

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Applications by Duke Energy Carolinas,)	COMMENTS OF CIGFUR I, II, AND III
LLC and Duke Energy Progress, LLC, Public)	IN RESPONSE TO THE JOINT FINAL
Service Company of North Carolina, Inc., and)	REPORT AND RECOMMENDATIONS
Piedmont Natural Gas Company, Inc., for)	OF THE NORTH CAROLINA
Adjustment of Rates and Charges Applicable)	LOW-INCOME AFFORDABILITY
to Electric Service in North Carolina)	COLLABORATIVE

Now come the Carolina Industrial Group for Fair Utility Rates I (CIGFUR I), the Carolina Industrial Group for Fair Utility Rates II (CIGFUR II), and the Carolina Industrial Group for Fair Utility Rates III (CIGFUR III) (together, CIGFUR), by and through the undersigned counsel, and pursuant to the Commission’s October 5, 2022 *Order Allowing the Filing of Comments*, to file comments in response to the joint Final Report and Recommendations of the North Carolina Low-Income Affordability Collaborative (Final Report) filed on August 12, 2022 in the above-referenced dockets by Duke Energy Progress, LLC (DEP), Duke Energy Carolinas, LLC (DEC) (together, the Companies), and the Public Staff – North Carolina Utilities Commission (Public Staff). CIGFUR appreciates the opportunity to submit these brief responsive comments, as follows:

A. CIGFUR's Perspectives Regarding LIAC Process

1. CIGFUR appreciated the opportunity to participate in the North Carolina Low-Income Affordability Collaborative (LIAC). LIAC provided its participants of all backgrounds, including CIGFUR, with an opportunity to learn and gain exposure to different perspectives. CIGFUR further appreciated the good faith, constructive dialogue that occurred throughout the duration of LIAC to grapple with these important, weighty policy issues facing the State of North Carolina.
2. CIGFUR recognizes what a substantial undertaking it was for the Companies and the Public Staff to have produced the Final Report in the time frame allotted, not to mention the countless hours that went into the Companies and the Public Staff participating in and facilitating the underlying LIAC workshops, sub-team meetings, various LIAC/sub-team assignments, and analyses. CIGFUR commends the Companies and the Public Staff on their efforts.
3. CIGFUR also recognizes what a significant investment of human, financial, and other resources was required of LIAC participants, including CIGFUR. Between attending LIAC workshops, participating in LIAC Sub-Team C and LIAC Sub-Team D, further participating in “mini” sub-teams, completing various tasks assigned by LIAC and various individual Sub-Teams, providing feedback, conducting research, putting together multiple program proposals for consideration by LIAC, and participating in various *ad hoc* calls and meetings, CIGFUR estimates that its counsel spent approximately 125 hours of time participating in LIAC meetings or completing LIAC-related work.

4. CIGFUR was disappointed that certain LIAC participants had an apparent profit motive for participating in LIAC. More specifically, at least one LIAC participant proposed programs that, if approved, would forego the requisite RFP process, and instead guarantee that the role of program administrator be assigned to this LIAC participant organization and rely exclusively on such organization's network of installers to serve as the preferred (only) service providers.

B. CIGFUR's Policy Perspectives in Response to the Final Report

5. Most importantly, CIGFUR recognizes that both poverty and the unprecedented upward pressure on electric rates expected for the duration of the decade and beyond are, individually and together, policy problems in need of solutions. However, poverty is a societal issue affecting the entire State of North Carolina, not just those North Carolinians living in DEP's service territory or DEC's service territory. As a result, the most appropriate and effective policy solution for this issue would be one codified by our State's policymakers at the NC General Assembly and thereby funded with taxpayer dollars, not ratepayer dollars.
6. Moreover, one of these policy issues falls squarely within the jurisdiction of this Commission (electric rates, at least with respect to retail electric rates charged by public utilities) and one does not (poverty and other social justice policy issues). Commissioner McKissick astutely asked several questions during the October 24, 2022 LIAC Briefing regarding how to prevent the problem before it even becomes a problem, the problem in this scenario being how to prevent electric rates from becoming so burdensome that more and more ratepayers struggle to afford their

monthly electric bills in the first place. *That*, from CIGFUR’s perspective, is exactly where the Commission’s focus should be.

