

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 136

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Biennial Determination of Avoided Cost) ORDER DENYING
Rates for Electric Utility Purchases from) MOTION TO STRIKE
Qualifying Facilities – 2012)

BY THE PRESIDING COMMISSIONER: On July 1, 2013, in the above captioned proceeding, the Commission issued an Order Granting Motion and Rescheduling Evidentiary Hearing and Procedural Schedule. The Order scheduled an evidentiary hearing to begin on Tuesday, October 29, 2013, and established a procedural schedule for parties to pre-file testimony to correspond with the hearing date.

On September 27, 2013, the North Carolina Sustainable Energy Association (NCSEA) pre-filed the direct testimony and exhibits of Karl R. Robago.

On October 18, 2013, NCSEA filed a letter with the Commission and attached a report entitled “The Benefits and Costs of Solar Generation for Electric Ratepayers in North Carolina” (Report). NCSEA stated that the purpose of its letter was to notify the Commission and the parties to the proceeding of the existence of the Report and that the Report’s existence would require witness Robago to update his direct testimony from the stand. Additionally, NCSEA identified the specific statements in his testimony which witness Robago would need to update and stated that it anticipated witness Robago would update his testimony to make clear he is aware of and has reviewed the attached Report and that its results are consistent with and offer additional support for his conclusions and recommendations.

On October 25, 2013, Duke Energy Carolinas, LLC; Duke Energy Progress, Inc.; and Virginia Electric & Power Company, d/b/a Dominion North Carolina Power (hereinafter referred to collectively as the Utilities) filed a joint motion to strike NCSEA’s letter and report. The Utilities stated that Commission Rule R1-24(g)(2) provides that all intervenors shall file all testimony, exhibits, and other information that is to be relied upon at the hearing 20 days in advance of the scheduled hearing. Further, the Utilities stated they are prejudiced in the matter because NCSEA’s letter and accompanying Report were filed on the same day as the Utilities’ rebuttal testimony and because they are unable to cross-examine the authors of the Report.

On October 25, 2013, NCSEA filed a response to joint motion to strike stating that Commission Rule R1-30 allows the Commission to permit a party to deviate from its rules “insofar as it finds compliance therewith to be impossible or impracticable.”

NCSEA stated that it could not have filed the letter and Report prior to the established September 27, 2013 deadline, as the Report was not completed until October 18, 2013, the same day NCSEA filed its letter with the Commission indicating its intent to update witness Robago's testimony from the stand. Further, NCSEA stated that it seeks nothing more than to have witness Robago correct and update his pre-filed testimony from the stand as has been traditionally allowed by the Commission for all witnesses.

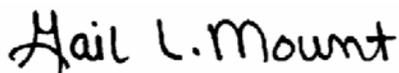
The Presiding Commissioner finds good cause to deny the Utilities motion to strike. The Utilities' motion requests that the Commission "strike the correspondence and accompanying Report filed by NCSEA on October 18, 2013." NCSEA's letter and accompanying Report is not testimony, exhibits, or other information that is to be relied upon at the hearing; rather, the letter merely notices the Commission and the other parties to the proceeding of NCSEA's intention to update witness Robago's pre-filed direct testimony from the stand. As the letter and accompanying Report is not testimony, exhibits, or other information that is to be relied upon at the hearing, the joint motion is not ripe for consideration, and, thus, should be denied.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of October, 2013.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Gail L. Mount". The signature is written in a cursive, slightly slanted style.

Gail L. Mount, Chief Clerk