voices, and a number of additional stakeholders worked to develop or modify over 16 proposals that cover a comprehensive range of topics and priorities (listed in the LIAC Report under the submitter "Al Ripley, Multi-Stakeholder Program Proposals") LIAC Report at 59-77; App. G (PDF at 413-502). These program and policy proposals cover a wide range of issue areas, such as energy-efficiency, bill affordability and arrearage management, rate design, regulatory consumer protections, improved data collection, new billing practices, and enhanced coordination between different agencies. The recommended proposals are designed to provide a comprehensive approach to address many of the specific affordability challenges identified in the LIAC. Each proposal is critical to addressing affordable access to essential utility services.

Energy Efficiency Programs

Expanding the scope and impact of energy efficiency programs (EE programs) is a cornerstone of addressing utility affordability. The data reviewed by the LIAC demonstrated that those customers who are struggling the most to afford essential electric utility service are also using more electricity per square foot than their middle to higher income peers across the board. LIAC Final Report at 11-12; App. C at 32, 34. Similarly, customers who are struggling to stay current on their bills are using more average monthly electricity per month. Id. at 33. Interventions to weatherize or otherwise make such homes more energy efficient are likely to yield significant bill savings for customers who are using significantly higher amounts of electricity per square foot than the average customer. The proposed EE programs were developed to provide a deeper level of energy savings to households that are currently underserved by Duke's existing programs. There was broad support for the wide range of energy efficiency programs and policies recommended by NC Justice Center, SELC, and their fellow LIAC participants.

One underserved customer segment is renters and residents of multifamily buildings. As noted in the LIAC Final Report, "household attributes were also statistically significant at predicting being in arrears and suggest that focusing on renters across all types of homes (i.e., single family and multi-family) could reduce the likelihood of households falling into arrears." Id. at 22.

We proposed two additional programs to address the needs of renters. Proposal 23, "Smart $aver Low Income Multi-Family Retrofit," would provide comprehensive energy efficiency retrofits for income-qualified residents of multifamily buildings, targeting buildings with high energy use or intensity. Another program that can serve renters is Proposal 4, "Residential Electric Resistance Tank Water Heater (ER) and Hybrid Heat Pump Hybrid Water Heater (HHPWH) Rental Program," which will make significant energy saving technology available with no upfront cost. HHPWHs use three times less energy than resistance heat water heaters and thus, can be paid through energy savings over time as a rental or tariff on bill program.

People living in manufactured houses are also underserved by existing utility EE programs. The LIAC Report found that average manufactured homes use substantially more energy per square foot than other housing types. With this information we submitted Proposal 5, "Manufactured Homes EE Retrofit and Replacement." Id. at 62.

For both the multi-family and manufactured homes programs, the NC Justice Center, SELC, and their allies used the data brought to the surface from the LIAC process and identified concrete solutions to the challenges identified. But more data and collaborative effort will be needed to fully develop comprehensive programs to address affordability challenges faced by Duke's customers. The Commission should direct Duke Energy to develop these types of programs in close collaboration with stakeholders. As demonstrated by the filing of the Income Qualified High Energy Use Pilot and Tariffed-On Bill Financing Programs, which were included in a Commission-approved stipulation and partial settlement in the most-recent general rate cases, tangible results are more likely to be achieved when the Commission directs Duke to work with stakeholders on specific program ideas.[1]

The other Energy Efficiency related program recommendations are focused on expanding the reach and effectiveness of existing programs. This includes Proposal 1, "Closing the EE Spending and Savings Gap Between DEP and DEC," and Proposal 7, "Low Income Carve-out from Market EE." LIAC Final Report at 60, 64.

One of the largest barriers to delivering desperately needed weatherization and energy efficiency services to people who need bill-reductions the most are deferrals due to critical health and safety repairs that must be completed first. The Helping Home fund has played an important role in funding health and safety improvements filling in the gaps left by the different government and utility programs. The continuation of the Helping Home fund is critical to the effective operation of the existing Income Qualified Weatherization programs. Proposal 14, "Voluntary Weatherization, Energy Efficiency, Urgent Repair Partnership Forum," captures our recommendation for interagency coordination to implement a suite of energy efficiency and home repair programs effectively and efficiently. This need for coordination is elevated in light of newly available funds for low-income energy efficiency and electrification under the Inflation Reduction Act and Infrastructure Investments and Jobs Act programs. We request that the Commission work to promote this type of interagency coordination to the greatest extent possible.

