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September 16, 2016

VIA ELECTRONIC FILING

Chief Clerk
North Carolina Utilities Commission
Dobbs Building
430 North Salisbury Street
Raleigh, North Carolina 27603

Re: Docket No. M-100, Sub 145

Dear Chief Clerk:

Enclosed for filing in the above-captioned proceeding, please find *Joint Comments of Duke Energy Carolinas, LLC, Duke Energy Progress, LLC, Virginia Electric & Power Company, d/b/a Dominion North Carolina Power, Piedmont Natural Gas Company, Inc., Public Service Company of North Carolina, Inc., and Frontier Natural Gas Company, LLC.*

Please do not hesitate to contact me should you have any questions. Thank you for your assistance with this matter.

Very truly yours,

s/ E. Brett Breitschwerdt

Enclosure

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. M-100, SUB 145

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Rulemaking Proceeding to Consider Proposed Rule Establishing Procedures for Settlements and Stipulated Agreements	)	JOINT COMMENTS OF DUKE ENERGY CAROLINAS, LLC., DUKE ENERGY PROGRESS, LLC, DOMINION NORTH CAROLINA POWER, PIEDMONT NATURAL GAS, INC., PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC. AND FRONTIER NATURAL GAS

NOW COME Duke Energy Carolinas, LLC. ("DEC"), Duke Energy Progress, LLC ("DEP"), Virginia Electric & Power Company, d/b/a Dominion North Carolina Power ("Dominion"), Piedmont Natural Gas Company, Inc. ("Piedmont"), Public Service Company of North Carolina, Inc. ("PSNC") and Frontier Natural Gas Company, LLC (collectively, the "Joint Utilities"), by counsel, and hereby submit initial comments pursuant to the North Carolina Utilities Commission's ("Commission") *Order Requesting Comments Regarding Proposed Rule* ("Procedural Order") issued in this docket on August 1, 2016.

The Procedural Order requests that the Public Staff – North Carolina Utilities Commission ("Public Staff"), the Joint Utilities, and other interested parties comment on the "Settlement Rule" proposed by the North Carolina Waste Awareness and Reduction Network, Inc. ("NC WARN") in its July 14, 2016 Petition for Rulemaking ("Petition"). As discussed further herein, the proposed Settlement Rule is neither reasonable nor necessary to the Commission's implementation of the Public Utilities Act, is contrary to the Commission's statutory mandate to encourage settlement, and would effectively erode

parties' well established practice of utilizing stipulations to resolve legal and factual issues in contested Commission proceedings. For these reasons, the Joint Utilities respectfully request that the Commission dismiss the Petition without further proceedings.

The Joint Utilities submit that the appropriate framework for evaluating NC WARN's proposed Settlement Rule is to determine whether such a rule is necessary and reasonable to carry out the Commission's regulatory responsibilities under the Public Utilities Act. The General Assembly has granted the Commission the general authority "to make and enforce reasonable and necessary rules and regulations to [carry out the Public Utilities Act]." N.C.G.S. § 62-31; *see also* N.C.G.S. § 62-23 (Commission was "created for the principal purpose of carrying out the administration and enforcement of [the Public Utilities Act], and for the promulgation of rules and regulations and fixing utility rates pursuant to such administration").[1] The General Assembly has also granted the Commission authority to establish rules of practice and procedure, assuming such rules are consistent with the Public Utilities Act. *See* N.C.G.S. § 62-72; *State ex rel. North Carolina Utilities Comm'n v. Western Carolina Tel. Co.*, 260 N.C. 369, 375, 132 S.E.2d 873, 877 (1963). Applying this framework, as discussed herein, the Commission should deny the Petition.

[1] The Joint Utilities do not advocate that the Commission is constrained to only adopt rules that are reasonable and necessary to implement the Public Utilities Act. *See State ex rel. Utilities Comm'n v. Associated Petroleum Carriers*, 13 N.C. App. 554, 186 S.E.2d 612 (1972). However, these considerations provide a reasonable and appropriate standard in evaluating whether the proposed Settlement Rule should be adopted by the Commission.

I. The proposed Settlement Rule is unreasonable because it is contrary to the Public Utilities Act's mandate for the Commission to encourage settlement.

