

June 12, 2009

FILED

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Clerk's Office
N.C. Utilities Commission

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VIA HAND DELIVERY

Ms. Renné Vance, Chief Clerk
North Carolina Utilities Commission
5th Floor, Dobbs Building
430 North Salisbury Street
Raleigh, NC 27602

Re: NCUC Docket No. E-7, Sub 831;
Duke Save-A-Watt Application

Dear Ms. Vance:

Pursuant to the Commission's Rules of Practice and Procedure, I am enclosing the original and sixty-one (61) copies of Comments on behalf of Carolina Utility Customers Association, Inc. ("CUCA"). These Comments were requested by the Commission in its "Order Granting Extension of Time" as issued on May 28, 2009. Please stamp and return the "extra" thirty-one (31) copies to me via my courier.

As noted on the Certificate of Service attached to the Comments themselves, we are serving a copy of the Comments on all parties of record. Should anything further be required in connection with this filing, please let me know at your early convenience

Sincerely,

CRISP, PAGE & CURRIN, LLP

Robert F. Page/scm

Robert F. Page

Full Dist. mH

RFP/scm

Enclosures

cc: Ms. Sharon Miller
All Parties of Record

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 831

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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In the Matter of)	
)	
Application of Duke Energy Carolinas,)	COMMENTS OF
LLC for Approval of Save-a-Watt)	CAROLINA UTILITY
Approach, Energy Efficiency Rider)	CUSTOMERS
and Portfolio of Energy Efficiency)	ASSOCIATION, INC.
Programs)	

NOW COMES, Carolina Utility Customers Association, Inc. ("CUCA"), and files these Comments in response to the Commission's "Order Granting Extension of Time" as issued on May 28, 2009. For its Comments, CUCA respectfully shows the Commission as follows.

As stated in previous filings on this matter, CUCA is opposed to any form of revenue decoupling. We believe that revenue decoupling is a radical departure from the traditional ratemaking model that will result in high profits for utilities with little-to-no corresponding risk. We do not believe it is in North Carolina's best interest to allow revenue decoupling, particularly at a time like the present when manufacturing jobs are being cut throughout the state and utility rates are increasing. We simply cannot afford higher utility rates that will result in more cost exposure to manufacturers, thereby increasing unemployment for our State's citizens.

Save-A-Watt (SAW) is a form of revenue decoupling and should not, as filed by Duke, be adopted by the North Carolina Utilities Commission (NCUC or Commission). As was shown in the initial hearing in this case, SAW will result in Duke earning excessive profits at the expense of customers that either could not opt-out or did not realize they should have opted-out of SAW. In its March 31, 2009 filing, Duke takes a step in the right direction by proposing a

new SAW version, which it called Scenario I that reduces the amount of Duke's portion of the avoided cost of new plant from 90% to 55% for energy efficiency (EE) programs and 75% for demand-side management (DSM) programs. However, 55% and 75% are still very high and, in CUCA's judgment, are excessive as incentives and this still amount to revenue decoupling.

In its March 31, 2009 filing, Duke further sweetened the pot for consumers in Scenario I by promising to cap its profits in SAW to a level of 15% overall rate-of-return. This profit level is double the Company's overall rate-of-return as set in its last rate case. Given that the practical risk assumed by Duke in SAW is, in CUCA's view, almost non-existent, we believe that a 15% rate-of-return is still excessive. In its filing of March 31, 2009, Duke provides the modified internal rate-of-return (IRR) under several different options. The modified IRR for the "as-filed" SAW program shows that Duke's greatest profitability is in programs to serve "non-residential" consumers, which presumably would be industrial consumers. Such a result is not surprising given the fact that it will take less work to coordinate efforts with a small group of industrial consumers as opposed to thousands of individual residential consumers. However, the fact that industrial consumers represent low hanging fruit to Duke does not make it right that the utility will earn excessive rates-of-return on its SAW programs to manufacturers. As an example, Dukes amended filing would have the utility earn an IRR of 11.9% on its Power Share program. Considering that the overall rate-of-return for Duke is 7.450%, the return that Duke is seeking from the Power Share program is approximately 60% higher than its regulated overall rate-of-return.

