

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 179

In the Matter of:)	<u>POST-HEARING BRIEF OF</u>
Duke Energy Carolinas, LLC, and Duke)	<u>APPALACHIAN VOICES</u>
Energy Progress, LLC, 2022 Integrated)	<u>REGARDING</u>
Resource Plans and Carbon Plan)	<u>ENERGY AFFORDABILITY</u>
)	

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SUMMARY

Appalachian Voices hereby respectfully submits this brief in opposition to the Verified Petition for Approval of Carbon Plan filed by Duke Energy Progress, LLC and Duke Energy Carolinas, LLC (collectively, “Duke” or the “Companies”) and urges the Commission to direct the Companies to expand programs and increase engagement in current energy efficiency programs for income-qualified, high energy use customers and to reject the Companies’ proposed expansion of low-income eligibility to include customers with income between 200% and 300% of the Federal Poverty Level. In support of these recommendations, Appalachian Voices respectfully submits these proposed supplemental findings of fact and conclusions.

Additionally, Appalachian Voices supports the Joint Brief and Partial Proposed Order of North Carolina Sustainable Energy Association, Southern Alliance for Clean Energy, Sierra Club, Natural Resources Defense Council and Clean Powers Suppliers Association, Carolina Clean Business Association, and MAREC Action and recommends the Commission adopt the actions recommended therein as the least cost path, in the near term to achieve the carbon reduction goals of HB 951.

Finally, in addition to the above, counsel for Appalachian Voices has reviewed the Post-Hearing Brief of NC WARN and the Charlotte Mecklenburg NAACP, which lays out compelling arguments based upon the evidentiary record for why the Commission should reject the Companies plan to build new natural gas-based generation. Appalachian Voices, likewise, opposes the build out of

new natural gas resources as proposed by Duke for the reasons laid out in the Post-Hearing Brief of NCWARN et al, and requests that the Companies request as to new natural gas resources be denied.

Counsel for Appalachian Voices has also reviewed the Joint Post-Hearing Brief of 350 Triangle, the Environmental Working Group and NC-APPPL (collectively “Joint Intervenor”), which discusses in detail based on the evidentiary record why the Commission should reject the Companies proposed near term actions relating to the development of Small Nuclear Reactors. Appalachian Voices also opposes Duke’s proposal in this regard and agrees that the Companies’ requests concerning new nuclear technology should be denied.

ARGUMENT

I. THE COMMISSION HAS THE AUTHORITY AND RESPONSIBILITY TO DIRECT DUKE TO EXPAND ENERGY EFFICIENCY AND DEMAND RESPONSE PROGRAMS FOR LOW-INCOME CUSTOMERS.

This Commission is authorized to include in its Carbon Plan directives to the Companies to expand and increase engagement in energy efficiency programs for income-qualified, high energy use customers. That authority arises directly from HB 951 itself, and from its authority to regulate public utilities in a manner consistent with the public policy of the State of North Carolina to promote economical utility service for all citizens and residents and to encourage the conservation of energy resources by avoiding wasteful, uneconomic and inefficient uses of energy.

With the enactment of HB951, the North Carolina Legislature (“Legislature”) mandated the North Carolina Utilities Commission (“Commission”)

to “take all reasonable steps” to achieve 70% reduction in CO2 emissions from electric generating facilities by 2030 and carbon neutrality by the year 2050.¹ The Legislature further directed the Commission to develop a plan no later than December 31, 2022, with utility and stakeholder input, that “at a minimum” considers “...power generation, transmission and distribution, grid modernization, storage, **energy efficiency measures, demand-side management**, and the latest technological breakthroughs to achieve the least cost path to achieve compliance with the authorized carbon reduction goals (the ‘Carbon Plan’).”²

In the same bill, the Legislature directed the Commission to consider and prioritize programs that reduce peak load use and reduce low-income energy burdens by authorizing the Commission to approve performance-based regulation (“PBR”) that links electric public utility revenue to “performance in targeted areas consistent with policy goals.”³ Specifically, the Legislature authorized the Commission to consider, among other things, whether the PBR application: “(a) Encourages peak load reduction or efficient use of the system; ... (d) **Reduces low-income energy burdens**; (e) Encourages energy efficiency; (f) Encourages carbon reduction.”⁴ In determining whether to approve a PBR application, the Commission must consider whether it “[w]ill not

¹ N.C. Gen. Stat. §62-110.9 (2021)

² N.C. Gen. Stat. §62-110.9 (1)(2021)(emphasis added).