Litigation is risky, uncertain, and expensive. Settlement of disputes, on the other hand, promotes judicial economy and the amicable and efficient resolution of disputes. As a result, it is not surprising that settlements are extremely common in state and federal regulatory matters involving public utilities.[2] In this state, both the Public Utilities Act and the Commission's procedural rules address the practice of settlement before the Commission. Section 62-69(a) of the North Carolina General Statutes provides that:

> In all contested proceedings the Commission, by prehearing conferences and in such other manner as it may deem expedient and in the public interest, ***shall*** encourage the parties and their counsel to make and enter stipulations of record for the following purposes:
>
> (1) Eliminating the necessity of proof of all facts which may be admitted and the authenticity of documentary evidence,
>
> (2) Facilitating the use of exhibits, and
>
> (3) Clarifying the issues of fact and law.
>
> The Commission may make informal disposition of any contested proceeding by stipulation, agreed settlement, consent order or default.

(Emphasis added.) The Commission has also promulgated Rule R1-24(c), which implements N.C.G.S. § 62-69, providing:

> The parties to any proceeding or investigation before the Commission may, by stipulation in writing filed with the Commission or entered in the stenographic record at the time of the hearing, agree upon the facts or any portion thereof involved in the controversy, which stipulations shall be binding upon the parties thereto and may be regarded and used by the Commission as evidence at the hearing. It is desirable that the facts be thus agreed upon whenever practical. The Commission may, however, require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

[2] Stipulations are routinely used before this Commission and in other jurisdictions where the Joint Utilities provide public utility service, including South Carolina, Virginia and Tennessee. The Federal Energy Regulatory Commission also facilitates settlement of contested proceedings through its procedural rules, specifically 18 C.F.R. § 385.602, and has been known to encourage parties to settle disputes. *See e.g.*, *Midwest Generation, LLC*, 156 F.E.R.C. ¶ 61,136 (2016) (stating "While we are setting these matters for a trial-type evidentiary hearing, we encourage the participants to make every effort to settle their dispute before hearing procedures are commenced.").

Read together, the Public Utilities Act and the Commission's existing rules both encourage settlement and facilitate parties' right to pursue reasonable settlements of factual and legal issues with other parties that can be presented to the Commission for consideration in a given case. These provisions also effectuate the General Assembly's view that resolving contested proceedings via compromise can, at times, most efficiently and cost-effectively enable the Commission to carry out its duties. To that end, the North Carolina Supreme Court has expressly "recognize[d] the crucial role that informal disposition plays in quickly and efficiently resolving many contested proceedings [before the Commission] and encourages all parties to seek such resolution through open, honest and equitable negotiation." *State ex rel. Utilities Comm'n v. Carolina Util. Customers Ass'n*, 348 N.C. 452, 466, 500 S.E.2d 693, 703 (1998) ("*CUCA I*").

The Petition fails to recognize that the Public Utilities Act expressly directs the Commission to "encourage the parties and their counsel to make and enter stipulations" regarding procedural matters and matters of fact and law to be decided by the Commission, and specifically authorizes the Commission to "make informal disposition of any contested proceeding by stipulation, agreed settlement, consent order or default." N.C.G.S. § 62-69(a). Indeed, several specific provisions of the proposed Settlement Rule directly contradict this mandate. For instance, proposed subsections (b)(1) and (b)(2) would prohibit the Commission from accepting a settlement until 10 days after the later of intervention or the filing of expert testimony, and, if public hearings are scheduled, until 10 days after the last public hearing. It is irreconcilable for the Commission to "encourage settlement" while, at the same time, curtailing the timing and constraining the process for parties to file a stipulation proposing resolution of issues in a contested proceeding. As

another example, proposed subsection (b)(6) would prohibit acceptance of settlements that provide they be approved in their entirety or not at all. This proposal fails to grasp the Commission's role in hearing and deciding cases under the Public Utilities Act. The Commission is not bound to accept the proposed resolution in a non-unanimous stipulation, where the Commission independently finds the provisions of the settlement are not consistent with the Commission's judgment of how to best achieve the public interest under the Public Utilities Act. *See CUCA I*, 348 N.C. at 465, 500 S.E.2d at 702 (*citing Mobil Oil Corp. v. Federal Comm'n*, 417 U.S. 283 (1974) (Stipulation is simply one piece of evidence to be considered by agency as it makes its independent findings and conclusions of just and reasonable rates). No benefit therefore is achieved by prohibiting such provisions, since ultimately the Commission must determine whether a settlement should be accepted based on all evidence in the record. Because the provisions of the proposed Settlement Rule substantially diminish the Commission's ability to meet its statutory obligation to encourage settlement, they are inconsistent with the Public Utilities Act and should be rejected.

