

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-7, SUB 831

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Duke Energy Carolinas, LLC,) ORDER ADOPTING "DECISION
For Approval of Save-a-Watt Approach,) TREE" TO DETERMINE
Energy Efficiency Rider and Portfolio of) "FOUND REVENUES" AND
Energy Efficiency Programs) REQUIRING REPORTING IN
) DSM/EE COST RECOVERY
) FILINGS

BEFORE: Chairman Edward S. Finley, Jr., Presiding; and Commissioner Lorinzo L. Joyner and Commissioner William T. Culpepper, III

BY THE COMMISSION: On June 12, 2009, Duke Energy Carolinas, LLC (Duke or the Company), the Environmental Defense Fund, the Natural Resources Defense Council, the Southern Alliance for Clean Energy, the Southern Environmental Law Center, and the Public Staff – North Carolina Utilities Commission (the Public Staff) filed an Agreement and Joint Stipulation of Settlement (Settlement Agreement) in this docket.

On February 9, 2010, the Commission issued its Order Approving Settlement Agreement and Joint Stipulation of Settlement Subject to Certain Commission-Required Modifications and Decisions on Contested Issues (the Save-a-Watt Order). Paragraph G.1. of the Settlement Agreement, as modified by the Commission in its Save-a-Watt Order, provides:

1. Net lost revenues mean revenue losses, net of marginal costs avoided at the time of the lost kilowatt-hour sale(s), incurred by the Company's public utility operation as the result of a new energy efficiency measure. Net lost revenues shall also be net of any increases in revenues resulting from any activity by the Company's public utility operations that cause a customer to increase demand or energy consumption, whether or not that activity has been approved pursuant to R8-68. Programs or measures with the primary purpose of promoting general awareness and education of energy efficiency as well as research and development activities are ineligible for the recovery of net lost revenues. Pilot programs or measures are also ineligible for the recovery of net lost revenues, unless the Commission approves the Company's specific request that a pilot program or measure be eligible for the recovery of net lost revenues when the Company seeks approval of that

pilot program or measure. Utility activities shall be closely monitored by the Company to determine if they are causing a customer to increase demand or consumption, and the Company shall identify and keep track of all of its activities that cause customers to increase demand or consumption, whether or not those activities are associated with demand-side management or energy efficiency programs, as provided in the Settlement Agreement, so that they may be evaluated by the parties and the Commission for possible confirmation as “found revenues”. When authorized by Commission Rule R8-69, and unless the Commission determines otherwise in a G.S. 62-133.9 DSM/EE rider proceeding, net lost revenues shall be recovered for 36 months for each vintage year, except that the recovery of net lost revenues will end upon Commission approval of (1) an alternative recovery mechanism, or (2) the implementation of new rates in a general rate case or comparable proceeding to the extent that rates set in a rate case or comparable proceeding are set to explicitly or implicitly recover those net lost revenues.

In addition, Commission Rule R8-68(b)(5) provides:

(5) “Net lost revenues” means the revenue losses, net of marginal costs avoided at the time of the lost kilowatt-hour sale(s), or in the case of purchased power, in the applicable billing period, incurred by the electric public utility as the result of a new demand-side management or energy efficiency measure. Net lost revenues shall also be net of any increases in revenues resulting from any activity by the electric public utility that causes a customer to increase demand or energy consumption, whether or not that activity has been approved pursuant to this Rule R8-68.

And, finally, Ordering Paragraph No. 4 of the Save-a-Watt Order provides:

4. That Duke and the Public Staff shall be, and hereby are, requested to work cooperatively to develop practices and procedures which will ensure, to the maximum extent possible, that the Company is able to identify and keep track of all its activities that cause customers to increase demand or consumption, whether or not those activities are associated with demand-side management or energy efficiency programs, so that they may be evaluated by the parties and the Commission for possible confirmation as “found revenues;”

On March 10, 2010, Duke filed a motion for clarification and reconsideration of certain provisions of the Save-a-Watt Order regarding the Commission’s modifications to Paragraph G.1., Net Lost Revenues.

On July 7, 2010, the Commission issued its Order Denying Motion for Clarification and Reconsideration (the Reconsideration Order). Ordering Paragraph No. 2 of the Reconsideration Order provides:

2. That the Public Staff shall meet with Duke, as expeditiously as possible, to discuss identifying and tracking the Company's activities and report the results of such meeting(s) to the Commission no later than Thursday, November 4, 2010.

Pursuant to the Commission's directives, as outlined above, Duke and the Public Staff met and engaged in ongoing and productive discussions for several months. After being granted an oral motion for an extension of time to file a report with the Commission concerning their discussions, on November 18, 2010, Duke and the Public Staff filed a Report. Duke and the Public Staff noted in their Report that the results of the parties' discussions are summarized in the attachments of the Report, which include a proposed "Decision Tree" or elimination chart and a set of examples showing how the chart would be used.