³ N.C. Gen. Stat. §62-133.16 (a)(6)(2021).

⁴ N.C. Gen. Stat. §62-133.16 (d)(2)(2021) (emphasis added).

unreasonably prejudice any class of electric customers and result in sudden substantial rate increases or “rate shock” to customers.”⁵

While the specific directives relating to PBR may not apply expressly to the Carbon Plan, they do evidence legislative intent regarding those policy goals for the Carbon Plan. Further, those directives and policy goals are consistent with longstanding declared public policy that shapes all action by the Commission, including: “...(3) To promote adequate, reliable and **economical utility service to all of the citizens and residents** of the State; (4) To assure that resources necessary to meet future growth ... include use of the entire spectrum of demand-side options, including but not limited to conservation, **load management and efficiency programs**, as additional sources of energy supply and/or energy demand reductions.” To that end, energy planning must be done in a manner that results in “the least cost mix of generation and demand-reduction measures which is achievable....”⁶ Further, rates and charges, and by implication planning, must be “consistent with long-term management and **conservation of energy resources by avoiding wasteful, uneconomic and inefficient uses of energy**.”⁷ To enable the implementation of these public policy goals, the Legislature vested in this Commission the broad authority to regulate public utilities, including Duke in this Carbon Plan proceeding, “in relation to long-term

⁵ N.C. Gen. Stat. §62-133.16 (d)(1)(2021).

⁶ N.C. Gen. Stat. §62-2 (a)(3).

⁷ N.C. Gen. Stat. §62-2 (a)(3) (emphasis added).

energy conservation and management policies ... in accordance with the policies set forth in this Chapter.”⁸

To fulfill these policy directives in adoption of the Carbon Plan, the Commission should exercise its authority and direct Duke to avoid wasteful and inefficient uses of energy and provide economical utility services for all its customers by expanding programs and increasing participation in current programs targeted to reduce low-income energy burdens, while reducing total load and peak demand through increased long-term energy efficiency improvements for those customers.

II. AFFORDABILITY MUST BE A CORE OBJECTIVE OF THE CARBON PLAN, BUT DUKE PROVIDES NO DEFINITION AND SETS NO GOALS TO ENSURE AFFORDABILITY FOR ITS CUSTOMERS

Considering the Commission’s overarching duty to promote “economical utility served to all of the citizens and residents of the State,”⁹ affordability must be a core objective of the Carbon Plan adopted by this Commission. However, Duke fails to propose a plan that can achieve that objective: it provides no definition and no goals by which to measure whether that objective is achieved for its customers in general, or particularly for its low-income customers.

A. Affordability Challenges for Duke Customers are Significant and Are Likely to Worsen with Implementation of Duke’s Proposed Carbon Plan.

The Companies’ data indicate that in 2021 more than 980,000 residential households (representing nearly one-third of the total customer base served in

⁸ N.C. Gen. Stat. §62-2(b).

⁹ N.C. Gen. Stat. §62-2 (a)(3).

North Carolina), qualified as low-income, making less than 200% of the Federal Poverty Guidelines (“FPG”).^{10,11} Over half of households earning between one and two times the federal poverty level (100-200% FPG) also have energy cost burdens over 6%.¹² Among those low-income customers, more than 230,000 (24%) find themselves meeting the Companies’ own “arrears” definition: being behind on paying their average bill for six months or more, or more behind more than twice the amount of their average bill for two months or more.¹³ Additionally, more than 270,000 non-low-income households are at risk of being disconnected for non-payment. Thus, nearly one in six of all households served by Duke in 2021 were seriously struggling to pay their electric bills.¹⁴ As of May 2022, nearly 575,000 households were more than 30-days in arrears and owed a total of \$213 million, for an average of \$371 per customer in arrears.¹⁵

