

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 178

In the Matter of)	
Rulemaking Proceeding to Implement)	Reply Comments of the North
Performance-Based Regulation of)	Carolina Electric Membership
Electric Utilities)	Corporation

NOW COMES the North Carolina Electric Membership Corporation (“NCEMC”) and, pursuant to North Carolina Utilities Commission (“Commission”) Rule R1-7 and in accordance with the Commission’s October 14, 2021 *Order Requesting Comments and Proposed Rules* (“Order”), as amended by the Commission’s November 24, 2021, *Order Granting Extension*, files the following reply comments.

I. Introduction

On November 9, 2021 Duke Energy Carolinas, LLC (“DEC”), Duke Energy Progress, LLC (“DEP,” and collectively with DEC, “Duke”) jointly filed initial comments and proposed rules (“Duke Initial Comments”) in this Docket. In addition, numerous other parties filed comments and draft rules, including: Apple Inc., Meta Platforms, Inc., and Google LLC (collectively, the “Tech Customers”); the City of Charlotte; the Carolina Industrial Group for Fair Utility Rates I, II, and III, (collectively, “CIGFUR”); Carolina Utility Customers Association, Inc. (“CUCA”); the North Carolina Justice Center, the North Carolina Housing Coalition, the Sierra Club, and the Southern Alliance for Clean

Energy (jointly); the North Carolina Retail Merchants Association; the North Carolina Sustainable Energy Association (“NCSEA”); and the Public Staff.¹

As discussed in its petition to intervene, NCEMC was actively involved in the development of Session Law 2021-165 (commonly referred to as “House Bill 951” or “H951”), and has a direct interest in seeing the policies and goals of H951 implemented in a manner consistent with legislative intent. In general, NCEMC agrees with the framework proposed in the Duke Initial Comments for the implementation of performance-based regulation (“PBR”) of electric public utilities, as authorized in N.C. Gen. Stat. § 62-133.16, and does not take issue or elect to comment on many of the elements proposed by Duke. However, NCEMC does believe that certain elements raised by Duke and other parties merit further discussion, as described below:

II. Sufficient Opportunity to Review and Comment on Proposed Transmission and Distribution Investments in Technical Conference Process Must Be Provided

1. Draft Rule R1-17(m)(3) in the Duke Initial Comments sets forth the timeline for an electric public utility to provide notice of its intent to file a PBR application and to request the initiation of a pre-filing technical conference to consider the Company’s proposed transmission and distribution projects under a multi-year rate plan (“MYRP”). Subsection (4) specifies the information to be presented by the electric public utility, but simply indicates that the electric public utility must provide a description of each project,

¹ Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina (“Dominion”), submitted a letter in lieu of initial comments on November 9, 2021, indicating that it generally supports the Duke Initial Comments.

a justification for each project, and the estimated costs and in-service dates for the projects. This limited description is insufficient.

2. Increased transparency into the utility's planning process for transmission and distribution expenditures is critical to the successful implementation of PBR, and the technical conference process was specifically included in N.C.G.S. § 62-133.16(j) to afford all interested parties the opportunity to obtain the necessary insight into this information.² Additional details regarding each transmission and distribution capital project should be provided as part of the technical conference process. As a starting point, NCEMC believes that the description of information to be presented as part of the technical conference process provided in the Public Staff's proposed Rule R8-__(d), which requires as follows:

- a. A comprehensive list of programs and major projects accompanied by, for each program and project, the purpose, (i.e., capacity increase or reliability), a timeline for construction[sic], cost-benefit analyses; and any other information, justifying each program and project;
- b. An explanation of the need for the proposed transmission and distribution expenditures and how the overall proposal advances system efficiency, reliability, or is necessary to comply with applicable federal operational or design requirements; and
- c. The projected costs of each program and project.³

3. Further, as discussed by CIGFUR And NCSEA, the description of the project should be expanded, and the justification should include a discussion of alignment with Duke's Integrated Systems and Operations Planning, or ISOP process, and any similar

² November 9, 2021, Initial Comments of CIGFUR at pp. 14-15; NCSEA Initial Comments at p. 2.

³ November 9, 2021, Initial Comments of the Public Staff, at Appendix A, p. 4 of 22.

integrated planning process that Dominion undertakes.⁴ As discussed in petition to intervene, the Commission has previously highlighted the importance of this relationship between resource and distribution planning.⁵ Additionally, in its April 18, 2021 *Order Scheduling Technical Conference and Requiring Filing of Report* in Docket No. E-100, Sub 165, the Commission further emphasized the importance of this collaboration between the distribution and transmission operators as necessary “in order to promote greater alignment of resources and distribution system planning across the entire grid network in North Carolina.”⁶ The ISOP process is a critical element of this coordination process, and providing that information as part of the technical conference discussion will inform stakeholders about not only the planned investments in transmission and distribution infrastructure by the electric public utilities, but also how those systems integrate in other resource and distribution planning efforts.

4. N.C.G.S. § 62-133.16(j)(3) provides that only the electric public utility may present information at the public meetings held as part of the technical conference process,

⁴ CIGFUR Initial Comments at p. 15, NCSEA Initial Comments at p. 14.

⁵ See April 6, 2020 *Order Accepting Filing of 2019 Update Reports and Accepting 2019 REPS Compliance Plans*, in Docket No. E-100, Sub 157, at p. 13, in which the Commission stated that: [T]he Commission recognizes that there could be significant benefits to involving North Carolina’s electric membership cooperatives and municipally owned and operated electric utilities in this effort. One stated goal of ISOP process is to improve coordination of load forecasting, project and systems planning, and operational effectiveness between the transmission system operator and the distribution system operator. In North Carolina the transmission system operator is, in the main, either DEC and DEP, but in many parts of the State the distribution system operator will be an EMC or a municipally owned utility. The Commission views the ISOP program and stakeholder involvement in that program as an important opportunity to strengthen effective communication and interaction both in planning and in operations between the Companies and the non-regulated distribution system operators that serve a significant portion of the State.

⁶ April 18, 2021 *Order Scheduling Technical Conference and Requiring Filing of Report* in Docket No. E-100, Sub 165, at p. 2.

and prohibits cross-examination by the parties, but does call for interested parties to be permitted to provide comment and feedback. NCEMC believes that stakeholders should have a meaningful opportunity to provide input and feedback to the electric public utility on the planned transmission and distribution system infrastructure investments during the pendency of the technical conference process, and that the Commission should prescribe the manner in which interested parties are able to comment and provide feedback, as proposed in Duke's Rule R1-17(m)(4)(c). Consistent with the recommendation of NCSEA, NCEMC believes it is appropriate that all presentations and supporting documentation be filed in the Commission's docket system, with any such information considered confidential being made available only to third parties who have entered into confidentiality agreements with the electric public utility, as appropriate.⁷

WHEREFORE, NCEMC respectfully requests that the Commission accept these reply comments.

Respectfully submitted this the 17th day of December 2021.

**NORTH CAROLINA ELECTRIC
MEMBERSHIP CORPORATION**

By: /s/ Timothy R. Dodge
Timothy R. Dodge
Regulatory Counsel
3400 Sumner Blvd.
Raleigh, North Carolina 27616
Telephone: (919) 875-3111
Email: tim.dodge@ncemcs.com

⁷ NCSEA Initial Comments at pp. 15-16.

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing document has been served upon all parties of record by electronic mail, or depositing the same in the United States mail, postage prepaid.

This the 17th day of December 2021.

/s/ Timothy R. Dodge _____
Timothy R. Dodge