

**LAW OFFICES OF
F. BRYAN BRICE, JR.**

F. BRYAN BRICE, JR.
CATHERINE CRALLE JONES
ANNE M. HARVEY
ANDREA C. BONVECCHIO
ROBERT R. GELBLUM, OF COUNSEL

127 W. HARGETT ST., STE. 600
RALEIGH, NC 27601
TEL: 919-754-1600
FAX: 919-573-4252
WWW.ATTYBRYANBRICE.COM

May 27, 2022

Ms. Kimberley A. Campbell, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Investigation of Proposed Net Metering Policy Changes
Docket No. E-100, Sub 180

Dear Ms. Campbell,

Attached for filing in the above-referenced docket, on behalf of the Environmental Working Group, is the Surreply Comments of the Environmental Working Group.

By copy of this letter, I am forwarding a copy to all parties of record by electronic delivery.

Sincerely,

/s/ Catherine Cralle Jones

Enclosure(s)

OFFICIAL COPY

MAY 27 2022

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 180

In the Matter of:)	SURREPLY COMMENTS
)	
Investigation of Proposed Net)	OF THE
)	
Metering Policy Changes)	ENVIRONMENTAL WORKING
)	GROUP

Pursuant to the North Carolina Utilities Commission (“Commission”) *Order Granting Extension of Time to File Reply Comments and Allowing Parties to File Responsive Comments*, entered on May 13, 2022 in the above-referenced docket, Intervenor, the Environmental Working Group (“EWG”), through undersigned counsel, hereby submits further responsive comments regarding the Joint Application for net energy metering (“NEM”) tariff revisions proposed by Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) (collectively, “Duke” or the “Companies”) and the Stipulation entered into by Duke with Sundance Power Systems, Inc., Southern Energy Management, Inc., and Yes Solar Solutions (the “North Carolina Rooftop Solar Installers”, or “NCRSI”) regarding a proposed “Bridge Rate.”

EWG’s Initial Comments described in detail the reasons why the Commission should outright reject the net energy metering (“NEM”) tariff revisions proposed by Duke. The revisions work against public policy goals, violate clear statutory requirements and regulatory best practices, would

discourage investment in customer-sited generation, and would hinder development of the least-cost, safe and resilient electric system.

EWG's Reply Comments highlighted agreement among intervenors that the requisite "investigation of the costs and benefits" of customer sited generation has not been performed. Further, EWG's Reply Comments noted agreement among intervenors that the proposed NEM tariff does not satisfy the Commission's statutory obligation to establish net metering rates under all tariff designs and raised concerns that the tariff is discriminatory in violation of the Public Utility Regulatory Policies Act ("PURPA"). Additionally, the EWG's Reply Comments, and as detailed in the Reply Report, provide a detailed analysis of the shortcomings of the Public Staff's warm embrace of the proposed NEM revisions based solely on Duke's cost of service studies.

Hours after EWG filed its Reply Comments as required by Commission deadlines on May 12, 2022, Duke requested an extension of time to file its comments to include a stipulation it hoped to reach with the NCRSI. On May 13th the Commission granted Duke's requested extension to file reply comments by May 20, 2022, and further provided that parties had until Friday, May 27, 2022 to file further responsive comments. These Sur-reply Comments of EWG primarily address the Reply Comments filed by Duke and by NCRSI.

There are no novel issues raised in Duke's Reply Comments and Duke does not address issues raised in EWG's Initial and Reply Comments that the proposed revision violates both state and federal law. The private and selective analysis performed by Duke in its costs of service study is not the investigation

required by statute, nor does it come close to the national standard set for such investigation under the National Standard Practice manual for Benefit-Cost Analysis of Distributed Energy Resources (“NSPM”). Confidential proceedings in which tariffs are crafted by a select few does not satisfy due process, nor does it build trust and a path forward for the effective building of a clean energy future. Duke has yet to conduct or support a cost of service study that is specific to customer sited generation, and makes assumptions about customer-generator costs and avoided costs that are unreasonable. Duke’s pressure on the Commission to fast-track and adopt, without investigation, not only a revised NEM tariff for residential customers, but also a Bridge Rate that has not been fully explained or subject to discovery, is further piece meal ratemaking, administratively inefficient, and unreasonably discriminatory.