In addition, Rule R1-24(c) provides parties to contested Commission proceedings with the procedural right to enter into stipulated settlements, which the Commission may then use as evidence in deciding a given case. This existing procedural rule facilitates more efficient and less costly resolution of contested proceedings – subject to Commission oversight – and is an important aspect of practice before the Commission that should continue to be encouraged.

II. The proposed Settlement Rule is unreasonable because it ignores the extensive procedural protections afforded parties under the Public Utilities Act as well as the obligations imposed on the Commission under the Act to consider and weigh all evidence presented.

In addition to the provision for settlement set forth in N.C.G.S. § 62-69, the procedural requirements of the Public Utilities Act provide interested parties both extensive rights to advocate their interests before the Commission and significant due process protections before the appellate courts. Through the Public Utilities Act, "the legislature has established an elaborate procedural, hearing, and appeals process that contemplates the full consideration of all evidence put forth by each of the parties certified via the statute to have an interest in the outcome of contested proceedings." *CUCA I*, 348 N.C. at 463, 500 S.E.2d at 701. These provisions already ensure that the Commission carries out the Public Utilities Act in a fair and transparent manner and that evidence submitted by non-settling parties is fairly considered by the Commission in a way that can inform appellate review.

First, the Public Utilities Act establishes clear procedural rights to ensure all interested parties can fully participate and advocate their interests in Commission proceedings.[3] Notably, NC WARN has proven itself fully capable of exercising these procedural and due process rights to advocate its interest before the Commission.[4]

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[3] *See* N.C.G.S. §§ 62-73; 62-101(c) (persons having a direct and significant interest in the rates and operations of a public utility can intervene and become a party to a Commission proceeding); N.C.G.S. § 62-65(a) (parties to Commission proceedings "have the right to call and examine witnesses, to introduce exhibits [and] to cross-examine opposing witnesses on any matter relevant to the issue . . . ."); N.C.G.S. § 62-71 (hearings of the Commission are held publicly and a complete record is kept of all proceedings including all testimony before the Commission, for inspection by the public); N.C.G.S. § 62-78(a) (prior to the Commission issuing its decision, "parties [are] afforded an opportunity to submit . . . proposed findings of fact and conclusions of law and briefs . . . ."); N.C.G.S. § 62-94 ("[a]ny party to a proceeding before the Commission may appeal from any final order or decision . . . ."); and N.C.G.S. § 62-94(b) (the Commission's findings and conclusions must be supported by substantial evidence on the record as a whole).

[4] In the approximately 60 days since NC WARN filed the Petition, NC WARN has filed both a Motion for Reconsideration in Docket Nos. E-2, Sub 1095, *et al.*, as well as multiple notices of appeal and petitions for writs to the Court of Appeals in Docket No. E-2, Sub 1089.

In addition, the rights of non-settling parties are protected by the Public Utilities Act's requirement that the Commission must *show* the appellate courts that it applied its independent judgment and considered all evidence in the record. *See* N.C.G.S. § 62-79(a) (requiring final Commission orders to be "sufficient in detail to enable the court on appeal to determine the controverted questions presented in the proceedings" and the evidence the Commission weighed and considered in arriving at its ultimate conclusions).[5] The courts have made clear that the Commission "satisfies the requirements of Chapter 62 by independently considering and analyzing all the evidence and any other facts relevant to a determination that the proposal is just and reasonable to all parties." *CUCA II*, 351 N.C. at 232, 524 S.E.2d at 17.

It has also been clearly established that the Commission cannot, as NC WARN alleges, "rubberstamp" a non-unanimous stipulation:

> [A] stipulation entered into by less than all of the parties as to any facts or issues in a contested case proceeding under chapter 62 should be accorded full consideration and weighed by the Commission with all other evidence presented by any of the parties in the proceeding. The Commission must consider the nonunanimous stipulation along with all the evidence presented and any other facts the Commission finds relevant to the fair and just determination of the proceeding. The Commission may even adopt the recommendations or provisions of the nonunanimous stipulation as long as the Commission sets forth its reasoning and makes "its own independent conclusion" supported by substantial evidence on the record that the proposal is just and reasonable to all parties in light of all the evidence presented. Only those stipulations that are entered into by all of the parties before the Commission may form the basis of informal disposition of a contested proceeding under section 62-69(a).