Duke and the Public Staff observed in the Report that the proposed "Decision Tree" provides a mechanism by which the Company can evaluate whether activities that may directly or indirectly result in increases in customer demand or energy consumption should be designated by the Company as producing "found revenues" and either be filed with the Commission for a determination of their status or reported to the Commission for consideration at its discretion. Duke and the Public Staff stated that the structure of the "Decision Tree" begins with the creation of a list of all Duke activities that may produce found revenues by directly or indirectly resulting in an increase in customer demand or energy consumption within the Company's service territory, followed by the elimination, or "filtering out", of activities that meet certain criteria. Duke and the Public Staff explained that, more specifically, an activity will be eliminated from the list if it meets one or more of the following criteria:

- (1) The increase in customer demand or energy consumption would have occurred regardless of the activity.
- (2) The increase is the result of a new customer account's participation in certain Duke economic development activities that have been found by the Commission not to result in found revenues.
- (3) The activity is conducted at the unsolicited request of a governmental unit for the purposes of growing the economy, creating jobs, or enhancing sustainability in the region.

Duke and the Public Staff asserted that if an activity is not eliminated for consideration by one of these filters, the Company will then evaluate whether the related increase in customer demand or energy consumption is a direct or proximate result of the activity. If it is determined to be so, Duke will designate the activity as one

producing found revenues or submit it to the Commission for determination; if not, the Company may presume that the activity does not produce found revenues but will report it to the Commission as part of its annual DSM/EE cost recovery filing.

Duke and the Public Staff further commented in the Report that, with regard to criterion (2) above, the Company has certain economic development activities already in place that it believes should be eliminated from found revenue consideration. Duke plans in the near future to file a list of these activities with the Commission along with a request to eliminate the activities from those considered to produce found revenues. The Public Staff is currently working with the Company to produce a list of activities that both parties consider reasonable. The Commission notes that, as of the date of this Order, such a list of such activities has not yet been filed. The Commission hereby requests Duke to file this list as expeditiously as possible, but in no event later than Tuesday, March 15, 2011.

Duke and the Public Staff requested that the Commission accept the Report and Attachments and find that the parties have complied with the directives of the Commission in its Save-a-Watt Order and Reconsideration Order.

CONCLUSIONS

The Commission has carefully reviewed the November 18, 2010 Report, "Decision Tree", and examples, and considers this information to be in compliance with the directives set forth in the Save-a-Watt Order and Reconsideration Order.

Further, the Commission finds it appropriate to adopt the proposed "Decision Tree", as modified in this Order, as the appropriate mechanism for Duke to use in determining which activities constitute found revenues. The Company is hereby required to maintain a list of all activities that cause customers to increase demand or energy consumption, and to file such a list of all activities with the Commission as part of its annual DSM/EE cost recovery filings. The list should provide: (1) a detailed description of each activity; (2) the determination as to whether the specific activity provided found revenues or not; and (3) explanations of the "Decision Tree" Boxes 1 through 6 answers underlying such determination.

In addition, in order to more easily understand this information when it is provided in the future, the Commission is of the opinion that the six question boxes provided on the "Decision Tree" diagram should be slightly modified such that they are explicitly labeled as Boxes 1 through 6. Therefore, the Commission has revised the "Decision Tree" to reflect this information and the approved "Decision Tree" is attached hereto as Appendix A.

WHEREUPON, the Commission hereby adopts the November 18, 2010 "Decision Tree", as modified by this Order and reflected in Appendix A, for use by Duke in determining which activities constitute found revenues. Further, Duke is hereby required to maintain a list of all activities that cause customers to increase demand or

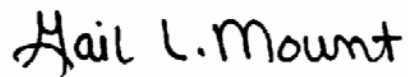
energy consumption, and to file such a list of all activities with the Commission as part of the Company's annual DSM/EE cost recovery filings. Finally, Duke should file its proposed list of specific economic development activities already in place that the Company believes should be eliminated from found revenue consideration as expeditiously as possible, but in no event later than Tuesday, March 15, 2011.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of February, 2011.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Gail L. Mount". The signature is written in a cursive, flowing style.

Gail L. Mount, Deputy Clerk

bp020711.01

APPENDIX A

***“Net lost revenues shall also be net of any increases in revenues resulting from any activity by the electric public utility that increases customer demand or energy consumption, whether or not that activity has been approved pursuant to this Rule R8-68.”
- Commission Rule R8-68(b)(5)***

