

July 22, 2009

FILED

JUL 22 2009

Clerk's Office
N.C. Utilities CommissionBY MESSENGER

Ms. Renne Vance
Chief Clerk
North Carolina Utilities Commission
Dobbs Building
Raleigh, North Carolina

OFFICIAL COPY

Re: Docket Nos. E-7, Sub 831

Dear Ms. Vance:

We enclose for filing the original and 30 copies of Air Products and Chemicals, Inc.'s Motion for Order Requesting Comments and, if deemed necessary, Scheduling Oral Argument.

Please let us know if you have any questions.

Sincerely,

BAILEY & DIXON, L.L.P.



Adam Olls

AO/pay

Enclosures

cc: Parties of Record

#217559.2

clerk
AG
7/comm
Bennin
Kirby
Watson
Hooover
Wite
Hilburn
Jones
Sessoms
Ericson

Gubel
2 PSeco
3 PS legal
3 PS ACCTs
4 Pselect

FILED

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

JUL 22 2009

DOCKET NO. E-7, SUB 831

Clerk's Office
N.C. Utilities Commission

In the Matter of)
)
Application of Duke Energy Carolinas, LLC)
for Approval of Save-a-Watt Approach,)
Energy Efficiency Rider and Portfolio of)
Energy Efficiency Programs)

OFFICIAL COPY
MOTION FOR ORDER
REQUESTING COMMENTS AND,
IF DEEMED NECESSARY,
SCHEDULING ORAL
ARGUMENT

Intervenor Air Products and Chemicals, Inc. ("Air Products") respectfully moves for the issuance of an order requesting comments on Air Products' Petition to Reconsider ("Petition") of the Order issued on February 26, 2009 in this docket ("2/26/09 Order") and, if deemed necessary, scheduling oral argument for the same time as further hearings in this docket.

SUMMARY

Air Products filed the Petition on March 20, 2009 requesting that the Commission, pursuant to G.S. § 62-80, reconsider its 2/26/09 Order to the extent that it failed to require Duke Energy Carolinas, LLC ("Duke") (1) to open its Rider IS to additional participation ("Participation Issue"), and (2) to update the capacity credit offered to Rider IS participants ("Credit Issue"). As of the date of this Motion, neither an order ruling on the Petition nor an order requesting comments has been issued. The issues raised by the Petition are ripe for determination except for an opportunity for other parties to be heard.

PROCEDURAL HISTORY

As noted above, the Petition requested that the Commission reconsider its 2/26/09 Order on the Participation and Credit Issues. Succinctly stated, Duke admitted its need for additional interruptible capacity throughout the course of these proceedings and proposed obtaining this capacity in large part through the migration of industrial customers over to its new Power Share program. Although the 2/26/09 Order approved the Power Share program, it also noted, however, that industrial customers do not wish to participate in Power Share and, accordingly, did not require existing Rider IS customers to switch to Power Share. Thus, Duke's professed need for additional interruptible capacity remains largely unmet, yet largely unattainable because the 2/26/09 Order did not require Duke to open up Rider IS to additional participation (despite having over 800 MW in additional authorized interruptible capacity available). For these reasons, Air Products petitioned the Commission to reconsider its ruling to the extent it did not require Duke to allow additional participation in Rider IS up to its approved capacity of 1,100 MW.

The Petition also requested reconsideration of the Credit Issue. The Petition notes that testimony was presented showing that the capacity credit offered to Rider IS participants has remained unchanged since it was calculated in 1991. The testimony further showed that, using essentially the same formula as used in 1991 with inputs that reflect current economic conditions, the capacity credit should be adjusted to \$5.65 per KW (as opposed to its "current" level of \$3.50 per KW, again as determined almost two decades ago). Despite this competent evidence in the record, Air Products contends that 2/26/09 Order failed to provide sufficient findings and conclusions and the reasons or

bases therefor in support of its determination that the capacity credit should remain at its current levels. *See* Petition, attached hereto and made a part hereof as Appendix “A”.