Without clearly targeted and sufficiently funded low-income energy efficiency and distributed energy programs, combined with increased bill assistance or discounted rate programs for low-income customers, the Carbon Plan as proposed by Duke will only serve to exacerbate existing affordability challenges. Witness McIlmoil estimates that in the DEC territory alone, the estimated increase of \$8 per month under Portfolio 1 would result in more than

¹⁰ McIlmoil, Tr. Vol. 24, p. 26

¹¹ Tr. Vol. 14 Exhibits, p. 42, Appalachian Voices Grid Edge Panel, Direct Cross Examination, Ex. 3.

¹² Kinkhabwala, Tr. Vol. 24, p. 52

¹³ McIlmoil, Tr. Vol. 24, p. 27

¹⁴ McIlmoil, Tr. Vol. 24, p. 28

¹⁵ Id.

57,000 low-income households moving into the “severe” energy burden category, exceeding 10.9% of household’s gross income.¹⁶

B. Duke’s Proposed Carbon Plan Sets Low Energy Efficiency Targets and Provides No Program Goals to Address Affordability for Low-Income Customers.

In spite of Duke’s constant refrain that “affordability” was a core objective of the Carbon Plan and its acknowledgement that the company has “a lot of customers that are struggling to pay their bills,” for purposes of the Carbon Plan, Duke does not define affordability, nor does it offer any metric by which to measure it.¹⁷ Duke Grid Edge witness, Tim Duff, candidly admitted that Duke had no target or goal when it came to helping its low-income customers lower costs and energy use through energy efficiency programs.

Q: [H]ave the Companies set a goal for energy efficiency savings delivered to low-income customers, particularly?

A: No. We haven’t set a specific goal.¹⁸

Duke’s lack of substantive attention to affordability and its low energy efficiency target in the proposed plan reflects a continuation of the low priority given by Duke to assist low-income customers to increase energy efficiency and decrease energy costs. Throughout its proposed plan and testimony, Duke describes its energy efficiency savings goal (1% of eligible retail load) as “aggressive.” While this goal may be considered “aggressive” relative to other utilities in the southeast, when compared on a national level, such a goal would

¹⁶ McIlmoil, Tr. Vol. 24, pp. 32-33.

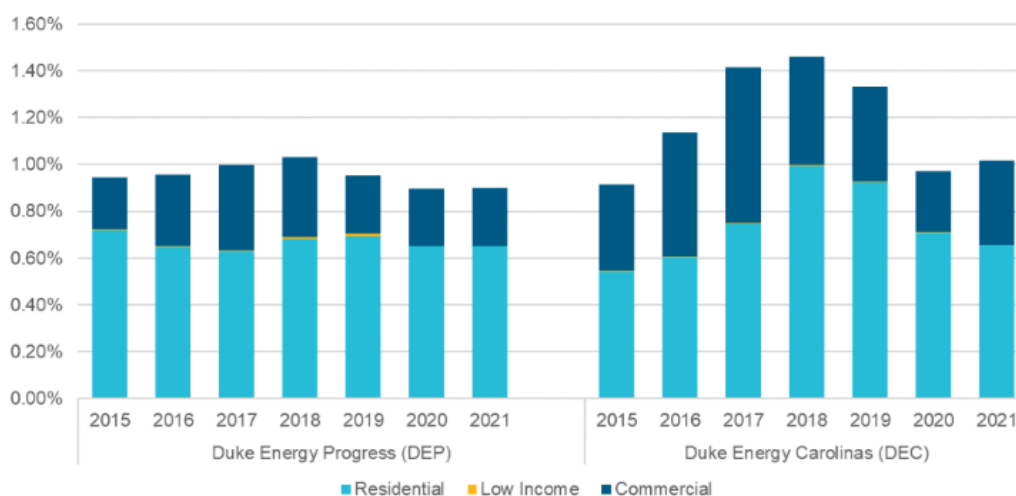
¹⁷ Bowman, Tr. Vol. 7, pp. 75, 80.

