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April 15 2020

Ms. Kimberley A. Campbell, Chief Clerk
North Carolina Utilities Commission
Dobbs Building, Fifth Floor
430 North Salisbury St.
Raleigh, NC 27602

VIA ELECTRONIC FILING

Re: Carolina Utility Customers Association, Inc.'s Petition for Expedited
Approval of Temporary Adjustments to Electricity Billing Demand Charges
Docket Nos. E-2, Sub 1249; E-7, Sub 1237; and E-22, Sub 585

Dear Ms. Campbell:

On behalf of Carolina Utility Customers Association, Inc. ("CUCA"), enclosed for filing in the above-referenced proceeding are CUCA's Reply Comments.

Pursuant to the Commission's Order dated March 30, 2020, CUCA plans to deliver thirty (30) paper copies of these Reply Comments to the Commission on or before April 29, 2020.

Please let me know, at your early convenience, if you have any questions concerning this filing.

Very truly yours,

CRISP & PAGE, PLLC


Robert F. Page

Enclosures

cc: Kevin Martin
Parties of Record

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1249
DOCKET NO. E-7, SUB 1237
DOCKET NO. E-22, SUB 585

In the Matter of)	
Petition for Expedited)	
Approval of Temporary)	Reply Comments of
Adjustments to Electricity)	Carolina Utility Customers
Billing Demand Charges)	Association, Inc.

NOW COMES Carolina Utility Customers Association, Inc. ("CUCA"), by and through its undersigned counsel, and files these Reply Comments pursuant to the Commission's Order of April 9, 2020 which provided for the filing of Initial and Reply Comments. CUCA respectfully shows the Commission as follows:

1. The purpose of these Reply Comments is to respond to Initial Comments filed by Duke Energy Carolinas (DEC) and Duke Energy Progress (DEP) (collectively "Duke") and by the Public Staff responding to CUCA's Petition for relief and temporary suspension of electricity billing demand charges. First, CUCA applauds North Carolina Utilities Commission's (Commission) approval, and Duke's agreement, to waive certain fees and charges for residential and non-residential customers during the present state of emergency,

2. Duke's Initial Comments of April 9, 2020 recite the following language from the Commission's March 19, 2020 Order, "No provision in this Order shall be construed as relieving a customer of their obligation to pay for bills for **receipt** (emphasis added) of any utility service covered by this order." CUCA isn't asking that customers be relieved of paying for actual energy consumption. CUCA is supportive of all customers paying for their full energy usage.

3. Duke's Initial Comments also contend that the CUCA Petition seeks to abolish or rescind a portion of Duke's "fixed and established" rate structure. This assertion is simply untrue. To the contrary, CUCA does not seek to alter, replace or revise any of Duke's existing rates. The Petition only requests a temporary suspension, for the duration of the emergency only, of the imposition of minimum demand charges or setting a new minimum demand of an industrial customer whose operations have been impacted by COVID-19. Even if Duke's assertion were correct, the "change" in demand charge collection would only impact a portion of Duke's overall rate structure and would not impact Duke's Rate of Return. Thus, pursuant to G.S. §62-137, the CUCA Petition would not amount to a general rate case.

4. Duke's response of April 9, 2020 refers to an "Unavoidable Cessation of Consumption" as presented in the Company's Service Regulations. The time period referred to in Duke's Comments is between three and twelve months. Hence, to qualify under the relief noted by Duke, manufacturers would need to reduce their demand by over 50% of their contract demand for no less than three months and no greater than twelve months. Manufacturers that stay shuttered for more than three months may very well not come back to operate. Commercial and industrial customers aren't receiving any service as an offset for the cost of the demand charge if the customer isn't operating or is operating at a minimal level due to being classified as a non-essential business. It is unprecedented for a public business to be shutdown as non-essential. Three months is simply an unreasonably long time for Duke to recover demand charges from struggling manufacturers without the need to provide electric service for manufacturing consumption. Further, this provision, which requires that a customer give a 30-day notice of cessation of service and three-month

shutdown, poses undue obstacles for impacted businesses that don't know how long they may be closed and this service regulation would hamstring businesses with the requirement of 3 months of limited operation. Certainly, businesses prefer to resume normal operations as quickly as possible. The "Unavoidable Cessation of Consumption" cited by Duke does not provide adequate relief for the current environment; conversely it exposes the need for new remedies such as those proposed in CUCA's Petition. CUCA does not believe that the service regulations cited by Duke were developed with an international pandemic in-mind but, instead, were designed for "normal" business activities, of which the Covid-19 is not.