[5] *See also State ex rel. Utils. Comm'n v. Cooper*, 367 N.C. 644, 651, 766 S.E.2d 827, 829 (2014) (holding the Commission satisfied the Public Utilities Act by "revisit[ing] the evidence related to ROE and explain[ing] the weight given to each witness's testimony" and making specific findings of fact concerning the impact of changing economic conditions on customers); *State ex rel. Utils. Comm'n v. Carolina Utils. Customers Ass'n*, 351 N.C. 223, 231-234, 524 S.E.2d 10, 16-19 (2000) ("*CUCA II*").

CUCA I, 348 N.C. at 466, 500 S.E.2d at 703. Testimony in support of a non-unanimous settlement must be weighed and considered by the Commission with all other evidence and is not subjected to a lesser or heightened standard of Commission reliance or appellate review. *See CUCA II*, 351 N.C. at 231-232, 524 S.E.2d at 16-17. As these cases show, the elaborate procedural, hearing, and appeals process required by the Public Utilities Act assures that adoption of any partial settlement only occurs after the Commission independently applies its expert judgment to decide the issues before it, and assures "a full and fair examination of evidence put forth by *all* of the parties." *CUCA I*, 348 N.C. at 464, 500 S.E.2d at 702 (emphasis in original). Contrary to NC WARN's alleged need for its Petition, the elaborate procedural, hearing, and appeals process mandated by the Public Utilities Act is working today, as designed. To the extent NC WARN has specific concerns in a given case, the Public Utilities Act provides reasonable and appropriate avenues for obtaining relief without creating an ill-conceived new Settlement Rule.

III. The proposed rule is unreasonable because it is based on a fundamental mischaracterization of the existing practice and procedure of resolving contested Commission proceedings.

The Petition and the proposed Settlement Rule are based on a fundamental mischaracterization of the existing practice and procedure of resolving contested Commission proceedings. In support of the proposed Settlement Rule, NC WARN variously alleges that matters before the Commission are settled in a way that is "unfair and nontransparent," that it has been "unfairly impeded from participating fully" in proceedings in which it has intervened, that settlements are presented to the Commission as a "*fait accompli*," and that "secret agreements" result in a lack of transparency. Petition at 2-3. NC WARN's press release announcing its Petition goes even farther, alleging that

some of the Joint Utilities, Public Staff, and other parties have "cut" "backroom" or "secret" "deals" to the detriment of customers and then presented settlements to be "rubber-stamped" by the Commission (the "Press Release").[6] In the Joint Utilities' view, NC WARN's rhetoric, and especially its disparagement of the Public Staff and the Commission in its Press Release, significantly mischaracterizes the merits of the existing practice and procedure around resolving contested Commission proceedings through mutual agreement of the parties to those proceedings. These unfounded allegations not only unreasonably ignore the existing framework for Commission practice that North Carolina law and the Commission's rules provide, but grossly misrepresent the equitable nature and value of current settlement practice before the Commission.

Contrary to NC WARN's rhetoric, settlement of contested proceedings is a well-established and valuable practice before the Commission.[7] The right to submit stipulations that more efficiently facilitate resolution of contested proceedings is an important aspect of practice before the Commission. In major utility rate cases and other complex proceedings, the record before the Commission often consists of thousands of pages of testimony, schedules, and exhibits supported by a multitude of witnesses proffered by the utility, the Public Staff, and interveners. Compromise by settlement allows the utility, the Public Staff, and other parties to avoid protracted and contentious litigation, to narrow the disputed issues before the Commission, and, in certain cases, resolve or eliminate conflicting testimony on a given issue.

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[6] http://www.ncwarn.org/2016/07/group-seeks-ban-of-backroom-deals-by-duke-energy-regulators-news-release-from-nc-warn/.

[7] Settlement of litigation and/or contested proceedings is also commonly used and generally favored by North Carolina courts. *See e.g., Estate of Barber v. Guilford County Sheriff's Dep't*, 161 N.C. App. 658, 661, 589 S.E.2d 433, 435 (2003) (citing a number of prior cases for the proposition that "it is well-settled in North Carolina that compromises and settlements of controversies between parties are favored by our courts.").

