

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-7, SUB 1276

In the Matter of	
Application of Duke Energy Carolinas, LLC,) CUCA RESPONSE IN
for Adjustment of Rates and Charges) SUPPORT OF JOINT MOTION
Applicable to Electric Service in North Carolina) TO STRIKE AND REQUEST
and for Performance-Based Regulation) FOR RELIEF

NOW COMES Carolina Utility Customers Association (“CUCA”), by and through undersigned counsel, and submits this Response to the Joint Motion to Strike and Request for Relief filed by Blue Ridge EMC, Haywood EMC, Piedmont EMC, and Rutherford EMC (collectively, “Blue Ridge et al.”) and the Carolina Industrial Group for Fair Utility Rates III (“CIGFUR”) (together with Blue Ridge et al., “Joint Movants”), as follows:

1. On October 17, 2023, the Joint Movants filed a Joint Motion to Strike and Request for Relief. In their motion, the Joint Movants seek an order striking from the record the Supplemental Testimony of Public Staff Witness D. Williamson filed in this proceeding on October 13, 2023. Alternatively, Joint Movants request procedural relief including: (a) the opportunity to conduct additional discovery; (b) the opportunity to present additional rebuttal evidence; (c) reconvening of the evidentiary hearing to allow for the cross-examination of witness Williamson; and (d) the opportunity to submit supplemental post-hearing proposed order and/or briefs at least three weeks after the reconvened hearing.

2. The background to and basis for the requested relief is set forth thoroughly in the Joint Motion.

3. In addition to the arguments and authorities set forth in the Joint Motion, CUCA would point to the following:

- a. The subject matter of the testimony at issue concerns the Public Staff's recommendation concerning the actual rates that will be paid by each customer class as a result of any rate increase approved by the Commission. In other words, the testimony goes to the heart of what is often the single most important issue to ratepayers—how much their rates will go up as a result of the rate order. It is fundamentally unfair and improper for a single party to be permitted to submit arguments on their view of this critical issue after the hearing has been concluded and when other parties are not afforded the opportunity to examine, probe, and counter those views. The testimony in issue goes far beyond a mere “mathematical” exercise reporting the results of the staff's audit.
- b. To this point, in his Supplemental Testimony Mr. Williamson presents his views on a number of substantive issues that could, and should, have been presented with his original testimony. For example, Mr. Williamson discusses how he believes the Public Staff's “four basic revenue assignment principles” should be applied (at 5-7); he addresses concerns with residential decoupling and how that requirement “makes application of the revenue assignment principles even more difficult” (at 8); he opines on the future potential impact of residential decoupling on the application of the Public Staff's revenue assignment principles (at 8); and he discusses how the agreed-upon change in the cost-of-service methodology impacts the lighting class (at 6-7). None of these matters is dependent on the resolution of the Public Staff's final recommendation on the total magnitude of the required revenue requirement increase and this testimony could have been filed before the hearing.
- c. Mr. Williamson did not provide workpapers supporting his testimony¹ and the Exhibits setting forth his recommendations are, standing alone, inscrutable. That is, it is impossible to verify his calculations by reference to any record evidence (since no citations to record evidence were provided), and it is impossible to understand the analytical approach behind his calculations since the specific approach taken was not explained.

4. Further, as independent grounds for relief, Mr. Williamson's proposed exhibits are subject to exclusion because they are not “based upon sufficient facts or data,”

¹ On the first business day after the filing of the testimony, CUCA served data requests on the Public Staff seeking, among other things, Mr. Williamson's workpapers. As of this date, CUCA has not been provided a response to the request but understands based on communications with counsel for the Public Staff that the workpapers are forthcoming.

are not “the product of reliable principles and methods,” and do not involve the applications of “principles and methods reliably to the facts of the case.” N.C. R. Evid. 702(a). Therefore, they should not be admitted, even if they were timely.

5. For example, the calculations in Mr. Williamson’s exhibits are inconsistent with the text of his supplemental testimony and the supplemental testimony and exhibits of Public Staff witnesses Zhang, Boswell, and Metz. Specifically, at page 3, Mr. Williamson summarizes the Public Staff’s recommended changes in revenue in the following table:

	Public Staff Recommended Revenue Requirement under Present Rates (Base)	Public Staff Recommended Change in Revenue Requirement (Incremental)	Public Staff Recommended Change in Revenue Requirement (Cumulative)
Base Case	\$5,427,913	\$146,502	\$5,574,415
Rate Year 1		\$117,126	\$5,691,541
Rate Year 2		\$164,650	\$5,856,191
Rate Year 3		\$151,235	\$6,007,425

However, the revenues and incremental changes indicated in Williamson Supplemental Exhibits 2.0, 2.1, 2.2, and 2.3 are as follows:

[see next page]

	Williamson Exhibit 2.0 Recommended Revenue Requirement under Present Rates (Base)	Williamson Indicated Change in Revenue Requirement (Incremental)	Williamson Recommended Revenue Requirement (Cumulative)
Base Case	\$5,427,913 ²	\$146,630 ³	\$5,574,543 ⁴
Rate Year 1		\$85,517 ⁵	\$5,660,060 ⁶
Rate Year 2		\$131,314 ⁷	\$5,791,374 ⁸
Rate Year 3		\$114,069 ⁹	\$5,905,443 ¹⁰

These discrepancies accumulate to more than a \$100 million difference in revenue requirement between Mr. Williamson's exhibits and the revenue amounts indicated in the text of his testimony and supported by the supplemental testimony of and exhibits of witnesses Zhang, Boswell, and Metz.