For the reasons detailed in EWG’s Initial Comments, Reply Comments and further detailed below, the Commission must reject the Companies’ pending Joint Application for revision of NEM tariffs, as well as the proposed Bridge Rate as set forth in the Stipulation attached as Exhibit A to Duke’s Reply Comments.

INDEX OF ATTACHMENTS

EWG asked for further assistance from Karl R. Rábago to address issues raised by the Duke Reply Comments particularly regarding the National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources (“NSPM-DER”), for which he was contributing author and advisor. Mr. Rábago’s *Review of the Companies’ Reply Comments and Recommendations regarding*

NEM Tariff Revision Application is attached hereto as **Attachment A** (“Rábago Sur-reply Response”).

Attachment A: K. Rábago: Review of the Companies’ Reply Comments and Recommendations regarding NEM Tariff Revision Application.

Attachment B: Session Law 2017-192; House Bill 589, version 6 as approved and signed into law.

Attachment C: Session Law 2021-165; House Bill 951, version 6 as approved and signed into law.

Attachment D: Duke Energy Progress, and Duke Energy Carolinas Rebate Waitlists as of April 27, 2022.

DISCUSSION

These Sur-reply Comments focus on the Joint Reply Comments of Duke Energy and the N.C. Rooftop Solar Installers and relies heavily on the *Sur-reply Response* prepared by Mr. Rábago, which provides more detail and citation of authority. The failure to address any comment by Duke or NCRSI argument should not be deemed as agreement.

I. **The Investigation of Benefits and Costs Required by Statute Was Not Satisfied by Duke’s Cost of Service Analysis**

Backward looking cost of service studies do not investigate future benefit of customer-sited generation. The full costs and benefits of solar or any other distributed energy resources must be evaluated based on a national standard for such studies and cannot be done based on Duke’s cost of service analysis. Even the stipulating Rooftop Installers support a remaining need for an independent analysis to support rates that reflect the full value of solar.

A. Duke's Embedded and Marginal Cost Studies (Reply Comments Ex. B) Do Not Provide Analyses of the Benefits of Customer Sited Generation.

Duke points to its marginal and embedded cost studies and argue that those studies fulfilled H.B. 589's requirement to investigate "the costs and benefits of customer-sited generation" because "the studies also analyzed benefits."¹ That conclusion is not supported by Duke's Exhibit B. While Exhibit B does show that it costs Duke approximately \$630- \$750 less to serve an NEM customer than a non-NEM customer,² it reveals no analysis of most of the benefits of customer sited generation, including: reduced energy loss on transmission and distribution systems, avoided environmental compliance costs, avoided or lower right of way acquisition costs, the benefit of reduced vulnerability of the system to terrorism, increased system resilience or job creation benefits. Further, there is no mention of societal benefits or statutory Carbon Reduction requirements, including reduced greenhouse gas emissions, improved air quality, decreased waste disposal costs, or improved public health. While there is mention of avoided "Electric Production," "Electric Capacity", and "Electric T&D"³ these numbers relate only to deferred new construction, and allegedly total a mere \$463 (DEP-NC RE-RS Wtd Avg System Benefits) for the non-existent average weighted residential customer sited solar generator. Further, as explained in the Powers report submitted by NCWARN in its Initial Comments, the Company's Marginal Cost study figures are based on anticipated

¹ Duke Reply Comments, para. 4.

² Duke Reply Comments, Ex. B, pdf. pp. 63.

³ Duke Reply Comments, Ex. B, pdf. pp. 67-69.