CUCA requests that the Commission require Duke to segregate its SAW offerings such that a customer can pick and choose which program it wishes to enter with Duke. Cost riders for each specific program should be developed by Duke. Under Duke's current programs, the utility is allowed to offer a single rider for all of the SAW programs thereby capturing some customers

in the SAW program at costs higher, or periods longer, than they may desire. SAW's lack of flexibility detracts from the marketability of the SAW program as it relates to large customers.

CUCA does not resist Duke's arguments that the utility should be allowed to earn a return on its efforts to achieve energy efficiency. As was noted in the testimony of CUCA witness Kevin O'Donnell that was filed on June 26, 2008, the Association is not opposed to Duke earning a fair rate of return for its efforts. As Mr. O'Donnell cited in his testimony, CUCA believes that Duke should be allowed to recover all its costs associated with EE and DSM programs while, at the same time, be allowed to earn its overall allowed rate-of-return if the utility achieves reasonable results from its EE and DSM programs. If Duke achieves results greater than expected, we believe the utility should be allowed to earn a graduated premium on its EE and DSM expenses. Similarly, if the utility does not achieve expected results, we believe Duke should not be allowed to earn any return on its actual, prudently-incurred, costs on its EE and DSM investments.

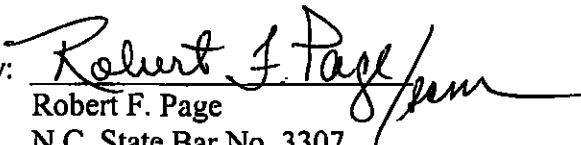
By allowing Duke to recover all of its expenses, we believe the risk incurred by the utility will be miniscule. Hence, with little risk regarding cost recovery, the return on Duke's operating expenses should have a cap of no more than 200 basis points above the Company's overall allowed rate-of-return.

Earning a rate-of-return on operating expenses is a novel concept in the regulation of electric utilities in North Carolina, but it is not a new concept to this Commission. This Commission has for many years granted water utilities a return on operating expenses when such expenses are greater than the utility's plant investment (rate base). This methodology seems very applicable to SAW, where it is clear that there will not be any "new investment" on the ground, but only the "avoided cost" of hypothetical investments, which are never made in fact. This method of allowing a return on operating expenses is known in North Carolina regulatory

circles as the "Stevie Methodology" as it was initially proposed by Dr. Richard G. Stevie, who is now Duke Energy's Managing Director of Customer Market Analytics for Duke Energy Shared Services, Inc. CUCA recognizes that its proposal could allow for excessive operating costs associated with EE and DSM investments. To guard against the potential for excessive spending by the utility, we believe that all operating expenses incurred by the utility in its EE and DSM programs should be subject to annual audits. If this Commission finds that some of the EE and DSM expenses are imprudent, the Commission should deny the rate recovery of the imprudently-incurred expenses.

Respectfully submitted, this 12th day of June, 2009.

CRISP, PAGE & CURRIN, L.L.P.

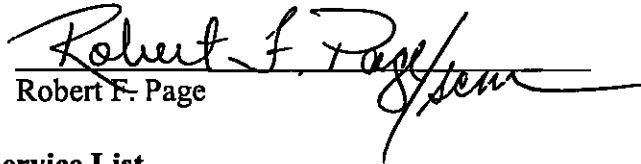
By: 
Robert F. Page
N.C. State Bar No. 3307
4010 Barrett Drive, Suite 205
Raleigh, NC 27609
Telephone: 919-791-0009
Facsimile: 919-791-0010
rpage@cpclaw.com

Attorneys for:
Carolina Utility Customers Association, Inc.

CERTIFICATE OF SERVICE

I, the undersigned counsel for CUCA, do hereby certify that a copy of the foregoing Comments was served upon all parties of record in this proceeding, or their legal counsel, by hand delivery or by depositing a copy of same in the United States Postal Service, first class postage prepaid, and addressed to them as indicated on the Service List below.