The Petition came on the heels of what has been a long and concerted effort to raise these issues for the Commission’s consideration throughout the course of several proceedings in multiple and, at times, overlapping dockets. Duke filed this case over two years ago (the “SAW proposal”); by order of the Commission dated August 2, 2007, this case was consolidated with Duke’s pending general rate case docket, Docket No. E-7, Subs 828, 829, 112, 795 (“Rate Case Docket”). Although this case was later bifurcated from the Rate Case Docket, several issues arising from the SAW proposal, including the extent to which existing EE programs should be altered, terminated or modified, were retained in the Rate Case Docket. *Order Bifurcating Proceedings*, Docket No. E-7, Subs 828, 829, 112, 831, August 31, 2007, at 7. Accordingly, Duke and CIGFUR¹ both offered testimony on the retention and modification of Rider IS in the Rate Case Docket. By order issued on December 21, 2007 (“Rate Case Order”), the Commission continued Rider IS in its present form but deferred consideration of Duke’s request for discontinuation of Rider IS and other changes to existing EE programs back to this docket. And as set forth more fully in the Petition, Air Products, CIGFUR and Duke again continued to present evidence concerning both the Participation and Credit Issues in this docket. *See* Petition pp. 2-3.

Although there has been no direct responses to the Petition, Duke, expressly because of its pendency, has elected not to include DSM program costs in Rider EE which has been implemented subject to refund as authorized by the 2/26/09 Order. *See* Transmittal Letter from Robert W. Kaylor, *Duke’s Notice to Customer of Changes in*

¹ CIGFUR as used herein refers to Intervenor Carolina Industrial Group for Fair Utility Rates III.

Rates, May 1, 2009, (“Because of the pending Petition for Reconsideration filed by Air Products and Chemicals, Inc. concerning Rider IS, [Duke] has elected to put Rider EE into effect, subject to refund, for conservation programs only.”), attached hereto and made a part hereof as Appendix “B”.

The 2/26/09 Order did not resolve all issues; Duke was required to file additional information on certain “unsettled matters.” Following the filing of the additional information, Duke, the Public Staff and the Environmental Intervenors² filed an Agreement and Joint Stipulation of Settlement (“Settlement”) on June 6, 2009. Further hearings to consider the Settlement are currently scheduled to begin on August 19, 2009.

REASONS WHY MOTION SHOULD BE ALLOWED

The issues raised by Air Products in the Petition are ripe for determination; the Petition must be ruled upon before this docket can be closed.

Other parties should be afforded to opportunity to comment before ruling on the Petition. These other parties may not have filed comments responsive to the Petition because the Commission has thus far not requested comment as it frequently does before deciding motions for reconsideration such as the Petition. For these reasons, Air Products submits the Commission should issue an order requesting comments on its pending Petition.

Further, to the extent the Commission deems oral argument necessary to decide the merits of the Petition, Air Products respectfully suggests that, for sake of judicial economy, the Commission schedule any arguments to be heard on this matter at the same time as it hears arguments and testimony concerning the Settlement.

² The members of the Environmental Intervenors are Southern Alliance for Clean Energy, Environmental Defense Fund, Natural Resources Defense Council and the Southern Environmental Law Center.

CONCLUSION

For all of these reasons, Air Products respectfully asks the Commission to enter an Order requesting comments on its pending Petition and, if deemed necessary, schedule oral argument at the same time the Commission is set to hear arguments and evidence relating to the Settlement.

Respectfully submitted, this the 22nd day of July, 2009.

BAILEY & DIXON, L.L.P.

By: _____

Ralph McDonald

Adam N. Olls

Attorneys for Air Products and Chemicals, Inc.

Post Office Box 1351

Raleigh, North Carolina 27602

(919) 828-0731

CERTIFICATE OF SERVICE

The undersigned attorney for Air Products and Chemicals, Inc. certifies that the foregoing Motion was served upon the parties of record in this proceeding by electronic mail.

This the 22nd day of July, 2009.

A handwritten signature in black ink, appearing to read 'Adam N. Olls', written over a horizontal line.

Adam N. Olls

#226007

BAILEY  DIXON

Ralph McDonald

rmcdonald@bdixon.com

March 20, 2009

FILED**MAR 20 2009**Clerk's Office
N.C. Utilities CommissionBY MESSENGER

Ms. Renne Vance
 Chief Clerk
 North Carolina Utilities Commission
 Dobbs Building
 Raleigh, North Carolina

OFFICIAL COPY

Re: Docket No. E-7, Sub 831

Dear Ms. Vance:

We enclose for filing the original and 30 copies of Air Products and Chemicals, Inc.'s
 Petition to Reconsider.

