

LAW OFFICE OF  
ROBERT W. KAYLOR, P.A.  
3700 GLENWOOD AVENUE, SUITE 330  
RALEIGH, NORTH CAROLINA 27612  
(919) 828-5250  
FACSIMILE (919) 828-5240

May 7, 2010

**FILED**

**MAY 07 2010**

Clerk's Office  
N.C. Utilities Commission

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

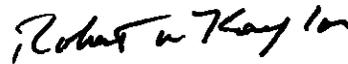
**OFFICIAL COPY**

RE: Docket No. E-7, Sub 831

Dear Ms. Vance:

Enclosed for filing are the original and thirty (30) copies of Duke Energy Carolinas, LLC's Reply Comments in the above referenced docket.

Sincerely,



Robert W. Kaylor

Enclosures

cc: Parties of Record

Cleru  
AG  
7 Comm  
Bennin  
Wirby  
Watson  
Hoover  
Lite  
Hilburn  
Jones  
Sessions  
Ericson

Gruber  
2 PSECO  
3 PLegal  
3 PSACCS  
5 Pselect

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, SUB 831

FILED

MAY 07 2010

In the Matter of:

Application of Duke Energy Carolinas, LLC for	)	DUKE ENERGY CAROLINAS,	Clerk's Office North Carolina Utilities Commission
Approval of Save-a-Watt Approach, Energy	)	LLC'S REPLY COMMENTS IN	
Efficiency Rider and Portfolio of Energy	)	SUPPORT OF MOTION FOR	
Efficiency Programs	)	CLARIFICATION AND	
	)	RECONSIDERATION	

---

NOW COMES Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or the "Company"), by and through counsel, pursuant to the North Carolina Utilities Commission's ("Commission") April 6, 2010 *Order Allowing Comments*, and respectfully submits its Reply Comments in support of the Company's Motion for Clarification and Reconsideration ("Motion") as follows:

1. On April 6, 2010, the Commission entered its *Order Allowing Comments*, permitting parties to this Docket to submit responses to the Motion no later than April 23, 2010. Environmental Defense Fund, Natural Resources Defense Council, Southern Alliance for Clean Energy, and the Southern Environmental Law Center (collectively, "Environmental Intervenors") submitted their comments on April 20, 2010. North Carolina Waste Awareness Network ("NC WARN") filed its comments on April 22, 2010. On April 23, 2010, the City of Durham (the "City"), Progress Energy Carolinas, Inc. ("Progress") and the Public Staff filed their respective comments.

**Recovery of Net Lost Revenues for "General Awareness and Education" Programs**

2. The Environmental Intervenors and Progress share Duke Energy Carolinas' position that any energy efficiency program that produces verified energy or capacity savings should be eligible for recovery of net lost revenues. Specifically, the Environmental Intervenors

state that because the Company may only recover net lost revenues for verified kW and kWh reductions, it should not matter whether those reductions are produced by a general awareness and education program or another type of program. (Environmental Intervenors Comments, p. 2). Likewise, Progress requests that the Commission declare that if a program or measure approved by the Commission is specifically designed to result in verifiable kW and kWh reductions, the utility should be allowed to recover all reasonable and prudent costs, net lost revenues and incentives. (Progress Comments, p. 2).

3. While the Public Staff argues that the Commission should determine if a program is a “general awareness or education” program on a case-by-case basis, it did highlight that in its *Order Approving Agreement and Stipulation of Partial Settlement, Subject to Certain Commission-Required Modifications* in Docket No. E-2, Sub 931 (“Progress Order”), the Commission’s rationale for limiting the recovery of net lost revenue for such programs was based upon the fact that Progress stated that it could not quantify any measurable direct energy reduction benefits from its “Save the Watts” campaign. (See Public Staff Comments, p. 5). Thus, the Public Staff implied that the Commission has already indicated that net lost revenues are inappropriate for programs “designed to inform customers about the benefits of EE and DSM generally” rather than those associated with programs “designed to directly result in quantifiable energy or capacity savings.” (See *id.*).