5. Another Duke argument is that it has already provided relief to customers by agreeing not to disconnect for non-payment and by being willing to work with individual consumers on a one-on-one basis for these customers to make payment arrangements. The problem with Duke's argument on this matter is there is a fundamental difference between residential/small commercial consumers and large commercial/industrial consumers in the manner in which they are billed for electric service. Residential consumers pay for the vast majority of their costs through an energy charge. Industrial consumers, on the other hand, pay for energy service through a mix of customer charges, energy charges, and demand charges. If a residential customer does not use power in any given month, their bills contain only the customer charge. If, however, a large commercial/industrial consumer does not use electricity service, it must still pay a minimum demand charge that can easily reach into the hundreds of thousands of dollars. As a result, CUCA is not advocating that its members not pay for service they actually receive. Instead, CUCA is advocating that its members not be required to pay for service that they are NOT receiving and NOT able to use due to disruptions related to COVID-19.

6. Reality is that, if existing businesses now classified as non-essential go out of business, all of the demand and energy costs that these companies previously paid for will be shifted to the remaining customers, which costs will massively eclipse the cost of the TEMPORARY suspension of demand charges proposed in CUCA's Petition. Not only will the remaining customers be faced with higher energy rates, for customers who lost their good paying manufacturing jobs, it will be a double-whammy of lost wages and higher energy bills. The State will lose tax revenues. The financial cascade due to the loss of business will reverberate across all sectors.

7. Further, CUCA clarifies its intent to include all rate schedules that contain a demand component. In an effort to list all commercial and industrial rate schedules, we inadvertently listed rate schedules cited in Duke's response as inapplicable. Be assured that CUCA's intent was to include all applicable rate schedules and avoid exclusions.

8. Still another Duke argument is based on precedent. Specifically, Duke maintains that the Commission has already ruled on a similar request by PSNC that was seeking relief for interruptible manufacturing customers during the 2013-2014 polar vortex. The polar vortex, however, was a one-month event and not a multi-month international pandemic. A further difference is that the waiver applied to natural gas that was already consumed during the polar vortex. Manufacturers were not, in 2013-2014, faced with the prospect of not being able to return to business due to an unprecedented viral plague that is creating a health emergency for the entire country. CUCA maintains that Duke's argument linking the two dissimilar scenarios is not a fair and valid comparison and does nothing but illustrate Duke's drive for revenues regardless of the impact on consumers and North Carolina's economy.

9. In addition to the foregoing, Duke maintains that CUCA did not state how the Association intends for the utility to recover lost revenues associated with our request. To be clear and unequivocal, CUCA is not recommending that the Commission socialize the lost revenues, if any, associated with our request. Instead, CUCA believes that Duke stockholders should absorb any lost revenues associated with the loss of minimum demand charges associated with the Covid-19 pandemic.

10. Duke also maintains that it will be financially hurt if the Commission grants CUCA's Petition in this docket. Specifically, Duke maintains that it will lose \$28 million in revenue as a result of CUCA's Petition. CUCA appreciates Duke providing this revenue impact, but we believe the impact should be put in perspective. First, in 2019, Duke will earn, according to The Value Line Investment Survey, profits of \$3.735 billion. The request CUCA is seeking in this case, which Duke claims is \$28 million, represents 0.7% of Duke Energy's total profit in 2019. In terms of North Carolina-only, Duke's request for manufacturers to pay \$28 million for services they won't receive amounts to 1.42% of the combined net operating income requested by DEC and DEP in the ongoing rate cases. Relative to the current requests of DEC and DEP in the current case, \$28 million would lower the combined total return of the two Duke utilities in the state from the requested 7.45% to 7.34%. Clearly, the above-stated values are small for Duke and, without a doubt, do not warrant the doom-and-gloom forecast as depicted by Duke in its reply comments.

11. Duke CEO Lynn Good received \$15 million in total compensation in 2019.¹ The \$28 million potential revenue loss cited by Duke in response to the CUCA

¹ <https://www.reuters.com/article/brief-duke-energy-says-ceo-lynn-goods-fy/brief-duke-energy-says-ceo-lynn-goods-fy-2019-total-compensation-was-15-0-million-versus-about-14-0-million-in-fy-2018-sec-filing->

Petition is not much more than Duke's CEO was awarded in 2019. If Duke can award its top executive \$15 million to operate a monopoly utility, CUCA opines that it can also afford \$28 million to keep NC manufacturers from real financial calamity during the current Covid-19 pandemic. In addition, CUCA notes that it is in Duke's own best interest to ensure that manufacturers come back to business strongly. If a significant sector of the North Carolina manufacturing industry succumbs to the current financial environment, Duke's earnings will suffer much more than \$28 million and, in turn, rates for all remaining customers will go up as Duke executives seek to recover lost revenues from other customers as a result of closed manufacturing operations in the State.

12. CUCA also notes how Duke freely spends large sums of money in the NC Legislature to advance its political goals, but it doesn't want to help struggling manufacturers. Specifically, on March 25, 2020, the Energy News Network published an article that stated Duke spent \$300,000 in campaign contributions to advance SB 559, which was the Company's multi-year rate plan and banded ROE proposal that was defeated in the last general session of the NC Legislature. As the article states:

The PAC contributions were "Duke Energy showing people they had their backs," said Dan Crawford, the director of government relations at the North Carolina League of Conservation Voters.