6. Additionally, Mr. Williamson's calculations imply—based on the Rate of Return indices—that the Residential Class and the General Service Class (which have rate of return indices above 1.0) are subsidizing the Lighting, Industrial, and OPT classes

² Williamson Supplemental Ex. 2.0, p. 4, line 1.

³ Williamson Supplemental Ex. 2.0, p. 4, line 2.

⁴ Calculated as the sum of Base Case Total Revenue + Proposed Revenue Change, i.e., \$5,427,913 + \$146,630 = \$5,574,543.

⁵ Calculated as Rate Year 1 total revenue requirement (see n.6 below) minus the Base Case Total Revenue (see n.4 above) to obtain the incremental change in revenue from Base Case to Rate Year 1.

⁶ Calculated by summing Williamson Supplemental Ex. 2.1, p.4, line 1 + line 2, i.e., \$5,427,913 + \$232,147 = \$5,660,060.

⁷ Calculated as Rate Year 2 total revenue requirement (see n.8 below) minus the Rate Year 1 Total Revenue (see n.6 above) to obtain the incremental change in revenue from Rate Year 1 to Rate Year 2.

⁸ Calculated by summing Williamson Supplemental Ex. 2.2, p.4, line 1 + line 2, i.e., \$5,427,913 + \$363,461 = \$5,791,374.

⁹ Calculated as Rate Year 3 total revenue requirement (see n.10 below) minus the Rate Year 2 Total Revenue (see n.8 above) to obtain the incremental change in revenue from Rate Year 2 to Rate Year 3.

¹⁰ Calculated by summing Williamson Supplemental Ex. 2.3, p.4, line 1 + line 2, i.e., \$5,427,913 + \$477,530 = \$5,905,443.

(which have rate of return indices below 1.0). However, DEC witness Beveridge's testimony and exhibits make clear that it is the GS and OPT classes that are subsidizing the Residential, Lighting, and Industrial Classes.¹¹ In fact, all of the evidence received during the hearing indicates that the Residential Class is receiving interclass subsidies while the OPT class is providing interclass subsidies. Because Mr. Williamson's exhibits reverse the direction of subsidy flow, they result in a suggestion that the OPT class should bear even more of the revenue requirement, while the Residential class bears proportionately less. As a result, Mr. Williamson's calculations propose to exacerbate interclass subsidization while claiming to do the opposite. If Mr. Williamson wished to rebut DEC's evidence on interclass subsidies, he should have done so in his initial testimony.

7. To be clear, CUCA is sympathetic to, and supportive of, the Public Staff's need to conduct a thorough audit of DEC's updated revenue, expense, and rate base data submitted pursuant to N.C.G.S. § 62-133(c) and Rule R1-17(b). CUCA supports the Public Staff having sufficient resources and time to perform this important function and acknowledges that the manner in which the most recent Duke Energy rate cases have unfolded create serious challenges for the Public Staff—in particular, with Duke's numerous updates and project substitutions. Nevertheless, it is inappropriate and ultimately unfair to the parties to these proceedings to allow open-ended and unilateral submission of additional materials relating to disputed and material issues after the close of the rate case. At a minimum, the Commission may wish to provide procedural guidance to prevent a

¹¹ Beveridge Direct Ex. 4, 4_1, 4_2, 4_3; Tr. vol. 10, 245-48; *see also* Tr. vol. 15, 446-47 (CUCA witness Pollock explaining that DEC's existing and proposed rates result in subsidization of the Residential, Industrial, and Lighting classes by the GS and OPT classes); Tr. vol. 15, 965 (CIGFUR witness Collins explaining that "OPT customers are subsidizing other rate classes by approximately \$85.4 million under current rates.").

recurrence of this issue in future rate cases. For example, the Commission may wish to create a presumption that any updates or MYRP project substitutions after a date certain would be ineligible for consideration in the rate proceeding.

WHEREFORE, in light of the foregoing, CUCA supports CIGFUR's request to strike the supplemental testimony and exhibits of Public Staff witness Williamson, or to provide the additional requested procedural relief.

This 18th day of October, 2023.

/s/ Marcus Trathen

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Certificate of Service

I hereby certify that a copy of the foregoing Response in Support of Joint Motion to Strike and Request for Relief has been served this day upon all parties of record in this proceeding, or their legal counsel, by electronic mail.

This the 18th day of October, 2023.

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, LLP

By: /s/ Matthew B. Tynan