4. The City is the only intervenor filing comments that directly opposes the recovery of net lost revenues for awareness and education programs that produce verified kW or kWh reductions. The City labels such activities as promotion, marketing and advertising and does not support recovery of net lost revenues *or* avoided costs by the Company for these programs. (City Comments, p. 2). The City also questions whether behavioral changes that result from

general awareness and education activities will persist and argues that the measurement and verification of results produced by such behavioral changes itself imposes a potentially unfair cost on customers. (*Id.*)

5. The City's generalization of awareness and education programs and behavioral programs as "promotion, marketing and advertising" is misguided. Although such programs can serve to make customers more receptive to the Company's programs, they are not mere marketing tools to leverage the Company's other energy efficiency offerings, but rather provide benefits all their own. For example, the Company's prospective program, Home Energy Comparison Report ("HECR"),<sup>1</sup> is based on the assumption that when participating customers see their electricity usage in the report compared to other similar customers in the aggregate combined with usage advice, these customers will make behavioral changes to save more energy in their household to compare to the norm. Thus, programs such as HECR are designed to result in energy savings by motivating customers to modify their energy usage through behavioral changes or the installation of more efficient equipment. As long as changes in energy consumption from a program can be measured, whether the savings originate from behavior changes or installation of new equipment, the impacts should be counted and lost revenues recovered.<sup>2</sup>

6. To the extent that the City argues that it is difficult to distinguish whether such reductions are caused by participation in the program or caused by "the avalanche of information from other sources" (*id.* at p. 3), behavioral programs like HECR will be evaluated by comparing

---

<sup>1</sup> As noted in the Motion, the Company has not yet filed HECR. The Company uses HECR in its Reply Comments as an example of a program that produces quantifiable results, but which the Company is concerned may be classified as "general awareness and education."

<sup>2</sup> Such impacts are different from impacts due to behavioral changes that occur as a result of changes in the price of energy, which are not the subject of lost revenue recovery.

the pilot group to a control group in order to differentiate between reductions resulting from the program versus those resulting from other factors. There is no reason to believe that the Company's Commission-approved measurement and verification plan is any less able to make this differentiation when the program is an "informational measure" (*id.* at p. 2) as opposed to a "hardware energy efficiency measure" (*id.*). The bottom line is that if Company programs generate verified savings for customers, it is irrelevant whether such savings are the result of hardware measures or informational measures.

7. The City has no basis for its contention that third party verification of the results of general education programs would somehow be more complex and expensive than measurement and verification of any other energy efficiency program. Further, under save-a-watt, Duke Energy Carolinas customers do not directly pay for measurement and verification of program results, rather the Company's avoided cost based revenues must cover measurement and verification costs. Accordingly, the Company has every incentive to keep measurement and verification costs reasonable. If measurement and verification costs increase, customer costs will not increase, but the Company's return will decrease.

8. The City asks "how can the ratepayers be assured that even demonstrated behavior changes will persist, and for how long?" (*Id.*). The answer is that persistence of results is also evaluated during the measurement and verification process. If the Company implements general awareness and education programs that stop producing results, it will no longer get paid once the results cease to materialize.

9. Similarly, the City's concern that "the 36 month longevity of 'lost revenues' reimbursement under save-a-watt may outstrip the duration of the behavior leading to the energy efficiency" (*id.* at p. 3) is also unfounded. For example, if the forecasted life of a measure is

three years, but the measure fails to generate kWh savings beyond year one, the Company will only receive net lost revenues for that one year, despite the general availability of recovery of net lost revenues for 36 months pursuant to the Agreement and Joint Stipulation of Settlement (“Settlement Agreement”) in this Docket.

10. Furthermore, the City mistakenly implies that Duke Energy Carolinas will receive the net present value of its net lost revenues for energy efficiency programs, including those that may be classified as general awareness and education programs. (*See* City Comments, p. 3). This is simply untrue. The Settlement Agreement provides that the Company will retain up to 50% of the net present value of its avoided capacity and energy costs; however, it does not provide for recovery of net lost revenues on a net present value basis, rather net lost revenues are recovered annually.

11. Finally, the City states that Duke Energy Carolinas has no save-a-watt program that benefits low-income customers, and contends that instead of spending its “energy efficiency surcharge” for general awareness and education, the Company should prioritize the creation of programs that help low-income customers with energy efficiency “hard” costs, like Progress’s low-income residential retrofit program. (*Id.* at p. 4). What the City ignores is that the Commission has already approved Duke Energy Carolinas’ Low-Income Weatherization Program. The Company is also actively looking at additional low-income programs, including those similar to Progress’s model. In addition, behavioral programs (like HECR) are offered at no cost to the customer and are exactly the type of programs in which low-income customers would be able to participate and derive value. Low-income customers can also take advantage of the Company’s residential CFL program, which is provided at no cost to the customer.

12. Duke Energy Carolinas' existing save-a-watt portfolio already contains a comprehensive slate of "hardware" programs. If the Company is to reach its target under save-a-watt, it must pursue nontraditional programs – such as those aimed at changing behavior – in addition to traditional "hardware" energy efficiency programs that involve installation of equipment. Feedback from the Company's Collaborative suggests that developing behaviorally-based programs is a direction in which Duke Energy Carolinas should head. Indeed, programs based on behavioral change are part of the next generation of energy efficiency programs and have already gained traction in other jurisdictions. Regardless, Duke Energy Carolinas has the burden to demonstrate results. To deny recovery of *demonstrated* net lost revenues for awareness and education programs would discourage the Company from implementing inventive and successful programs.

