



**CITY OF DURHAM**

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**APR 23 2010**

Clerk's Office  
N.C. Utilities Commission

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April 23, 2010

Ms. Renné Vance

Chief Clerk

The North Carolina Utilities Commission

Post Office Box 29510

Raleigh, North Carolina 27626-0510

**RE:** In the Matter of Duke Energy Carolinas, LLC  
Save-a-Watt, Energy Efficiency Rider and Portfolio of Programs.

**Docket No. E-7, SUB 831**

Dear Ms. Vance:

Enclosed for filing in the above-referenced matter are the Comments of Petitioner Intervenor City of Durham in the form of one original and 31 copies. We would ask that one copy be returned to the City marked, "Filed."

Your assistance in the filing of these documents is appreciated. If you need any additional information, please feel welcome to call me at (919)560-4158.

Sincerely,

Sherri Zann Rosenthal

Senior Assistant City Attorney

Enclosures

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Full Dist.

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-7, SUB 831

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N.C. Utilities Commission

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Duke Energy Carolinas, LLC	)	COMMENTS BY CITY OF DURHAM
Save-a-Watt, Energy Efficiency Rider and	)	TO DUKE'S REQUEST TO OBTAIN
Portfolio of Programs.	)	'LOST REVENUE' ON GENERAL EDUCATION

The Petitioner-Intervenor the City of Durham (the "City") submits the following as its comments in response to Duke Energy Carolinas, LLC's ("Duke Energy" or the "Company") motion for reconsideration and its request that it obtain net lost revenues for general energy efficiency awareness and education:

**Introduction.** The Commission's Order in this docket of February 9, 2010, struck a middle ground. The Commission acceded to Duke Energy's strong desire to have an energy efficiency payment scheme based upon a combination of 'avoided costs' and 'net lost revenues,' rather than a compensation methodology in keeping with North Carolina's traditional formulation of cost plus reasonable rate of return. But the Commission also imposed appropriate constraints on this unconventional payment scheme.

One of those constraints is that "general awareness and education of energy efficiency as well as research and development activities are ineligible for the recovery of net lost revenue" ("General Education").

In seeking to recover net lost revenue for General Education, the Company argues that, "General education and awareness programs help to transform the market by making customers increasingly receptive to specific program offerings, as well as by providing information to customers about how

they can save money on their utility bills through either specific utility programs or other energy saving activities.” See Duke Energy’s Motion for Clarification and Reconsideration, p.2-3.

What Duke is describing is essentially promotion, marketing and advertising activity, which by its nature is intended to make customers increasingly receptive to a company’s offerings. In addition, much advertising activity is aimed at increasing the good will with which the public views a company.

The City does not support providing avoided costs and net lost revenues for such General Education activity.

Two problems are particularly troubling, and should stop the Commission from according avoided costs and/or net lost revenues for General Education. First, how can the ratepayers be assured that even demonstrated behavior changes will persist, and for how long? Secondly, paying a third party verifier to develop and implement methodology to attempt to really track the causation and duration of such behavior changes itself imposes a potentially unfair cost on ratepayers, diverting funds from more clear and durable energy efficiency measures.

The City would not regard as General Education customer-specific information provided about that customer’s usage and how it compares to the usage of similarly-situated customers. For example, a Home Energy Comparison Report with such customer-specific information could qualify, in the City’s view, as a useful measure aimed at changing customer behavior. However, in line with Duke Energy’s own explanation, such informational measures are best viewed as a marketing or promotional activity to gain customer participation in “hardware” energy efficiency programs, which provide clear and durable energy savings.

**I. Energy efficiency incentives for utilities are needed, but, as noted in previous filings, the City opposes ‘lost revenues’ and avoided costs as the means for providing those incentives.**

A. The City supports enhanced profit levels for kilowatts of electricity saved through energy efficiency as compared to kilowatts of electricity generated at power plants.

B. Regulatory law should not give any company a vested right in a particular level of profit or sales.

C. Even the Commission's order in save-a-watt, which is limited to 36 months of net lost revenues, is very analogous to the amortization of vested property rights, for example, in the zoning law context.

D. Duke's motion to reconsider is evidence of the slippery slope stepped onto by agreeing to any payment of net 'lost revenues,' as seen by Duke Energy's argument that the Commission has no valid reason to differentiate between equipment and other hard costs leading to energy efficiency and General Education regarding energy efficiency.

**II. Behavioral change and general energy efficiency information should not be portions of Duke Energy's program for which it can receive 'lost revenues.'**

A. Differentiating between behavioral change caused by Duke Energy information and that caused by the avalanche of information from other sources is difficult and of questionable reliability.

B. The City believes it will add cost and complexity, and is therefore not fair to surcharge-paying customers, to hire a third party company to attempt to accurately attribute behavior change to Duke's General Education.