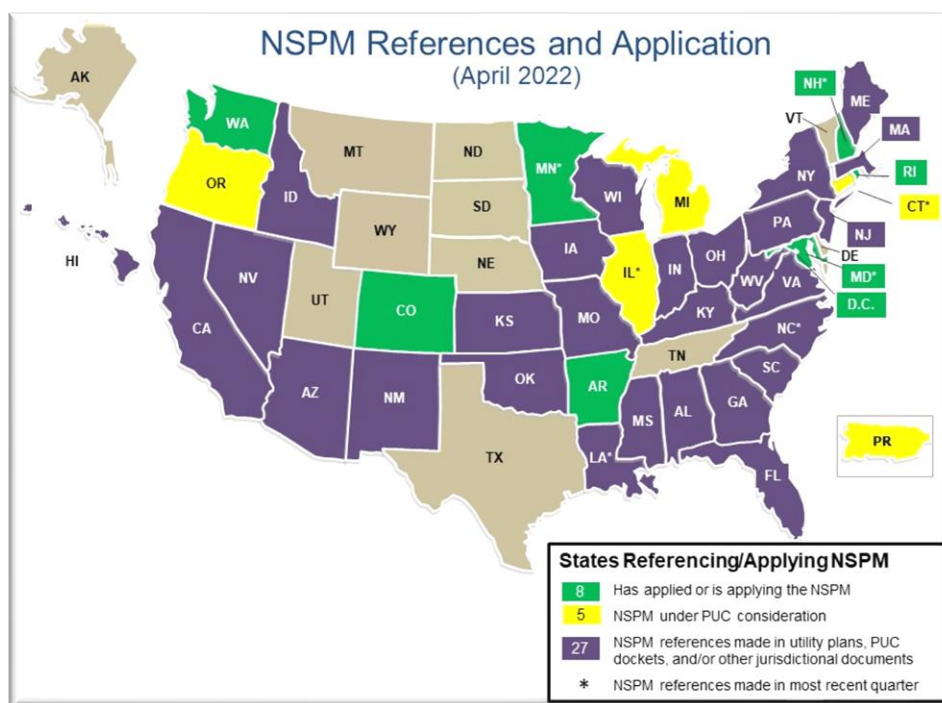
new transmission lines that would be needed to carry power from utility scale solar located in the southeastern part of the State to population centers in the center and southwestern parts of the State. Rooftop solar located within population centers would eliminate sizable portions of those new costs. Duke, however, can only recover costs from its construction, not construction undertaken by its solar customers. Thus, there is an inherent incentive for Duke to err always on the side of construction rather than efficient use of existing transmission and distribution through support of roof top solar. As Powers explained, the “avoided cost of high voltage transmission alone would be about \$935 per year per typical 9kW DEC or DEP system. This is much greater than the NEM avoided T&D value assumed by Duke Energy of \$196 to \$247 per year for DEC and \$127 per year for DEP.”⁴

While avoided costs are “a” benefit to Duke of customer sited generation they do not reflect a complete analysis of the “costs and benefits of customer sited generation” expressly required by N.C. Gen. Stat. §62-126.4 (b). A Duke-generated embedded and marginal costs of service studies is not what was intended by the Legislature when enacting the statute requiring that NEM rates be established after investigation of the costs and benefits.

⁴ NCWARN Initial Comments, Attachment A, Report Responding to Deficiencies in the Duke Energy NEM Application by Mr. Powers, p.8.

B. Costs and Benefits Must Be Evaluated Based the National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources (“NSPM-DER”)

Duke asks the Commission to trust its in-house cost of service study data as a complete evaluation of benefits and to reject the NSPM-DER, as the national standard for evaluation of the costs and benefits of customer sited generation. Not surprisingly, Duke misleads the Commission by stating that the process has been applied in only three states, but it ignores or obscures contrary data from the same source. As shown in the diagram below⁵, the NSPM-DER has been applied or is currently being applied in eight states, is currently under consideration in five states, and has been referenced in the utility plans and dockets of an additional twenty-seven states. This leave only eleven states



⁵ See, *NESP, Database of Screening Practices*, <https://www.nationalenergyscreeningproject.org/national-standard-practice-manual/state-references> (last accessed, May 5, 2022).

where the NSPM has not been considered at all.⁶

Duke justifies its refusal to look beyond its cost of service studies, stating that it “would not consider it appropriate to utilize methodologies or count benefits that do not have legal or regulatory basis in North Carolina.”⁷ However, Duke’s reliance on its backward looking 2018 cost of service study, and refusal to consider any benefits other than avoided costs, ignores and violates both the letter and spirit of HB 589, as well other executive and legislative mandates. For example, the Public Utilities Act declares that it shall be state policy to “encourage and promote harmony between public utilities, their users **and the environment**,”⁸ and promote the development of renewable energy through the development of a portfolio standard that will do **all** the following:

- a. Diversify the resources used to reliably meet the energy needs of consumers in the State;
- b. Provide greater energy security through the use of indigenous energy resources available within the State.
- c. Encourage private investment in renewable energy and energy efficiency,
- d. Provide improved air quality and other benefit to energy consumers and citizen of the State.⁹

Additionally, in 2018, Governor Cooper directed the development of a Clean Energy Plan, including setting and planning for certain greenhouse gas emission reduction goals,¹⁰ and in 2022, directed the

⁶ The NSPM-DER has also been referenced in the Canadian provinces of Ontario, Newfoundland, New Brunswick and British Columbia. *Id.*

⁷ DUKE Reply Comments, para. 5.

⁸ N.C. Gen. Stat. §62-2(a)(5).

⁹ N.C. Gen. Stat. §62-2(a)(10).

¹⁰ *Executive Order No. 80*, October 29, 2018, at <https://files.nc.gov/governor/documents/files/EO80->

Commission to, among other things, “**incorporate the social cost of greenhouse gas emissions into its decision making processes,**”

noting that climate change is a global crisis causing devastating disruptions worldwide, and that:

... the adverse impacts of climate change in North Carolina threaten human health, the State’s economy, and our quality of life through more intense storms and flooding, dangerously high temperatures, droughts and rising sea levels and beach erosion, and harms to ecosystems and wildlife.¹¹

Finally, in 2021, H.B. 951 authorized the Commission to “TAKE ALL REASONABLE STEPS” to achieve a 70% reduction in emissions of carbon dioxide from electric public utilities from 2005 levels by the year 2030 and carbon neutrality by 2050.¹² The bill also authorized the implementation of performance based regulation and directed the Commission to consider applications that **encourage** peak load reduction or efficient use of the system, distributed energy resources (including rooftop solar), energy efficiency, and carbon reductions, and promotion of resilience and security of the electric grid among other benefits that come with distributed energy generation.¹³

[%20NC%27s%20Commitment%20to%20Address%20Climate%20Change%20%26%20Transition%20to%20a%20Clean%20Energy%20Economy.pdf](#) (accessed on March 27, 2022).

¹¹ *Executive Order No. 246*, January 7, 2022, p. 3, at <https://governor.nc.gov/media/2907/open> (accessed on May 27, 2022) (emphasis added).

¹² Session Law 2021-165, H.B. 951, **Attachment C**.

¹³ *Id.*, and see, N.C. Gen. Stat. 62-133.16(a)(3) and (d)(2).

In the face of the current climate crisis, the law now directs the Commission to explicitly consider the myriad benefits of distributed energy generation. Duke's refusal to incorporate these benefits into its own NEM tariff revision application, and it expressed resistance to the Commission's investigation of these benefits as an "unnecessary" "waste of Commission time and resources,"¹⁴ confirms that its only goals are to destabilize private energy investment, and to secure its bottom line for Duke shareholders.

C. Stipulating Rooftop Solar Installers Support an Independent Study and a Long-Term Process to Develop Rate that Reflect Full Value of Solar.

The non-binding Stipulation entered between the Rooftop Solar Installers and Duke for a Bridge Rate to temporarily mitigate the worst effects of the proposed NEM revision, does not eliminate the statutory requirement for the Commission to investigate the cost and benefits of solar. While the signers of the MOU in South Carolina may have contractually bound themselves to remain silent regarding the North Carolina law requiring an investigation of the benefits of solar, the Rooftop Solar Installers had the freedom to speak out to the Commission, with other Intervenors regarding the importance of such investigation.

In its initial comments, the Rooftop Solar Installers argued that the NEM Tariffs proposed by Duke do not comply with the requirement that the Commission establish non-discriminatory rates **only after an investigation** of

¹⁴ Duke Reply Comments, paras. 3 and 6.