Resolution by settlement can similarly be efficient for smaller utilities in addition to the Joint Utilities.[8] According to the Commission's website, 2,968 utilities and other companies are regulated to varying degrees by the Commission and could be impacted by the proposed Settlement Rule.[9] It is the Joint Utilities' understanding that resolution by settlement is routinely used by small utility companies.[10] In regulating these small companies, the utility and Public Staff can stipulate to proposed rates, to appoint an emergency operator, or to resolve a service quality issue. Indeed, the Commission's Agenda Conferences for uncontested matters play a similar role. Avoiding the expense and uncertainty of litigation is key for small utility companies and their customers, especially as reasonable regulatory expense is a recoverable part of the utility's cost of service.

In addition to allowing for the efficient and amicable resolution of disputes, settlements represent private agreements between individual parties that can be partial or comprehensive, and can involve some or all of the active participants in dockets set for hearing. This flexibility afforded to the practice of settling cases allows for "stipulated agreements" to resolve as much of a contested case, and involve as many parties, as possible. Parties opposing settlements are free to submit testimony or comments advocating rejection of the settlement to the regulator and, as discussed further below, NC

[8] The proposed Settlement Rule is designated as an "R1" procedural rule, which would apply to all utilities regulated by the Commission, as well as all other interested parties that practice before the Commission.

[9] http://www.ncuc.commerce.state.nc.us/industries/industries.htm.

[10] In fact, for a number of the smaller water and wastewater companies – Classes B & C – the proposed rules would make settlement opportunities effectively unavailable to the parties. The current, efficient practice combines public and evidentiary hearings into one proceeding, held in the county in which the utility system is located. Any settlement agreement, should one be reached among the parties after investigation and negotiation, can be presented to all at this public hearing. This practice benefits customers, consumer advocates, the Commission, and the utility because it efficiently balances resource allocation and costs and maximizes the opportunity for public review.

WARN – like any other interested party – has the right and opportunity to advocate its position on settlements before the Commission.

Finally, settlements are clearly not "fait accompli." Regulators, including the Commission, are not bound by settlements and are free to accept or reject them as they deem appropriate, to require evidence in support of them, and to make decisions contrary to them. Ultimately, it is for the Commission to decide whether a Stipulation would result in just and reasonable rates or otherwise serve the public interest.

IV. The specific provisions of the proposed Settlement Rule are unworkable or unnecessary in numerous respects and, taken together, are unreasonable and contrary to the Public Utilities Act

The substantive provisions of the proposed Settlement Rule are either not workable or unnecessary under the Commission's well-established practices and procedures for implementing the Public Utilities Act. For example, proposed subsections (b)(1) and (b)(2), discussed above, would be unworkable in the numerous cases where independent public hearings are not held other than at the opening of the evidentiary hearing or where the Commission determines there is no need for a public or evidentiary hearing due to lack of protest. *See e.g.,* N.C.G.S. §§ 62-81(f) and 62-104(b). Additionally, the Commission's calendar and other considerations[11] can cause public hearings to be held close-in-time to the evidentiary hearing, such that 10 days may not exist between the last public hearing and the evidentiary hearing. *See e.g., Order Scheduling Investigation Hearing, Suspending Proposed Rates, Establishing Intervention and Testimony Due Dates and Discovery Guidelines, and Requiring Public Notice,* Docket No. G-5, Sub 565 (April 26, 2016)

[11] For example, the Public Utilities Act provides clear timelines for the Commission to take action in hearing and deciding rate case applications (N.C.G.S § 62-81); certificates of public convenience for generating facilities (N.C.G.S § 62-82); and certificates for new transmission lines (N.C.G.S § 62-104).

(scheduling public hearings on August 23, 24, 25, and 29 throughout PSNC's service territory, preceding an August 30 evidentiary hearing in Raleigh).

The proposed subsection (b)(3) requirement that all parties be given "the opportunity to participate" in settlement negotiations prior to a settlement or stipulation being filed would also present an impracticable obstacle to the resolution of contested matters before the Commission without offering any discernable additional benefit. The Joint Utilities' doors are always open for engaging in good faith and constructive settlement discussions with any and all parties. Indeed, the Joint Utilities have each successfully negotiated good faith settlements with numerous parties in recent cases. However, as is sometimes the case in any litigation, the Joint Utilities' have determined in certain circumstances that another party's interests and advocacy are so completely irreconcilable to the Joint Utilities' fundamental positions as to make it unlikely that settlement discussions would be productive. Based on this experience, and mindful of the Commission's responsibility to consider the evidence of all parties in deciding matters before it, the Joint Utilities contend there is neither authority nor benefit in attempting to force parties whose goals and interests are completely contrary to engage in settlement discussions with each other. The suggestion that such procedures should be required appears to be nothing other than an attempt to create leverage in favor of the party that is not otherwise inclined to compromise.