Please let us know if you have any questions.

Sincerely,

BAILEY & DIXON, L.L.P.


 Ralph McDonald

RMCD:pay

Enclosures

cc: Parties of Record

223223

Cleru

AG

NComm

Benning

Wirby

Watson

Hoover

Wite

Hilburn

Jones

Sessoms

Ericson

Gruber

2 PSeco

3 PS legal

3 PS ACCT

4 Pselet

Tel 919 828 0731

Fax 919 828 6592

Post Office Box 1351

Raleigh, NC 27602

www.bdixon.com

BAILEY & DIXON, LLP
Attorneys at Law

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, SUB 831

FILED

MAR 20 2009

Clerk's Office
N.C. Utilities Commission

In the Matter of)
)
Application of Duke Energy Carolinas, LLC)
for Approval of Save-a-Watt Approach,)
Energy Efficiency Rider and Portfolio of)
Energy Efficiency Programs)

PETITION TO
RECONSIDER

OFFICIAL COPY

Intervenor Air Products and Chemicals, Inc. ("Air Products") respectfully petitions the Commission pursuant to N.C. Gen. Stat. § 62-80 to reconsider its order issued February 26, 2009 in this docket (the "Order") to the extent that the order fails to find and conclude that: (1) Duke Energy Carolinas, LLC ("Duke") should be required to open its rate schedule, Rider IS (NC), Interruptible Power Service ("Rider IS"), to additional participation up to and including its approved limit of 1,100 MW ("Participation Issue"); and (2) Duke should be required to modify the capacity credit offered to Rider IS subscribers consistent with current economic conditions ("Credit Issue").

SUMMARY

There is competent, material and substantial evidence in the record to support decisions to require Duke to (1) open Rider IS to additional participation; and (2) update the capacity credit offered to Rider IS participants. The Order, however, does not do either. The Order merely finds that current Rider IS customers should be allowed to continue to participate at "current contract levels," Order, pp. 10 (FOF # 42), 32, thereby implicitly deciding that participation should not be opened and the credit should not be

updated without stating the rationale in sufficient detail for the court to review on appeal. Without explicitly deciding the Participation and Credit Issues, the Order focuses on the issue of whether Duke's proposed Power Share program is "new" or not for purposes of N.C. Gen. Stat. § 62-133.9. *See* Order, p. 31.

Although both the Participation and Credit Issues are material and presented in the record, the Order does not include adequate findings, conclusions and reasons for the Commission's decisions on either. Through the course of these proceedings, Air Products and CIGFUR¹ diligently sought to raise and present these issues for the Commission's consideration.

Duke filed this case—its Save-a-Watt ("SAW") proposal—on May 7, 2007. By order of August 2, 2007, this case was consolidated with Duke's pending general rate case docket, Docket No. E-7, Subs 828, 829, 112, 795 ("Rate Case Docket"). After enactment of Session Law 2007-367 (SB 3), this case was bifurcated from the Rate Case Docket. *Order Bifurcating Proceedings*, Docket No. E-7, Subs 828, 829, 112, 831, August 31, 2007. Several issues arising from the SAW proposal, including the extent to which existing EE programs should be altered, terminated or modified pending consideration of SAW, however, were retained in the Rate Case Docket. *Id.* at 7.

Accordingly, both CIGFUR² and Duke presented testimony concerning the retention and modification of Rider IS in the Rate Case Docket.³ The December 20, 2007 *Order Approving Stipulation and Deciding Non-Settled Issues* ("Rate Case Order") continued Rider IS in its present form but deferred consideration of Duke's request to

¹ CIGFUR refers to Intervenor Carolina Industrial Group for Fair Utility Rates III.

² Air Products was a member of CIGFUR during the Rate Case Docket.

³ Specifically, testimony was presented by CIGFUR witness Nicholas Phillips, Jr. and Duke witnesses Jeffrey E. Bailey and James R. Rogers.

discontinue the Rider and appropriate changes, if any, to existing EE programs back to this docket. Rate Case Order, pp. 15–16, 58–59.