This the 12th day of June, 2009.


Robert F. Page

Service List

Michael S. Colo
Poyner & Spruill LLP
Post Office Box 353
Rocky Mount, NC 27802-0353

John Runkle
Attorney at Law
Post Office Box 3793
Chapel Hill, NC 27515

Leonard Green
N. C. Department of Justice
Post Office Box 629
114 West Edenton St., 2nd Floor
Raleigh, NC 27602-0629

Len Anthony
General Counsel
Progress Energy Carolinas
Post Office Box 1551, PEB 17A4
Raleigh, NC 27602

Ralph McDonald
Bailey & Dixon
P. O. Box 1351
Raleigh, NC 27602

Rick D. Chamberlain
Behrens, Taylor, Wheeler & Chamberlain
6 NE 63rd, Suite 400
Oklahoma City, OK 73105

Kurt Olson
Staff Counsel for NCSEA
Post Office box 6465
Raleigh, NC 27626

Robert W. Kaylor
Law Offices of Robert W. Kaylor
3700 Glenwood Avenue, Suite 330
Raleigh, NC 27612

Lara Simmons Nichols
Kodwo Ghartey-Tagoe
Duke Power, a Div. of Duke Energy Corp.
422 S. Church Street, PB05E
Charlotte, NC 28202

Antoinette R. Wike
Chief Counsel – Public Staff
North Carolina Utilities Commission
4326 Mail Service Center
Raleigh, NC 27699-4326

Robert N. Jackson
AARP North Carolina
Suite 312, 1511 Sunday Drive
Raleigh, NC 27607-5257

Janice Carney
Electricities of North Carolina
1427 Meadow Wood Boulevard
Raleigh, NC 27604

Michael W. Washburn
Attorney at Law
Brown, Crump, Vanore & Tierney
Suite 1601, 421 Fayetteville Street Mall
Raleigh, NC 27601

Sherri Zann Rosenthal, Assistant City Attorney
City of Durham
101 City Hall Plaza
Durham, NC 27701

George Hausen
Legal Aid of North Carolina
224 South Dawson Street
Raleigh, NC 27611

Bernard L. McNamee II
McGuire Woods LLP
One James Center
901 E. Cary Street
Richmond, VA 23219

Jack Holtzman
Carlene McNulty
North Carolina Justice Center
Post Office Box 28068
Raleigh, NC 27611-8068

Jane Lewis-Raymond
Vice President & General Counsel Piedmont
Natural Gas Company, Inc.
Post Office Box 33068
Charlotte, NC 28233

Craig Collins
SCANA Corporation
Legal Department – 130, 1426 Main Street
Columbia, SC 29218

Sarah Rispin
Southern Environmental Law Center
Suite 14, 201 West Main Street
Charlottesville, VA 22902

Mary Lynne Grigg
McGuire Woods LLP
2600 Two Hannover Square
Raleigh, NC 27601

Lisa S. Booth
Dominion Resources Services, Inc.
Law Department - RS - 2
Post Office Box 26532
Richmond, VA 23219-6532

Gary A. Davis
Gary A. Davis & Associates
Post Office Box 649
Hot Springs, NC 28743

James H. Jeffries, IV
Moore & Van Allen, PLLC
Suite 4700, 100 N. Tryon Street
Charlotte, NC 28202-4003

Richard Harkrader
Policy Chair
N.C. Sustainable Energy Association
Post Office Box 6465
Raleigh, NC 27628

J. George Reed
Reverend
North Carolina Council of Churches
1307 Glenwood Avenue, Suite 156
Raleigh, NC 27605

Candy Paton
Coordinator, Rates & Regulator Adm.
Public Service Company of NC, Inc.
800 Gaston Road, Post Office Box 1398
Gastonia, NC 28053-1398

Gudrun Thompson
Southern Environmental Law Center
Suite 330, 200 W. Franklin Street
Chapel Hill, NC 27516-2520

William Pittman
The Pittman Law Firm, LLC
Suite 200, 1312 Annapolis Drive
Raleigh, NC 27608