Proposed subsection (b)(4), which would "encourage" non-settling parties to file statements 10 days after a stipulation is filed on the portions of the stipulation that they support or dispute, is also unnecessary. As discussed above, the Public Utilities Act already provides parties to Commission proceedings with significant procedural and due process

rights to contest stipulations either in testimony, at hearing or in proposed orders or briefs. *See generally* North Carolina Public Utilities Act Article 4, N.C.G.S. § 62-60 *et seq.* Similarly unnecessary is proposed Section (b)(5), which would require the parties entering into the settlement or stipulated agreement to file expert testimony and exhibits providing support for the filing. Existing Rule R-24(c) already provides in part that "[t]he Commission may . . . require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties." Moreover, the proposal that every party to a proposed stipulation be required to file testimony reiterating its agreement to the settlement runs counter to the way that settlement works as discussed above and to the procedures laid out in the Act. A stipulation is competent evidence that speaks for itself; and under the Public Utilities Act the Commission is already required to consider all of the evidence presented.

Proposed subsection (b)(6) would prohibit the Commission from accepting any settlement that requires that it be approved in its entirety or not at all. This proposal is unreasonable and unworkable in practice, since the whole point of entering into a settlement is to compromise, *i.e.*, for each party to cede some rights or arguments that could be made in support of its respective position in favor of constructive and efficient resolution. Parties must have the right to revert to their original position if a stipulated resolution is not adopted. Otherwise, they would have no assurance that they gained anything by making compromises from their litigation positions and the potential benefits of settlement would be greatly limited. This is especially important where a utility makes a voluntary commitment via a stipulation, such as committing shareholder funds to support low-income customers or waiving rights to current recovery of prudent and otherwise recoverable costs, that the Commission could not otherwise require the utility to make.

Subsection (c) of the proposed rule, which would encourage timely discovery in Commission proceedings, is also unnecessary. The Commission provides clear guidance in its procedural orders at the outset of a given case regarding the timing and scope of discovery.

NC WARN's proposed Subsection (d), which would direct parties to "carefully examine all filings in order to minimize, if not eliminate, filings under the seal of confidentiality or trade secret," is also unreasonable and potentially unworkable to the extent it is inconsistent with parties' rights under North Carolina law to protect trade secret and other confidential information from public disclosure.[12] It is also unnecessary, because any party (or the Commission on its own initiative) may challenge a utility or other party's designation of confidentiality. Consistent with past practice, the Commission would then apply North Carolina's law and precedent to determine whether such information was appropriately designated confidential, or whether it should be unsealed and made public. *See e.g.*, *Order Granting in Part and Denying in Part Motion for Disclosure*, Docket No. E-100, Sub 137 (June 3, 2013); *Order Approving Decision to Incur Project Development Costs* at 4-6, Docket No. E-8, Sub 819 (June 11, 2008).

Finally, NC WARN concedes in its Petition that it was unable to find any rule similar to its proposed Settlement Rule that had been adopted elsewhere. *See* Petition at 8. This lack of comparable rules in other jurisdictions further highlights the unnecessary and unworkable nature of the proposed Settlement Rule and further supports its denial.

[12] *See* N.C.G.S. § 66-152, *et seq.*, *Trade Secrets Protection Act*, and N.C.G.S. Chapter 132, *Public Records*.

CONCLUSION

WHEREFORE, the Joint Utilities respectfully request the Commission consider the foregoing comments and dismiss NC WARN's Petition for Rulemaking without further proceedings.

Respectfully submitted this 16th day of September 2016.

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Duke Energy Progress, LLC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Joint Comments of Duke Energy Carolinas, LLC., Duke Energy Progress, LLC, Dominion North Carolina Power, Piedmont Natural Gas, Inc., Public Service Company of North Carolina, Inc. and Frontier Natural Gas*, as filed in Docket No. M-100, Sub 145, was served electronically or via U.S. mail, first-class, postage prepaid, upon all parties of record.

This, the 16th day of August, 2016.

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