With few exceptions, the dozens of Duke-funded candidates supported S559, opposed the amendment converting its most contentious provision into a study, or sought to unseat lawmakers who voted against the legislation. Most got the maximum allowable contribution, \$5,400 — whether or not they had a primary.²

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² https://energynews.us/2020/03/25/southeast/duke-energy-rewards-punishes-n-c-lawmakers-over-ratemaking-bill/?utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202020-03-25%20Utility%20Dive%20Newsletter%20%5Bissue:26391%5D&utm_term=Utility%20Dive

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Duke's opposition to CUCA's Petition in this case, coupled with the lavish spending of the utility at the Legislature, shows that Duke does not "have the backs" of its customers, which includes NC manufacturing.

13. Duke's expressed concern regarding access to the financial markets is but a smokescreen. On April 2, 2020, Regulatory Research Associates (RRA) published an article entitled "US utilities demonstrate access to capital with billions in debt offerings" that states, in part, as follows:

In an April 2 note, Mizuho Securities analysts Anthony Crowdell and Paul Fremont said utilities raised over \$20 billion in U.S. investment-grade debt in March, a stark contrast to when companies faced difficulties accessing capital during the 2008-2009 credit crisis.

Several utilities, including Xcel Energy and NextEra Energy Inc. subsidiary Florida Power & Light Co., which issued \$1.1 billion in first mortgage bonds, are "using the opportunity to take advantage of attractive borrowing costs, so there does not appear to be an inability to access capital," they said.

"Utilities are reporting that recent deals have been significantly (7x) oversubscribed, highlighting that the capital markets are open for investment grade-rated utilities," the analysts wrote. "At the same time, we have also observed some utility companies that have fully drawn their bank lines as a precaution to provide them with liquidity in the event that markets seize up," such as **Duke Energy Corp.** and American Electric Power Co. Inc. (underline and bold added)

14. Duke is struggling with its reputation among its customers. On July 8, 2018, the Charlotte Business Journal published a story entitled "Duke Energy fails to shine in JD Power survey of business customer satisfaction" that stated as follows:

Duke Energy Corp.'s Southern utilities held three of that region's bottom five places in the rankings for business customer satisfaction among electric utilities, the latest survey from J.D. Power shows.³

Business customers are not alone in their unhappiness with Duke. Residential consumers are also displeased with the utility. On March 29, 2019, the Charlotte Observer published an article entitled "Customers rank Duke Energy low in new report. Here's how it's working to improve."

³ <https://www.bizjournals.com/charlotte/news/2018/12/17/duke-energy-fails-to-shine-in-jd-power-survey-of.html>

The article states:

Duke Energy has again ranked near the bottom among big electric utilities in the U.S. for residential customer satisfaction, according to a report released on Tuesday.⁴

Duke is not listening to its customers. The Company's objection to CUCA's request in this case shows that Duke has put its own interest ahead of its struggling customers. Duke's response is short-sighted and harmful to the State of North Carolina.

15. Regarding the Public Staff's comments, CUCA concurs that no rate schedule either identifies amendments that would be considered or specifics on how they would be initiated. Leaf H of Duke Energy Carolinas' Service Regulations addresses complete cessation of service due to a catastrophic event. Duke Energy Progress' Service Regulations include provisions for decreased loads due to catastrophic events and reduced contract demand. CUCA believes this points to the need for new provisions to specifically address these uncommon circumstances resulting from an unexpected, global pandemic. Contrary to Duke's portrayal, CUCA is not seeking to void Commission-approved tariffs; rather CUCA is simply seeking a temporary waiver of certain demand charges.

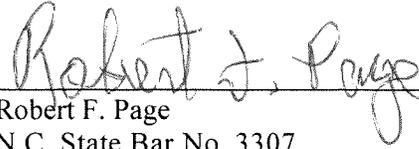
WHEREFORE, CUCA, respectfully, requests approval of its Petition that commercial and industrial customers be relieved of punitive demand charges related to the coronavirus pandemic for the duration of the Emergency Order issued by Governor Cooper.

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⁴ <https://www.charlotteobserver.com/news/business/article228125339.html>

Respectfully submitted, this the 15th day of April, 2020

CRISP & PAGE, PLLC

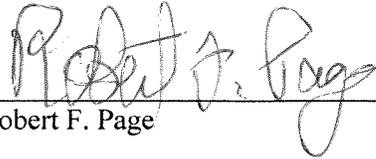


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CERTIFICATE OF SERVICE

I, the undersigned counsel for CUCA, do hereby certify that a copy of the foregoing Reply Comments was served upon all parties of record in this proceeding, or their legal counsel, by electronic mail.

This, the 15th day of April, 2020.



Robert F. Page

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