¹⁸ Duff, Tr. Vol 20, pp. 94-95

be well below the national average. As illustrated in the ACEEE 2020 Utility Scorecard, the Companies' net energy savings as a percentage of sales are both below the national average and below more than 20 of their large utility peers, including Entergy in Arkansas, Xcel in Colorado, MidAmerican in Iowa, and Duke Energy in Ohio.¹⁹

Further, when compared to the Companies' past performance, a goal of 1% of eligible retail load is marginal at best. "Eligible retail load" includes only about two-thirds of the Companies' combined load.²⁰ As illustrated in the Duke Carbon Plan itself (Figure G-2, below), such a "goal" represents a lower percentage of retail load than Duke Energy Carolinas has achieved historically.²¹

Figure G-2: DEC and DEP Energy Savings as a Percent of Prior Year Retail Sales through 2021



¹⁹ Fitch, Tr. Vol 20, pp. 182-183; and see, Tr. Vol. 14 Exhibits, p. 38 (Appalachian Voices Grid Edge Panel Direct Cross Examination Exhibit 2).

²⁰ Kinkhabwala, Tr. Vol. 24, pp. 48.

²¹ Id., and see Figure G-2, above: DEC and DEP Energy Saving as a Percent of Prior Year Retail Sales through 2021, Exhibit A, Part 2, p.330, shows that DEP achieved between 0.90% and over 1.0% of prior year total retail sales, and that DEC achieved 1.0% or more (as high as 1.4%) from 2016 through 2021.

Notably, the efficiency savings for low-income households -- who comprise nearly one-third of the Companies' residential customers -- is negligible.²² This lack of efficiency savings is not surprising given the Companies' low level of engagement of low-income customers in income qualified energy efficiency programs. For example, even though 33 % of DEC's residential customers are at or below the 200% FPG, only 0.068 % of those income qualified customers have participated in DEC's weatherization and equipment replacement programs.²³ In total, only 4.21% of its almost 1 million (980,733) low-income customers (with income equal to or less than 200% FPG) have participated in any non-behavioral energy efficiency or demand reduction programs in 2021.²⁴ Statewide, less than 4,000 household received weatherization funding in 2021,²⁵ and less than 0.1% of program-eligible customers have participated in the Duke Energy Carolina Weatherization Program and Equipment Replacement Program.²⁶

III. ENERGY EFFICIENCY CORRELATES TO ENERGY AFFORDABILITY

A primary driver of affordability is poor household energy efficiency for both low-income customers and for all customers generally.

²² Kinkhabwala, Tr. Vol. 24, pp. 49; See, also Figure G-2, above; and Tr. Vol. 14 Exhibits, p. 36 (Appalachian Voices Grid Edge Panel Direct Cross Examination Exhibit 1).

²³ Duff, Tr. Vol. 20, p. 45; Tr. Vol. 17, Exhibits, p.27 (Public Staff Grid Edge Panel Direct, Cross Examination, Ex. 2, p.3).

²⁴ Tr. Vol 17, Exhibits, p. 40, Appalachian Voices Grid Edge Panel Direct Cross Examination, Ex. 3 (DR 1-17, Participation Rates of Low-Income Households)

²⁵ McIlmoil, Tr. Vol. 24, p. 31, citing the North Carolina Weatherization Assistance Program. <https://www.benefits.gov/benefit/1873>. Accessed August 31, 2022.

²⁶ Id., citing the LIAC Final Report.

A. Low-income Customers and Those Struggling to Pay Utility Bills Often Have High Energy Use, Particularly During Peak Use Periods.

Duke has confirmed the need to address low-income demand because “lower-income customers tend to contribute more [to demand] during [winter] peak.”²⁷ Data produced by Duke for the Low-Income Affordability Collaborative (“LIAC”) demonstrates that low-income and LIEP/CIP customers²⁸ use more energy in the winter and less in the summer, and that customers who meet the arrears definition use more kWh per month than other customers year-round.²⁹ LIEAP/CIP customers use two times more electricity in winter months per square foot than customers above 200% FPG, and customers who meet the arrears definition use 50% more electricity in peak winter months per square foot.³⁰ As shown below, LIEAP/CIP customers face a significantly higher total bill burden particularly in winter and have higher winter peak usage than households with incomes more than 200% of federal poverty guidelines (annual income above \$27,180 for a single person or \$55,500 for a family of four).^{31,32}

²⁷ Carbon Plan, Appendix. G, p. 28-29.