1. The complexity of the task will equate to greater cost of the third party verifier, as well as making Duke Energy's costs and benefits of the save-a-watt program more complex and less transparent for the ratepayers.

2. The 36 month longevity of 'lost revenues' reimbursement under save-a-watt may outstrip the duration of the behavior leading to the energy efficiency.

3. The company receives a net present value ("NPV") payment under save-a-watt. Therefore, the time of the General Educational material's deployment would presumably be the date at which the Company is owed payment for the 'lost revenues' and 'avoided costs.' Even if behavior change is somehow 'verified' as being due to the Company's information, the behavior can stop and the Company would already accrue the NPV of its save-a-watt payment.

**III. The Commission should negotiate a 'good contract' for surcharge paying rate payers. General Education and behavioral change is not the business the company should embark on with the ratepayers' surcharge.**

A. Residential customers and local governments are captive to the energy efficiency surcharge and cannot opt out. This should create an increased obligation to ensure that these customers get 'good measure' and maximized results in the form of meaningful, durable energy efficiency put in place with their money.

B. A good energy efficiency performance contract maximizes the amount of payment going to 'hard' costs, such as equipment, and minimizes the amounts for 'soft' costs, such as administration. Similarly, the ratepayers are entitled to a 'good contract' with Duke Energy which maximizes the ratepayers' money going to energy efficiency measures which provide long term, structural, durable energy use reduction.

**IV. Low income residential customers are being left out of Duke's programs. Duke should prioritize implementing a low income residential retrofit program similar to that implemented by Progress Energy, rather than putting money into General Education programs.**

A. Progress Energy has had remarkable rates of participation--up to 86%--in its carefully-devised low-income neighborhood energy efficiency retrofit program based upon community-organizing principles.

B. Duke Energy has no comparable program.

C. Low-income individuals often live in homes that use disproportionate levels of electricity, and therefore pay a pay-kilowatt surcharge disproportionately. With Duke Energy having no save-a-watt program which is designed to assist these customers, low-income households may essentially subsidize the existing save-a-watt programs, which primarily benefit middle- and upper-income households which have the money to buy new appliances, and such.

1. The Commission should take this unfairness into account, and have Duke Energy prioritize creation of programs that help low-income customers with energy efficiency 'hard' costs, rather than allowing Duke Energy to use the energy efficiency surcharge for General Education.

2. The comfort and lower energy costs that residential energy retrofits can provide are especially meaningful for low-income families, while also providing opportunity for great overall energy savings benefitting the public.
3. Allowing Duke Energy to obtain 'lost revenues' supposedly associated with General Education will have the effect of diverting surcharge money to such activities, which can be accomplished by hiring an ad agency, rather than the relatively more difficult task of engaging with low income communities in a meaningful way.
4. Therefore, the City asks that the Commission consider having Progress Energy do a special presentation on its low income energy retrofit program, open to all the electricity providers in the state, and that it specifically request that Duke Energy add a similar program to its save-a-watt portfolio of programs.

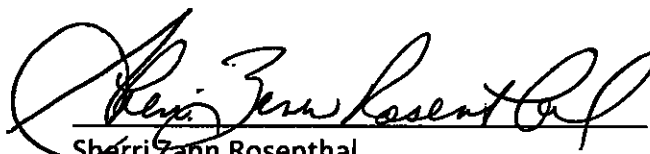
#### Conclusion

The City asks that the Commission leave the substance of its prior Orders and the Stipulated Settlement in this docket unchanged.

The City further asks that the Commission arrange for a presentation by Progress Energy on Progress's low income energy retrofit program and request that Duke Energy add a similar program to its save-a-watt portfolio in order to remediate save-a-watt's relative lack of benefit to low-income households.

Respectfully submitted this the 23<sup>rd</sup> day of April, 2010.

OFFICE OF THE CITY ATTORNEY



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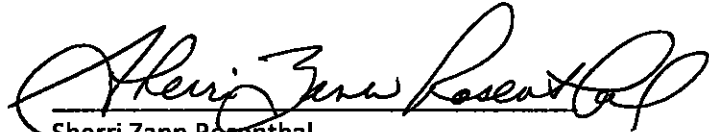
[Sherrizann.rosenthal@durhamnc.gov](mailto:Sherrizann.rosenthal@durhamnc.gov)

VERIFICATION AND CERTIFICATE OF SERVICE

I hereby certify that I am authorized by resolution of the City Council to represent the City of Durham in this docket. I believe any assertions of fact by the City of Durham contained in this document to be true.

I hereby certify that all of the parties of record have been served the foregoing document, by email for those parties who have agreed to such service, and by deposit in the U.S. Mail, postage prepaid, for all others.

This is the 23rd day of April, 2010.



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