Again in this docket, Air Products, CIGFUR and Duke presented evidence pertaining to the Participation and Credit Issues. More specifically, Air Products witness James Butz presented testimony that Duke has recently refused to allow an additional 8 MW of load to be served on Rider IS, despite declining participation in Rider IS. (Butz: Prefiled Direct, pp. 2–3).⁴ CIGFUR witness Nicholas Phillips, Jr. testified that Duke should allow additional participation on Rider IS to take advantage of over 800 MW in unutilized interruptible capacity. (Phillips: Vol. 8, Part 1, pp. 43–46). Moreover, witness Phillips explained that the capacity credit is based on outdated figures and should be recalculated to reflect current economic conditions. *Id.* Duke presented evidence in opposition to both proposals regarding the Participation and Credit Issues. (Schultz: Vol. 3, pp. 61–63, 78–79; Hager: Vol. 7, Part 2, pp. 301–304).

Accordingly, as set forth more fully below, Air Products requests that the Commission reconsider its decision as to the Participation and Credit Issues. Air Products also respectfully submits that these two narrow and discrete issues have yet to be sufficiently addressed consistent with the mandate of N.C. Gen. Stat. § 62-79.

ARGUMENT

1. The record supports opening Rider IS to additional MW.

The Order, without providing “the reasons and bases therefor” as required by N.C. Gen. Stat. § 62-79, determines that Duke will not be required to open Rider IS to additional participation.

⁴ Although the prefiled testimony of Air Products' witness Butz was received into the record by stipulation, his testimony was not in the transcript at the time of this writing. Consequently, citations are made to pages of his prefiled testimony.

Specifically, the Order provides, in relevant part:

New customers, however, as well as additional contract volumes from current Rider IS and Rider SG customers, will only be eligible to participate in PowerShare. In preserving this option for existing customers, the Commission will not require Duke to reopen current Rider IS to additional MW of participation.

Order, p. 32.

Throughout this docket, explicitly and implicitly, Duke admits the need for additional interruptible capacity. Duke has additional authorized capacity—over 800 MW—available through Rider IS. Notwithstanding this existing and largely untapped source of interruptible capacity growth, Duke would rather that any new interruptible capacity come from its Power Share program. Indeed, the vast majority of Duke's projected interruptible capacity "growth" through its SAW proposal consists of existing DSM programs (*i.e.*, Rider IS and Rider SG) Duke proposed to "migrate" over to Power Share. As the Commission recognized, however, Rider IS customers do not want to participate in Power Share. *Id.* ("Yet, existing industrial customers, such as those represented by CIGFUR and CUCA, the type of customers that PowerShare is meant to help do not seem to want it – at least not in the form proposed by Duke.").

The Commission decided against requiring Rider IS customers to switch to Power Share. *Id.* As a result, the bulk of Duke's projected interruptible capacity additions will not come to fruition through Power Share. Nevertheless, Duke's need for additional interruptible capacity remains. This additional capacity or some portion of it may be available through Rider IS.

The Order is inconsistent in this regard. While recognizing Duke's need for additional interruptible capacity, the Order, without explanation, decrees that the only

practical remaining mechanism currently in place for additional interruptible capacity—Rider IS—may not be utilized beyond its current levels, leaving over 800 MW in potential interruptible capacity unrealized.

To the extent Duke complains that Rider IS is currently underutilized, *see id.* at 31, it has only itself to blame, as Duke unilaterally closed the rider in 1991 to additional participation and has refused to reopen it since. *Id.* at 29. Moreover, Duke acknowledged the current “unmet demand for Rider IS.” *Id.* at 31. It had no choice but to concede this point, of course, given the unrebutted evidence that Duke has recently refused (and continues to refuse) to allow Air Products to increase its load by 8 MW under Rider IS. *Id.* at 29; Butz: Prefiled Direct, pp. 2–3.

The effect of this inconsistency, in fact, is well illustrated by considering the situation facing Air Products. Based on the evidence in the record, Air Products is the only existing Rider IS customer seeking to add interruptible load on the rider based on newly expanded facilities. As noted above, however, Duke refuses to accept this additional load on the rider. Moreover, for the reasons stated in the Order, Air Products does not desire to submit to the all-or-nothing Power Share program to achieve an interruptible credit for this additional 8 MW. *See* Order, pp. 28–29. Unless Duke is required to open Rider IS to additional MW, there is no practical way that Air Products can offer this additional interruptible load to Duke without losing its ability to opt out of participation in “new” DSM and energy efficiency programs. *See* N.C. Gen. Stat. § 62-133.9(f); Order, p. 28.⁶

⁶ Additionally it is unclear at this time how Duke would administer two interruptible schedules to one integrated load at one facility. This would, at best, present difficult technical issues for both Duke and the customer.