#### **Tracking Found Revenues**

13. The Public Staff, Environmental Intervenors and NC WARN take the position that the Company should have to track "found" revenues for utility activities that increase demand or consumption, regardless of whether or not these activities are approved as energy efficiency programs. In addition to the arguments made in its Motion, which are incorporated herein by reference, the Company responds further to the arguments raised in these intervenors' comments.

14. The Public Staff relies on the definition of net lost revenues in Commission Rule R8-68 for its position that found revenues are not limited to those resulting from energy efficiency activities. (*See* Public Staff Comments, p. 8). In its Comments filed in Docket No. E-100, Sub 113 on March 1, 2010, Duke Energy Carolinas recommended that the definition of net lost revenues in Commission Rule R8-68 be amended to provide simply for a limited recovery of

net lost revenues for thirty-six months and eliminate the complexities and burden associated with attempting to identify and track found revenues. The Company respectfully requests that this recommendation be taken into consideration in this Docket as well.

15. Even if Rule R8-68 is not amended, other than programs that provide incentives (which are approved under Rule R8-68), it is inappropriate to assume utility activities that are designed to meet new electric uses necessarily “promote” increased electric use. In its Responses to Pre-Hearing Order Requiring Verified Information filed on August 18, 2009 in this Docket, the Public Staff identified a utility program promoting plug-in hybrid electric vehicles as an example of an activity that may cause a customer to increase demand or consumption, and thus should offset recovery of net lost revenues from the successful implementation of energy efficiency. (Public Staff Comments, p. 8). However, provided the utility is not offering incentives for its customers to purchase plug-in vehicles, it is simply prudent utility practice to ensure that its rate offerings and infrastructure are designed to appropriately address a new use for electricity. The reality is that plug-in electric vehicles are coming to the market regardless of any actions taken by Duke Energy Carolinas, and the Company has to be prepared because of the system impact these vehicles will have. It strains logic to classify programs or rates designed to address the economic reality of plug-in vehicles as utility activities that cause a customer to increase demand or consumption.

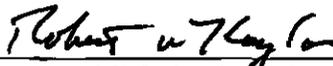
16. As noted in the Settlement Agreement, the purpose of allowing for recovery of net lost revenues is to remove a disincentive for the utility to institute energy efficiency programs. To adopt the Public Staff’s position is to offset net lost revenues whenever the Company implements programs and rates that accommodate electric use that is attractive to customers independent of a Company offered incentive. In short, it is overly simplistic to say that the

Company is “promoting” electric use when it is actually responding to or preparing for larger events in the economy.

17. Finally, both the Public Staff and NC WARN identify fixed payment plans/balanced bill programs as utility activities that increase demand or consumption. However, the Company’s residential fixed payment plan approved in Docket No. E-7, Sub 710 has been suspended as of March 2010.

WHEREFORE, the Company respectfully requests that the Commission take these comments into consideration in reaching a decision in this Docket.

Respectfully submitted this 7<sup>th</sup> day of May, 2010.



---

Lara Simmons Nichols, Associate General Counsel  
Duke Energy Corporation  
Post Office Box 1006/EC03T  
Charlotte, North Carolina 28201-1006  
Telephone: 704-382-9960  
lara.nichols@duke-energy.com

Robert W. Kaylor  
Law Office of Robert W. Kaylor, P.A.  
225 Hillsborough Street, Suite 160  
Raleigh, North Carolina 27603  
Telephone: 919-828-5250

Molly L. McIntosh  
K&L Gates, LLP  
Hearst Tower, 47<sup>th</sup> Floor  
214 North Tryon Street  
Charlotte, North Carolina 28202  
Telephone: 704-331-7547  
molly.mcintosh@klgates.com

COUNSEL FOR DUKE ENERGY CAROLINAS, LLC

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Carolinas, LLC's Reply Comments in Docket No. E-7, Sub 831 has been served by electronic mail (e-mail), hand delivery or by depositing a copy in the United States Mail, first class postage prepaid, properly addressed to parties of record.

This the 7<sup>th</sup> day of May, 2010.



---

Robert W. Kaylor  
Law Office of Robert W. Kaylor, P.A.  
3700 Glenwood Avenue, Suite 330  
Raleigh NC 27612  
(919) 828-5250  
NC State Bar No. 6237