

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. M-100, SUB 145

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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|---------------------------------------|---|-------------------|
| In the Matter of |) | |
| Rulemaking to Establish Procedure for |) | REPLY COMMENTS OF |
| Settlements and Stipulated Agreements | | THE PUBLIC STAFF |

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Christopher J. Ayers, and pursuant to the Order of the Commission issued August 1, 2016, respectfully submits the following comments in reply to the initial comments filed by the North Carolina Sustainable Energy Association (NCSEA) on September 16, 2016, in the above-captioned docket.

1. In its comments, NCSEA advocates the more frequent use of prehearing conferences to encourage settlement discussions and suggests “modernizing” Commission Rule R1-20 to include language from various sources, including rules governing civil actions in the Superior and District Courts.

2. The Public Staff agrees with NCSEA that prehearing conferences could be used more frequently with positive results. However, as the Public Staff stated in its initial comments, there is no one-size-fits-all timeline or procedure for settlement discussions in Commission proceedings. Moreover, as also stated in the Public Staff’s initial comments, there appears to be some confusion about the roles of the Public Staff and the Commission. NCSEA’s proposed changes to Commission Rule 1-20 would require the Public Staff act as a facilitator or mediator

to resolve disputes and issues in matters before the Commission and to advise all participants of circumstances bearing on possible bias, prejudice, or partiality of the Public Staff. Such a requirement is unworkable and would hinder the Public Staff's ability to perform its statutory responsibilities on behalf of the using and consuming public. The Public Staff cannot serve as both neutral facilitator and consumer advocate in the same docket. Rule R1-20, as currently written, properly recognizes that convening and conducting prehearing conferences is solely a Commission function. Such a function should not be delegated to a party to a proceeding, even the Public Staff.

3. The Public Staff continues to believe that the current settlement process should not be restricted by additional rules. The principles and policies underlying this process are well established and are more than sufficient to protect the interests of parties who are prepared to participate in good faith. Prescriptive procedures would only impede the ability of parties to resolve complex issues in the manner best suited to a particular proceeding. Such a result would defeat the purpose of negotiated settlements and should be avoided.

Respectfully submitted this the 14th day of October, 2016.

PUBLIC STAFF
Christopher J. Ayers
Executive Director

Electronically submitted
/s/ Antoinette R. Wike
Chief Counsel

CERTIFICATE OF SERVICE

I do hereby certify I have this day served a copy of the foregoing Comments on all parties of record in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 14th day of October, 2016.

/s/ Antoinette R. Wike