In light of the Commission's ruling disallowing Duke from forcing Rider IS customers onto its Power Share program, and the evidence presented before the Commission, it is apparent that Duke has a pressing need for additional interruptible capacity and no practical means of attaining it. Further, because the lion's share of that capacity will not come through Power Share, the only remaining feasible option is to open up Rider IS to its full approved capacity of 1,100 MW. Accordingly, Air Products respectfully requests that the Commission reconsider its ruling on this issue.

Alternatively, if the Commission declines to reopen Rider IS to new customers, Air Products requests that existing participants be allowed to increase their interruptible loads at existing and expanded facilities to preserve their opt-out options and avoid the complexity for both the customer and Duke of operating one facility subject to two different interruptible rates.

2. The record supports modifying the Rider IS capacity credit to reflect current economic conditions.

In this case, as well as in the Rate Case Docket, Air Products and CIGFUR contended that the capacity credit offered to Rider IS participants should be increased to reflect current economic conditions. Duke presented testimony in opposition to this proposal in both cases. The Order, however, does not contain findings or conclusions on whether the credit should be modified other than a determination that current participants may continue under Rider IS "at their current contract levels." This determination—without sufficient findings or conclusions, without the reasons or bases therefor—does not appear to comply with N.C. Gen. Stat. § 62-79. *See Order*, p. 32.

Rider IS has not been reviewed since Duke's 1991 rate case approximately eighteen years ago. (Phillips: Vol. 8, Part 1, p. 25). The current monthly credit provided under Rider IS as determined in 1991 using the "equivalent peaker approach" is only \$3.50 per KW of effective interruptible demand. *Order Approving Revisions*, Docket No. E-7, Sub 446, January 31, 1989 ("1989 Order"); Rider IS, Section 4. Not surprisingly, approaching two decades later, the "equivalent peaker approach" yields a higher credit using current costs, consistent with general economic trends. Specifically, using essentially the same formula as the 1989 Order and based on Duke's supplied data and avoided cost filing reflecting an installed cost for a peaker of about \$600 per KW, CIGFUR witness Phillips testified that the credit should now be \$5.625 per KW. (Phillips: Vol. 8, Part 1, pp. 42-43). Alternatively, using Duke's sister company's numbers for the cost of a combustion turbine as represented to the Indiana Commission in February of 2008, Mr. Phillips determined the credit at a level of \$5.65 per KW is appropriate under the same "equivalent peaker approach." (Hager Cross Exhibit 1, Official Exhibits 7-29-08, Vol. 8, p. 37).

Duke musters in rebuttal the argument that "given the purported unmet demand for Rider IS at its current incentive value, it does not appear necessary to increase participant incentives to attract more participation." *Order*, p. 31. First, this argument mistakenly assumes a fluid market for interruptible power with perfect competition. This assumption is baseless; Duke is a monopoly. That the current credit capacity level provides sufficient marginal benefit to forestall Rider IS participants from purchasing firm capacity instead of interruptible capacity does not mean (or even suggest) that the current credit represents a matching economic trade-off. Further, based on the evidence

in the record, Air Products is the only customer currently seeking additional participation on Rider IS. If the credit is adjusted to reflect economic realities, however, it is certainly conceivable that additional customers will offer new or additional interruptible load under Rider IS. This fundamental tenet of basic economics is precisely why Duke's rates are regulated. More importantly, Duke's own proposed alternative—Power Share—proposes to pay participants more (through an energy credit in addition to the capacity credit) than the current Rider IS credit of only \$3.50 per KW, implicitly acknowledging the insufficiency of the current capacity credit. Rider PS; Rate, 2. Energy Credit.

The Order, however, does not explicitly resolve this issue. At most, the Order implicitly denies Air Products' request to calibrate economically the capacity credit. Accordingly, Air Products requests that the Commission reconsider the Order to the extent that it determines the credit should not be adjusted. To the extent that "at current contract level" represents a determination, Air Products requests that the Commission set forth sufficient findings and conclusions and the reasons or bases therefor in support of this determination.