the costs and benefits of customer-sited generation. Further, they advocated for “an independent study [of the costs and benefits of consumer-sited generation] to be conducted by the Commission and not by the utility,” and urged the Commission “to not accept Duke’s Rate Design Study as the final word on what is the cost to serve net metering customers,” to broaden the scope of its consideration beyond Duke’s Joint Application,” and to “conduct its own study of net metering.”¹⁵ recommended that the Commission “broaden the scope of its consideration beyond Duke’s Joint Application.”¹⁶ Thereafter, they entered into the Stipulation with Duke regarding a Bridge Rate that they described “would mitigate the devaluation of solar.. through 2026, by ensuring that all solar customers [under certain conditions] can opt-out of **the more onerous TOU rate proposed** by Duke...”¹⁷ Even with the Stipulation, the NCRSI “urges the Commission to work with all stakeholders to develop NEM rates that fully reflect the value that customer-owned solar provides....” not only to Duke’s systems but also the value of solar the North Carolina’s goal of reducing utility greenhouse gas emissions by 70%.¹⁸ With their Stipulation, NCRSI is not conceding that Duke’s cost of service study is a legal equivalent of the investigation required by statute.

¹⁵ NCRSI Comments, pp. 2-3.

¹⁶ NCRSI Comments, p. 2.

¹⁷ NCRSI Reply Comments, p. 2.

¹⁸ *Id.*

II. The Investigation Is Not a Waste of Time Nor a Mere Formality Subject to Negotiation.

A “Value of Solar Study” is the term used by several intervenors as shorthand for the “investigation of costs and benefits of customer sited generation” required by H.B. 589 and used also to described a study guided by the NSPM- DER framework for investigation urged by EWG and other intervenors. Duke is clear in its opposition to such a transparent investigation and assessment of customer-sited generation as a “waste of Commission time and resources.”¹⁹

To be clear, ordering such a study would unnecessarily delay these proceedings, stall required NEM reform, and likely result in contentious proceedings that would frustrate compliance with H.B. 589. Ordering a Value of Solar study now, even after months-long discussion and numerous stakeholder workshops, is simply unnecessary and would not result in any additional consensus.²⁰

A. There is No Urgency Created By Statute to Revise NEM Without Investigation.

Duke’s urgent request to force the Commission to adopt, without the required investigation, a revised NEM tariff for all applications received on or after January 1, 2023,²¹ is not supported by statute. H.B. 589 revised several sections of Chapter 62, including small power producers and sales to public utilities, competitive purchase of renewable energy, renewable energy for military

¹⁹ Duke Reply Comments, p. 3.

²⁰ Duke Reply Comments, p. 8.

²¹ Comments, p. 3.

²¹ Joint Application, p. 2.

installations, and adoption of the Distributed Resources Access Act, which includes Commission establishment of net metering rates.²²

By its express language, there is no deadline by which the utility must file, or the Commission must act. Until the rates have been approved as required, including the investigation of costs and benefits, “the rate shall be the applicable net metering rate in place at the time the facility interconnects.” Thus, until the investigation is conducted, the statute provides for maintenance of the status quo. The only date or deadline anywhere in the statute relates only to legacy customers:

Retail customers that own and install an on-site renewable energy facility and interconnect to the grid prior to the date the Commission approves new metering rate may elect to continue net metering under the net metering rate in effect at the time of the interconnection until January 1, 2027.

By this provision, adopted in 2017, the Legislature assured legacy customers and others that they would have at least 10 years before any change in rates would apply. Similarly, the Legislature provided a 10-year period during which the Commission could implement the required investigation of costs and benefits of customer sited generation and could then thoughtfully proceed to set revised NEM rates that were fair, just and non-discriminatory as to any rate class, including NEM customers and non-NEM customers. As set out in EWG’s Initial Comments, Reply Comments, and the Report of Mr. Rábago, the proposed NEM revision, unsupported by the required investigation, is discriminatory between

²² Attachment B: Session Law 2017-192; House Bill 589, versions 6, approved and signed into law; N.C. Gen. Stat. §62-126.1 et seq.; and N.C. Gen. Stat. §62-126.4. Commission to establish net metering rates.

residential customers and non-residential customers, and as between customers who are solar energy generating and those who are not. Thus, without the required investigation, the Application and the suggested Bridge Rate, must be rejected.

B. The December 31, 2021 Expiration of the NC Solar Rebate Likewise Creates No Urgency for NEM Revision Without Required Investigation.