Two of the proposed programs – Proposal 3, "Income-Qualified High Energy Use," and Proposal 2, "DEP Income-Qualified Weatherization Program," have already been

[1] Order Accepting Stipulations, Granting Partial Rate Increase, and Requiring Customer Notice, Docket No. E-2, Sub 1219 (Apr. 16, 2021); Order Accepting Stipulations, Granting Partial Rate Increase, and Requiring Customer Notice, Docket No. E-7, Sub 1214 (Mar. 31, 2021).

submitted for approval by Duke,[2] which we have supported in other filings to the Commission.[3]

Customer Assistance Program

Another cornerstone of addressing utility affordability is a well-designed bill-payment assistance program. Ratepayer-funded utility bill assistance programs currently operate in at least 26 states.[4] Programs vary widely in funding and benefit levels, eligibility criteria, administrative structures, and number of customers served. Programs range in scope from a modest customer charge discount for Supplemental Security Income or Medicaid participants in Alabama, to comprehensive electric and gas percentage of income payment plan with arrearage management offerings in Ohio funded at over $300 million annually, in which Duke Energy's Ohio affiliate participates.[5]

To help ensure household energy security for low-income residents, a utility affordability programs should meet the following key objectives:

- Serve residential electricity customers who are income-eligible to participate in Low-Income Home Energy Assistance Program (LIHEAP)
- Lower program participants' energy burdens to an affordable level
- Promote regular, timely payment of utility bills by program participants
- Comprehensively address payment problems associated with participants' current and past-due bills
- Be funded through a mechanism that is reliable while providing sufficient resources to both serve all income-eligible customers and to meet policy objectives over an extended timeframe
- Be complimented with energy-efficiency and weatherization services (whether government or utility funded) at no cost to the participant or in a way that otherwise provides immediate and dependable bill savings
- Be administered efficiently and effectively.

Arrearage management is part of a comprehensive bill assistance program design, and was included as Proposal 6 tied in with income-eligible EE programs. To sustain participants' affordability and household energy security, program design must be comprehensive in its approach to dealing with both current bills and arrearage balances. A

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[2] Duke Energy Carolinas, LLC's Proposed Residential Income-Qualified High Energy Use Pilot, NCUC Docket No. E-7 Sub 1272; Duke Energy Progress, LLC's Proposed Residential Income-Qualified Energy Efficiency and Weatherization Program, Docket E-2, Sub 1299.

[3] Comments filed by NC Justice Center, NC Housing Coalition, SACE, NRDC, NCSEA, and SELC in support of High Energy Use Pilot, Docket No. E-7, Sub 1272 (Sep. 9, 2022); Comments filed by NC Justice Center, NC Housing Coalition, SACE, and SELC in support of DEP's proposed Income-Qualified EE and Residential Weatherization Program, Docket No. E-2, Sub 1299 (Jul. 8, 2022).

[4] Colorado, Ohio, and Massachusetts are examples of states that comprehensively provide benefits for low-income utility customers that include reduction of current bills and opportunities to have past due balances reduced through timely payment of current bills over a predetermined number of months. *See* LIHEAP Clearinghouse, "Utility Ratepayer-Funded Programs," https://liheapch.acf.hhs.gov/dereg.htm.

[5] LIHEAP Clearinghouse, "Ohio Ratepayer Funded Programs," https://web.archive.org/web/20210321175035/https://liheapch.acf.hhs.gov/dereg/states/ohsnapshot.htm.

program that is intended to promote regular, timely payments through the reduction of home energy burdens to an affordable level is rendered less effective by a requirement that participants pay off an arrearage in addition to the affordable current bill. Simultaneous payment of pre-existing arrears *and* the discounted electric bill therefore runs counter to the policy objectives of promoting affordable, regular, timely payments by program participants. We therefore recommend that in docket proceedings pertaining, at least in part, to bill assistance program design, the Commission review the extent to which arrearage management is incorporated and approve designs which provide low-income households with the opportunity to affordably retire past-due balances while staying current on affordable monthly bills.