CONCLUSION

The bulk of the Order pertaining to Power Share grapples with whether Duke's proposed program is "new" for purposes of N.C. Gen. Stat. § 62-133.9. See Order, p. 31 ("The Commission notes again, that the main issue with PowerShare is its newness, or lack thereof."). Absent from the Order's analysis, however, is any consideration of whether Duke should be required to allow additional participation under Rider IS up to its approved limit. This absence is especially notable given that the Order recognizes Duke's need for additional interruptible capacity, notes that Duke planned to


meet the vast majority of this additional interruptible capacity by switching Rider IS customers to Power Share, and then rules that current Rider IS participants should not be required to migrate to Power Share. This begs the question: how will Duke achieve its purported need for additional interruptible capacity in light of the Commission's ruling? Air Products therefore requests that the Commission reconsider the portion of its Order wherein it refused to require Duke to open Rider IS to additional participation. At a minimum, Air Products requests that existing participants be allowed to increase their interruptible loads at existing and expanded facilities to preserve their statutory opt-out options and avoid the complexity for both the customer and Duke of operating one facility subject to two different interruptible rates. To the extent the Commission declines to order Duke to allow additional Rider IS participation, Air Products respectfully requests that the Commission provide reasons and bases in the support of its decision sufficient to allow meaningful appellate review.

Similarly, Air Products understands that the Order did not grant its request that the Commission recalibrate the capacity credit for Rider IS customers to reflect current economic conditions. Based on the substantial increase in the cost of a combustion turbine peaking unit, however, the "equivalent peaker approach" formula that led to an interruptible credit of \$3.50 per KW in 1991 now yields a credit of at least \$5.625 per KW and therefore the credit should be adjusted to reflect current costs. The implicit decision to leave the capacity credit at the 1991 level is a determination of a material issue without adequate findings and conclusions and reasons and bases therefor, thus preventing the appellate court from engaging in meaningful review in accordance with N.C. Gen. Stat. § 62-79. *See State ex rel. Utilities Com'n v. Carolina Utility Customers*

Ass'n, Inc., 348 N.C. 452, 461, 500 S.E.2d 693, 700 (1998) ("The purpose of the required detail as to findings, conclusions and reasons as mandated by [N.C. Gen. Stat. § 62-79(a)] is to provide the appellate court with sufficient information with which to determine under the scope of review the questions at issue in the proceedings.").

Respectfully submitted, this the 20th day of March, 2009.

BAILEY & DIXON, L.L.P.

By: 

Ralph McDonald

Adam N. Olls

Attorneys for Air Products

Post Office Box 1351

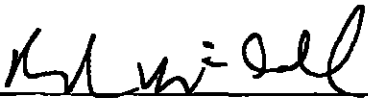
Raleigh, North Carolina 27602

(919) 828-0731

CERTIFICATE OF SERVICE

The undersigned attorney for Air Products certifies that the foregoing Brief was served upon the parties of record in this proceeding by electronic mail.

This the 20th day of March, 2009.



Ralph McDonald

#222953

LAW OFFICE OF
ROBERT W. KAYLOR, P.A.
3700 GLENWOOD AVENUE, SUITE 330
RALPH, NORTH CAROLINA 27612
(919) 826-5250
FACSIMILE (919) 826-5240

OFFICIAL COPY

FILED

MAY 01 2009

**Clerk's Office
N.C. Utilities Commission**

May 1, 2009

**Ms. Renne C. Vance, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325**

RE: Docket No. E-7, Sub 831
Application of Duke Energy Carolinas, LLC for Approval of Save-a-Watt
Approach, Energy Efficiency Rider and Portfolio of Energy Efficiency Programs

Dear Ms. Vance:

Pursuant to the Commission's order issued February 26, 2009 in the above-referenced docket, Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or the "Company") and the Public Staff have developed the attached proposed Notice to Customers. Because of the pending Petition for Reconsideration filed by Air Products and Chemicals, Inc. concerning Rider IS, the Company has elected to put Rider EE into effect, subject to refund, for conservation programs only. Duke Energy Carolinas will true-up the interim rider charges to the compensation mechanism and rider ultimately approved by the Commission in this docket. The Company intends to implement its approved conservation programs and Rider EE effective June 1, 2009.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Robert W. Kaylor

Enclosure

cc: w/enclosure
Parties of Record

(44)
ak
7 Ann.
Black
Hilly
water
flood
Hills
Lit
Green
Jones
Grub
Fryal
Aug 3
After
Elev. 2