In their Reply Comments, NCSEA *et al.*'s indicated that "SACE, Vote Solar, and NCSEA have no objection to further study of the benefits and costs of rooftop solar,"²³ but they were concerned "about too much of a delay and uncertainty about future net metering rates under the terms of N.C.G.S. § 62-126.4" if the said investigation takes too long,²⁴ and encouraged quick action because "the current residential rooftop solar rebate program authorized under the 2017 energy legislation (HB 589) concludes at the end of 2022" (the "Rebate").²⁵ However, a closer look at Duke reports and the public marketing materials of these installers suggest that the Rebate plays little role in a customer's decision to invest in a solar installation.

Duke's website includes sporadically updated information regarding the status of the Rebate program. Currently, the website shows that in the DEP territory as of April 27, 2022, they have capacity for 3,750 (kW-AC) in the residential program for the July "launch" or lottery draw, have received 1,754

²³ NCSEA *et al.*'s Reply Comments, p. 3.

²⁴ *Id.*

²⁵ NCSEA *et al.*'s Reply Comments, p. 2.

applications and have accepted applications totaling 2,843 (kW-AC). However, Duke expressly warns applicants:

Due to the volume of interest in the solar rebate program, a waiting list is in place. **Because the program is fully subscribed based on the applications received, there is no guarantee any project will be accepted into the program from the waiting list.** If your project is able to be accepted into the program, you will be notified via email.²⁶

A tally of these waitlists shows that as of April 17, 2022, in DEP, there were 1352 application on the waiting list, including 1280 residential applications totaling 10,052.81 kW.²⁷ Similarly, the DEC website show 2,860 kW of residential Rebate Applications accepted, while the waitlist shows 969 residential applications on the waitlist, totaling 7,313.63 kW of capacity. The total capacity per lottery draw is 3,750 (kW) with 2,860 (kW)(DEC) and 2,842 (kW)(DEP) already allocated. Thus, in DEC, almost one thousand applicants will be competing for the less that 840 (kW) of remaining capacity, and more than 1200 applicants in DEP will be competing for the remaining 908 (kW) capacity remaining. These numbers are likely to grow even more disparate prior to the July 1 deadline.

Thus, even though the Rooftop Installers cite the Rebate as a reason not to delay further investigation, none of them depend upon the Rebate in their marketing. Southern Energy Management's website characterizes the NC solar rebate as "Very Competitive" for residential customers and "Extremely

²⁶ <https://www.duke-energy.com/home/products/renewable-energy/nc-solar-rebates> (accessed on May 27, 2022).

²⁷ *Id.*, See also, Attachment D, the NC Rebate DEP Waitlist and DEC Waitlist.

Competitive” for commercial customers.²⁸ Yes Solar Systems’ warns that “the Duke Solar Rebate can be somewhat difficult, especially since applications often reach the program capacity limits quickly,”²⁹ and clearly advises its customers, **“Duke customers should not count on a rebate in making a decision to invest in solar.”**³⁰ Neither the Legislature nor the circumstances of an expiring solar rebate provide justification for Duke to lead the Commission into ignoring the direct mandate of the statute that requires an “investigation of the costs and benefits of customer-sited generation” PRIOR to the revision of NEM rate.

III. A Calculation of Lost Revenue Based on Backward Looking Cost of Service Does not Establish A Cost Shift Where There is No Analysis of Future Benefit of Customer Sited Generation.

Duke’s continued focus on its lost revenue to “prove” a cost shift is telling. As Mr. Rábago details in his report, Duke’s preference for private negotiation over participation in an open, comprehensive, and transparent investigation of the costs and benefits of DER, ignores the interests and contributions of future potential customer generators. By focusing on backward looking sunk costs and lost revenues, Duke ignores future benefits, including reductions in fixed system costs over time, and thereby fails to result in rates that are just and reasonable.

²⁸ Southern Energy Management’s Website, *NC Solar Rebate Program 2022*, <https://southern-energy.com/nc-solar-rebate/> (accessed on May 27, 2022).

²⁹ Yes Solar Systems’ Website, *Duke Solar Rebate Application Opens*, <https://yessolarsolutions.com/how-to-apply-for-the-duke-energy-solar-rebate/> (accessed on May 27, 2022).

³⁰ Yes Solar Systems’ Website, *2021 NC Solar Good News*, <https://yessolarsolutions.com/2021-nc-solar-good-news/> (accessed on May 27, 2022).