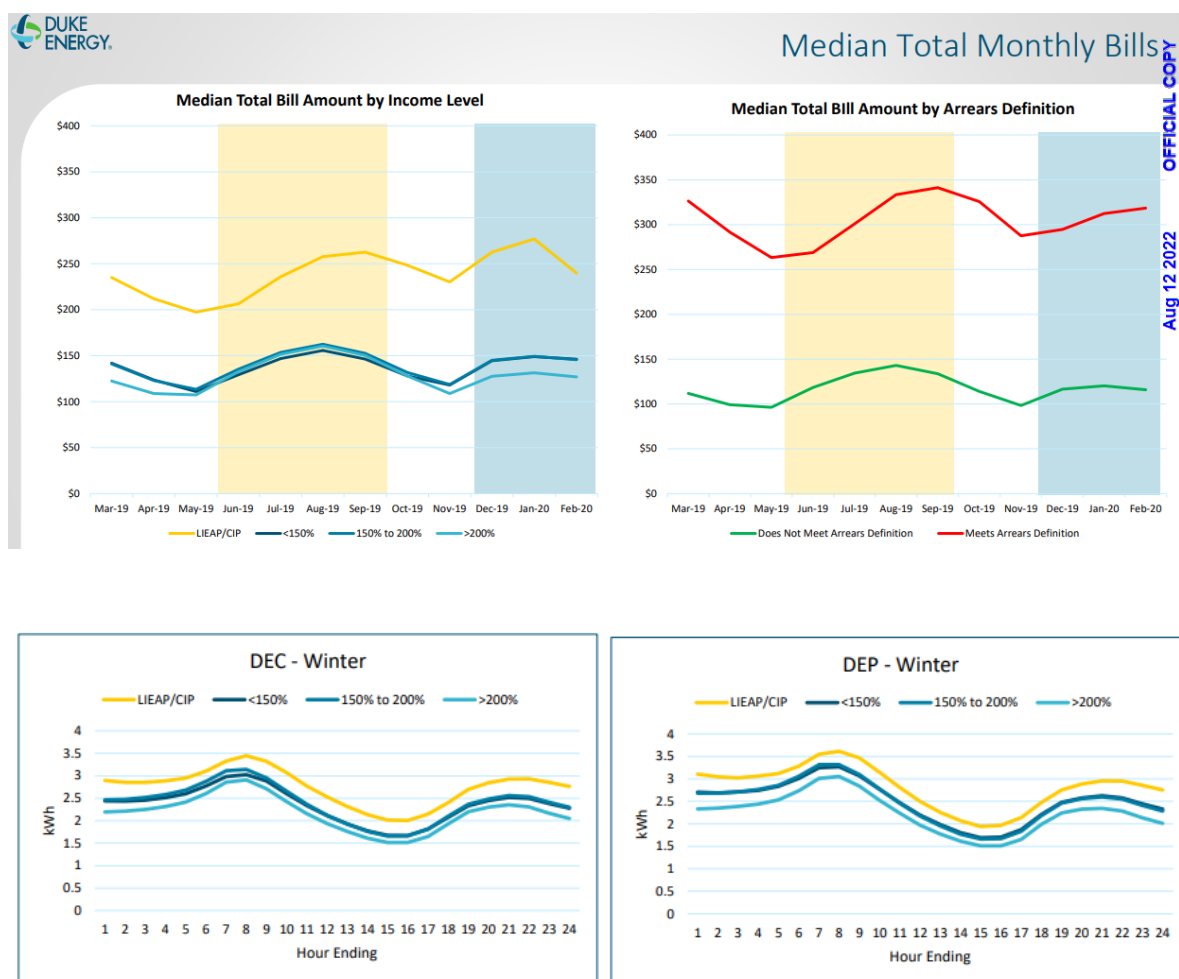
²⁸ “LIEAP/CIP” are customers who are involved in either or both the Low-Income Energy Assistance Program, or the Crisis Intervention Program.