In developing LIAC proposals to deliver effective bill assistance to enhance affordability for Duke's low-income residential customers, NC Justice Center, SELC, and NCLC endeavored to apply and adhere to these principles. LIAC Final Report, App. G at 85. We note that there was broad support among stakeholders for comprehensive bill assistance program design and funding. We respectfully urge the Commission to be guided by these principles as evaluative criteria when evaluating bill-assistance programs and to adopt new programs that are consistent with these best practices.

Proposal 24 – Joint Customer Affordability Program

Proposal 24, "Customer Affordability Program (CAP)," is the combination of Proposal 9 from stakeholders and 22 from Duke and represents the most comprehensive of the LIAC proposals. LIAC Final Report, App. G, LIAC Proposals at 85. Duke, the NC Justice Center, NCLC, and SELC had several meetings and reached a fair and mutually agreed upon CAP proposal. The final proposal is grounded in the principles cited above: it is geared to achieving a 5% or lower energy burden; it makes use of income and discount tiers; and it includes arrearage management. A payment assistance program that lacks these key features will fall short of achieving the level of assistance that will help to guarantee electric bill affordability for the most disadvantaged households in Duke's service territory. Proposal 24 was ultimately supported by most stakeholder groups in the LIAC.

The following elements of the CAP Program (Proposal No. 24) are necessary to fulfill its purpose of making essential utility service affordable:

- Make use of three income-based discount tiers so those with the lowest incomes receive the highest discount
- Eligibility to people who qualify for CIP/LIHEAP and not just to those customers who already receive assistance
- Index the bill credit to an amount that would reduce electricity expenditure to 5% of average annual income (aka a 5% electricity burden).
- Include an arrearage management program that would provide assistance to people entering the CAP who have existing arrearages.

We recognize that DHHS is not currently recording income levels for participants in the CIP or LIEAP program in a way that would allow for an administratively efficient tiered discount program. But the data sharing between DHHS and Duke to facilitate the disconnection moratorium demonstrates a high level of coordination between the utility and the state agency. Efforts are underway to have DHHS acquire the data that would be needed to facilitate a tiered discount. From our work with the National Consumer Law Center, it is our understanding that in other states, sufficiently granular customer income data has been gathered without additional administrative burdens, which has allowed for these more targeted tiered discounts. The Commission should require a targeted benefit that is best positioned to serve customers to the greatest extent possible and make ratepayer funds most effectively reach those who are in most need.

Minimum Bill Pilot Program

In addition to the CAP Program, we supported Proposal 13, "Minimum Bill Pilot Program," which would involve a minimum bill as a substitute for fixed monthly charges for income-qualified customers who are otherwise participating in a Duke bill-payment assistance program (such as CAP) or an eligible energy efficiency program. The Commission itself requested that the LIAC consider such an alternative rate design in the rate case Order that established the LIAC. By converting the current basic customer or facilities charge of $14 per month into a component of participating customers' volumetric charge, the value of any energy efficiency interventions would increase. By retaining the minimum bill at $14 per month, there would be no corresponding risk to the utility of under-recovering from customers who, for whatever reason, did not consume enough electricity to reach the minimum bill threshold. In addition, this adjustment to participating customers' rate design would generally lower the overall bill for customers that use less than about 1,100 kWh per month. While the Companies indicate that they do not support this proposal, they have not offered an alternative that is responsive to the Commission's request for a rate design that takes advantage of a minimum bill as a substitute for fixed monthly charges. LIAC Final Report at 80.

Data Collection and Reporting

As an initial matter, NC Justice Center and SELC appreciate the Commission's strides to improve the regular collection and reporting of key indicators of energy affordability and insecurity in the monthly disconnection reports. *See* Order Modifying Mandatory Public Utility Reporting on Delinquencies in Payments and Disconnections of Service, Docket No. M-100, Sub 61A, et al. (Aug. 16, 2022). Many of these data points overlap with the recommendations that we made in Proposal 12 for enhanced credit and collections data reporting, but lack the geographic component that is included in that proposal.