To justify its attempt to recover more revenue by reducing the net export credit, Duke seeks to have the Commission view customer-generators as if they were wholesale generators engaged in the business of electricity generation for sale. Customer generators do not install solar for the purpose of generating income through retail sales of electricity. They install for a variety of reasons including lowering their utility bills as well as their Carbon footprint. Their export of energy is only incidental to energy generation for personal use. More importantly, their incidental energy generation is injected into the distribution system where energy is most valuable to the system and which immediately serves the nearest unserved load, where the companies will charge and recover their full retail charges.

IV. The Proposed Bridge Rate Does Not Address the Flaws in the NEM Proposal, Has Not Been Vetted, and Will Only Further Complicate a Proper NEM Revision Process, and Further Undermine Development of the Carbon Plan.

Only hours prior to the set filing deadline for its Reply Comments, on May 12, 2022, Duke alerted the Commission that it was engaged in conversation with certain intervenors to reach an agreement regarding the NEM Tariff. The final fruit of those conversations was not a binding agreement among all the party, but instead a non-binding Stipulation between Duke and the N.C. Rooftop Installers: “the Stipulation reflect certain non-binding understanding reached by the Stipulating Parties to advance NEM reform in North Carolina in accordance with H.B. 589, subject to Commission approval.”³¹

³¹ Stipulation, ¶ 6.

No explicit tariff sheet proposal was submitted. No discover was allowed to understand the basis for the caps or the rational for the proposal. The patch on the proposed NEM tariffs is only proposed to be available to a limited number of participants for a limited period, under limited circumstances. In all, the proposed bridge rate is only required because of the deep flaws in the original proposal, and to blunt some of the worst repercussions for a brief period of time. It is, like the original proposal, the product of private, secret negotiations between a limited number of parties. It is not conducive to administratively simple, easy-to-understand, just, or reasonable rates. It has not been thoroughly examined and has not been subject to discovery.

Only a deliberate and transparent investigation of the costs and benefits of customer sited generation will provide the basis for NEM reform called for under HB 589, and only that deliberate, transparent investigation of costs and benefits will provide the foundation for implementation of the Carbon Plan called for under HB 951. Secret negotiations with select stakeholders, resulting in a patch work “Bridge Option” does not solve the problems presented by the Joint Application and should likewise be rejected.

CONCLUSION

For all the above reasons and the arguments detailed in the Initial and Reply Comments of EWG, the Commission must deny the Joint Application for Approval of revised net metering tariffs, and reject the last minute proposed “Bridge Option” for the same reasons. The Companies have not demonstrated the proposed rates to be just and fair and within the public interest. As proposed, the rates are

discriminatory and in violation of federal statutes. There is no urgent need to revise net metering tariffs and no justification to adopt the proposed NEM tariffs and bridge rates without the proper investigation of the benefits and costs of customer-sited generation. Finally, the Commission should take charge of the investigation, hire an independent evaluator, direct a public investigation of the costs and benefit, and then send the bill to Duke. The investigation should in accordance with the principles, process, impacts, and other guidance in the NSPM-DER. Only upon conclusion of such evaluation should new NEM tariffs for all rate classes be considered by the Commission.

Respectfully submitted this 27th day of May, 2022.

/s/ Catherine Cralle Jones
Catherine Cralle Jones
N.C. State Bar No. 23733
LAW OFFICE OF F. BRYAN BRICE, JR.
127 W. Hargett St., Ste. 600
Raleigh, N.C. 27601
Telephone: 919-754-1600
Facsimile: 919-573-4252
cathy@attybryanbrice.com

/s/ Caroline Leary
Caroline Leary
1250 I Street NW, Suite 1000
Washington, DC 20005
Telephone: 202-939-9151
Facsimile: 202-232-2597
cleary@ewg.org
**Admitted pro hac vice*

Counsel for Environmental Working Group

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Initial Comments by the Environmental Working Group upon each of the parties of record in these proceedings or their attorneys of record by deposit in the U.S. Mail, postage prepaid, or by email transmission.

This the 27th day of May, 2022.

LAW OFFICE OF F. BRYAN BRICE, JR.

By: /s/ Catherine Cralle Jones
Catherine Cralle Jones

Counsel for Environmental Working Group