

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-34, SUB 54  
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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-34, SUB 54	)	
	)	
In the Matter of	)	
Application of Appalachian State University,	)	
d/b/a New River Light and Power Company	)	
for Adjustment of General Base Rates and	)	ORDER DENYING PETITION
Charges Applicable to Electric Service	)	TO INTERVENE
	)	
DOCKET NO. E-34, Sub 55	)	
	)	
In the Matter of	)	
Petition of Appalachian State University	)	
d/b/a New River Light and Power Company	)	
for an Accounting Order to Defer Certain	)	
Capital Costs and New Tax Expenses	)	

BY THE PRESIDING COMMISSIONER: On December 22, 2022, Appalachian State University, d/b/a New River Light and Power Company (NRLP) filed an Application to Adjust Base Rates.

On March 20, 2023, the Commission entered its Order Scheduling Hearings, Establishing Procedural and Filing Requirements, and Requiring Notice (Scheduling Order). Among other things, the Scheduling Order set a deadline of Tuesday, June 6, 2023 for interested parties to intervene in the dockets. The Commission subsequently granted timely petitions for intervention filed by Appalachian Voices and Nancy LaPlaca.

On October 16, 2023, following proceedings that included a public witness hearing and an evidentiary expert witness hearing, the North Carolina Utilities Commission issued an Order Accepting Stipulation, Granting Partial Rate Increase, and Requiring Public Notice (Rate Case Order) approving a net annual revenue increase of \$2,207,074, with the new base rates and charges to take effect for electricity consumed during the billing cycle associated with service rendered on or after October 1, 2023.

One of the contested issues in this proceeding involved NRLP's proposed Net Billing Rider for Renewable Energy Facilities, Schedule NBR, which was to be made available to residential and commercial customers who had installed behind-the-meter solar generation for the customers' own use. In order to recover the cost of distribution facilities required to

serve the customer's full load when the customer's solar generation capacity is not available, NRLP proposed to charge customers who elected the NBR billing rider a System Supplemental Charge (SSC). NRLP, the Public Staff, and Appalachian Voices all presented expert testimony on the SSC, addressing both whether a SSC is appropriate and, if so, how it should be calculated, so as to ensure that the net metering customer pays its full fixed cost of service. NRLP ultimately agreed with Appalachian Voices that system design capacity—and not inverter nameplate capacity—is the appropriate measure for determining the customer's AC kW output, and the Commission accordingly directed NRLP not to use inverter nameplate capacity.

NRLP filed its Exhibits and Rate Schedules reflecting the new rates and services approved in the Rate Case Order on November 7, 2023. It subsequently filed Amended Rate Schedules on November 13, 2023 and Revised Service Regulations on November 15, 2023. On November 21, 2023, in the Order Approving Rate Schedules and Notice to Customers of Change in Rates (Order Approving Rate Schedules), the Commission accepted and approved the Amended Rate Schedules as filed on November 13, 2024 and the Amended Service Regulations as filed on November 15, 2023. The means for determining a customer's SSC is described in Schedule NBR of NRLP's Amended Rate Schedules.

On January 31, 2024, a customer of NRLP, Lovill House Inn, LLC (LHI), filed a Verified Petition to Intervene Out of Time and Motion to Clarify and/or Amend Prior Order (Petition).

In its Petition, LHI explains that it has a microgrid on its property consisting of solar facilities and batteries, which it uses to offset its own power usage, while exporting additional power back to the NRLP distribution system. LHI contends that NRLP is interpreting the Rate Case Order provisions relating to the SSC contrary to the provisions of that Order, to the detriment of LHI. LHI asserts that NRLP is improperly using nameplate capacity as the measure of system output.

Further, LHI seeks clarification from the Commission as to whether the SSC applies to behind-the-meter solar generation used for self-consumption and whether NRLP's rates improperly discriminate against customers that generate energy for self-consumption by over-recovering costs associated with distributed electric service from customers who have installed behind-the-meter solar generation.

LHI seeks to intervene out of time "for the narrow purpose of seeking clarification and/or amendment to the Order issued by the Commission in this proceeding."

On February 12, 2024, NRLP filed New River Light and Power's Response to the Lovill House Inn LLC's Petition to Intervene (Response). In its Response, NRLP argues that LHI's Petition is untimely under North Carolina case law and Commission Rule R1-19(b). NRLP contends that LHI seeks to relitigate issues that were raised by the intervenors, fully litigated by the parties, and resolved by the Commission. NRLP states that reopening the proceeding to address again issues that were previously litigated and

have been decided in the Rate Case Order has been issued would be a waste of public resources as well as the resources of NRLP.

After careful review of the Petition and Response, and the relevant portions of the evidentiary record and the Rate Case Order, the Presiding Commissioner determines that the matters raised by LHI were previously litigated and decided in the Rate Case Order. As noted above, both the Rate Case Order and the Commission-approved tariff make Schedule NBR available to customers such as LHI as an option. Further, the issue of whether the SSC was fairly and appropriately calculated was vigorously contested by the parties in the proceeding.

Finally, the Rate Case Order makes it clear that, for application of the SSC, inverter nameplate capacity is not the appropriate measure for determining the AC kW output of the customer's PV system. Instead, as is clear in the Rate Case Order and the Order Approving Rate Schedules, the measures for determining the AC kW output of the customer's PV system is either (1) the maximum output of the customer's PV system as measured by NRLP's metered data for customers currently served under NRLP's existing buy all/sell all rate schedule (i.e., the total amount of output generated from the customer's PV system with no deduction for self-consumption by the customer), or (2) the designed AC kW output of the PV system as provided by the customer in the interconnection request.

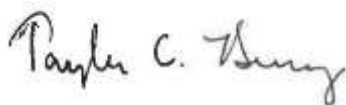
Contrary to LHI's argument, NRLP's Schedule NBR does not reference inverter nameplate capacity. If and to the extent that LHI contends that NRLP is not following its Commission-approved tariff, untimely intervention in the rate case is not the proper procedure to address the issue. LHI's Petition to Intervene Out of Time, which is untimely, is denied.

IT IS, THEREFORE, ORDERED that LHI's Petition is denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of March, 2024.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Taylor C. Berry".

Taylor C. Berry, Deputy Clerk