For the LIAC, Duke relied on a third-party commercial vendor, Acxiom, to provide demographic and housing data. LIAC Final Report at 7-8; App. C. While we appreciate the steps that the Companies took to validate the Acxiom data, because it is a commercial database, it is not clear whether there are gaps in the data. For example, Acxiom provides demographic data on the account holder only, but leaves out the rest of the household. Id., App. C at 6. Going forward, the NC Justice Center and SELC ask that the Commission require that the Companies incorporate geographic data into their regular reporting on customers experiencing bill payment challenges in the M-100, Sub 61A docket. With such geographic data, the Companies and advocates could each overlay publicly available census data to perform additional demographic analyses.

The sharing of aggregated data is essential to gain a clear, data-driven understanding of the number of households that lose access to home energy services and otherwise struggle with utility affordability and security. Such data will provide the Companies and advocates with a meaningful opportunity to better design and evaluate the effectiveness of programs and services to low-income residential customers. Such data may reveal geographical areas where a significant number of households are experiencing bill-affordability challenges or that are more energy intensive than average, indicating that utility energy efficiency interventions may be appropriate. In addition, the ability to overlay demographic census data would allow the Companies and advocates to determine whether there are any disproportionate utility affordability or insecurity metrics by race or ethnicity.

Reporting key affordability metrics by nine-digit zip code would not violate the code of conduct because it would consist of aggregated, anonymous data and would be authorized for release by the Commission. In addition, to further allay confidentiality concerns, a provision can be made to shield the release of any data in the event that there are too few households in any given nine-digit zip code to assure that no household could be individually identifiable.

<u>Income Eligibility</u>

In the LIAC Final Report, the Companies and Public staff recommended that the Commission consider customers who are at or below 200% of the federal poverty guidelines for purposes of eligibility for participation in programs to address affordability. LIAC Final Report at 49, 84-85. This recommendation is consistent with the collaborative assessment of affordability challenges considered by the collaborative over the course of LIAC process, which found that much work remains to be done to reach the approximately 900,000 households that are at or below 200% of the federal poverty level. <u>Id</u>. at 10. We agree with this recommendation. The Commission should note, however, that this recommendation is at odds with a proposal made by the Companies in its Carbon Plan proposal a to increase eligibility for income-qualified EE programs to 300% of the federal poverty level. Carolinas Carbon Plan, App. G, Grid Edge and Customer Programs at 9-10, Docket No. E-100, Sub 179 (May 16, 2022). It would be appropriate for the Commission to affirm the recommendation made by the Companies and the Public Staff in the LIAC Final Report and reject any moves by the Companies to expand the eligibility of low-income customers for energy efficiency programs at this time.

Conclusion and Next Steps

We appreciate the Commission's interest in and engagement with low-income electric utility affordability. We likewise appreciate the willingness of Duke Energy to engage with the Public Staff and other stakeholders on energy burdens and the utility affordability challenges for its low-income customers in North Carolina. There has been a welcome shift in the Companies' approach to these issues since the 2017 general rate cases even as much work remains to be done to implement tangible programs and policy changes that will help to alleviate persistent energy burdens and energy insecurity faced by our poorest neighbors.

As part of moving past the first phase of the LIAC process of discussion and research, we recommend that the Commission take a more active role in the next phase of this process. Ideally, the Commission could identify someone on its own staff to track key indicators of affordability and energy insecurity, lead ongoing stakeholder discussions, and help to foster the development of additional policy or program proposals. This would involve the Commission acting not in its quasi-judicial capacity, but in its legislative function to help shape the NCUC's policy moving forward. Instead of Duke hiring another consulting firm to continue a facilitated discussion of low-income issues generally, a Commission-lead effort would extend to consideration of other rate regulated water, gas, and electric utilities. In addition, we anticipate that a Commission-lead affordability initiative would help to keep focus on solutions-oriented steps for addressing affordability challenges.

In whichever way the Commission decides to move forward, the NC Justice Center, in partnership with SELC and the National Consumer Law Center, remain committed to working with the Companies, the Public Staff, and our partners and key stakeholders on addressing electric utility affordability issues. Thank you for considering these comments as the Commission works to advance the recommendations in the LIAC Final Report.

Sincerely,

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Southern Environmental Law Center