C. CIGFUR’s Legal Perspectives in Response to the Final Report

7. CIGFUR disagrees with the Final Report to the extent it recommends solutions funded through interclass cross-subsidization among the Companies’ ratepayers.
8. Importantly, House Bill 951 authorizes performance-based regulation (PBR) pursuant to certain conditions, including that interclass cross-subsidization be minimized to the greatest extent practicable by the end of the approved multi-year rate plan (MYRP) period. Indeed, G.S. 62-133.16(b) provides in pertinent part as follows:

Performance-Based Regulation Authorized. – In addition to the method for fixing base rates established under G.S. 62-133, the Commission is authorized to approve performance-based regulation upon application of an electric public utility pursuant to the process and requirements of this section, *so long as the Commission allocates the electric public utility’s total revenue requirement among customer classes based upon the cost causation principle, . . . , and interclass subsidization of ratepayers is minimized to the greatest extent practicable by the conclusion of the MYRP period* (emphasis added).

9. Moreover, as the Final Report notes, HB 951 also defines the “cost causation principle” as “establishment of a causal link between a specific customer class how that class uses the electric system, and costs incurred by the electric public utility for the provision of electric service.” G.S. 62-133.16(a)(1). *See* Final Report, at p. 53.
10. The Customer Assistance Program (“CAP”) as currently proposed in the Final Report would violate the provisions of G.S. 62-133.16(b) and G.S. 62-133.16(a)(1) in that it would, if approved as presently recommended, (1) increase/create a new interclass cross-subsidization; and (2) not be based on cost causation principles.

11. It should be noted that when presenters and/or the Final Report discuss LIEAP/CIP recipients and customers that meet the definition for struggling with arrears cross-subsidizing other customers, that is with respect to other residential customers—i.e., intraclass subsidization—only. See Final Report, at pp. 41-42 (*reporting*, in pertinent parts , that “During the analytics portion of the LIAC, *Duke Energy conducted intraclass cross-subsidization analyses within the residential customer schedules*” and further that “it appears that LIEAP/CIP recipients and customers that meet the definition for struggling with arrears are cross-subsidizing *other residential customers*”) (emphasis added). To the extent the recommendations contained in the LIAC Report are being justified on the grounds of remedying existing cross-subsidization, CIGFUR emphasizes that this argument applies solely to other residential customers on an intraclass cross-subsidization basis.
12. CIGFUR also draws the Commission’s attention to the legal analysis contained in the Final Report, in which it states, in pertinent part that “Whether the Commission and courts may view a low-income rate or discount as a reasonable form of discrimination is uncertain.” Final Report, at pp. 54-55.

D. Conclusion

13. For all these reasons, CIGFUR believes that taxpayers—not ratepayers—should pay to implement policy solutions to combat poverty, including poverty to the extent that it intersects with and/or may be exacerbated by increasing electric rates, if the North Carolina General Assembly sees fit to enact such policy into law.

14. CIGFUR looks forward to addressing its positions on these issues more fulsomely in the various dockets through which parties may seek to implement one or more of the recommendations contained in the Final Report.

WHEREFORE, CIGFUR respectfully requests that the Commission consider these comments in its review and deliberations regarding potential implementation of certain recommendations contained in the LIAC Final Report.

Respectfully submitted, this the 31st day of October, 2022.

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CERTIFICATE OF SERVICE

The undersigned attorney for CIGFUR I, II, and III hereby certifies that she served the foregoing *Comments of CIGFUR I, II, and III in Response to the Joint Final Report and Recommendations of the North Carolina Low-Income Affordability Collaborative* upon the parties to these proceedings, as listed on the service lists available on the NCUC's online docket system, by electronic mail.

This the 31st day of October, 2022.

/s/Christina Cress
Christina D. Cress