²⁹ Tr. Vol 17, Exhibits, pp. 55-56, Appalachian Voices Grid Edge Panel Direct Cross Examination, Ex. 4 (LIAC Final Report Excerpts).

³⁰ *Id.*

³¹ *Id.*, p. 57.

³² Fentress, Tr. Vol. 14, p. 107.



B. High Energy Use Is Related to Energy Inefficiency.

Duke has acknowledged that there is a strong correlation between affordability challenges and energy inefficient building stock, heating and cooling systems, and appliances, concluding that “improving a household’s energy efficiency through air sealing, insulation, and energy efficient heating systems could substantially reduce a household’s likelihood of experiencing [a disconnection for non-payment].”³³ Dr. Kinkhabwala analyzed how investment in energy efficiency, demand response, and distributed energy resources for low-income residential customers can be a cost-

³³ McIlmoil, Tr. Vol. 24, p. 30.

effective way to control energy demand while bridging the affordability gap for all customers.³⁴ Energy efficiency investments such as weatherization and efficient appliances reduce customer energy use and bills. Weatherization also helps keep homes cool in summer and warm in winter, protecting vulnerable populations from the cold and from heat stroke.³⁵

IV. EXPANDED PARTICIPATION IN NON-BEHAVIORAL ENERGY EFFICIENCY MEASURES AND DEMAND RESPONSE PROGRAMS BY LOW-INCOME CUSTOMERS CAN ACHIEVE ENERGY SAVINGS AND REDUCE PEAK DEMAND REQUIREMENTS

High energy use, especially during peak periods, drives higher energy costs for all customers. Duke describes the “first pillar” of the Carbon Plan process as, “[to] shrink the challenge by reducing energy requirements and modifying load patterns through Grid Edge Programs, allowing more tools to respond to fluctuating energy supply and demand.”³⁶ Reduced energy requirements and the ability to modify load patterns can result in lower energy costs overall.³⁷

Duke proposes near-term construction of two new, natural gas-dependent Combustion Turbine (CT) facilities (800 MW) and two new, natural gas-dependent Combined Cycle (CC) facilities (1,200 MW) in order to meet winter peak demand. As illustrated above, LIEAP/CIP customers use two times more electricity in winter months per square foot than customers above 200% FPG.

³⁴ Kinkhabwala, Tr. Vol. 24, p. 25

³⁵ Kinkhabwala, Tr. Vol. 24, p. 46

³⁶ Huber, Tr. Vol. 13, p. 30.

³⁷ Huber, Tr. Vol. 13, p. 78.

Dr. Kinkhabwala testified that, based on his analysis, if Duke achieved an energy efficiency level equal to 1% of retail sales per year “inclusive of non-behavioral investment with multi-year measure lifespans,” Duke would save 4,700 GWh and reduce demand by 800 MW by 2030.³⁸ That efficiency savings would obviate the need for the proposed gas fired CTs. Further, Dr. Kinkhabwala testified:

...investing in energy efficiency and other grid edge resources for just the households with energy cost burdens greater than 6% would reduce energy cost burdens for 90% of these households to less than the 6% threshold with a blend of on-bill financing. Simultaneously, the investments could annually save 2,800 GWh in electricity use in the Companies’ North Carolina service area alone, which represents approximately 25% of the total electricity use of these households.³⁹

The Companies suggest that relying on demand reduction through energy efficiency investments is “risky” because customer preference may limit adoption, but the proposed alternative – expanded gas infrastructure – is riskier: 1) it builds carbon-based generation into a carbon reduction plan; 2) it raises the risk of costly stranded assets, and 3) it relies on fossil fuels whose volatile prices may be passed on to customers. Energy efficiency and demand response investments are carbon free, with significantly lower capital cost.

To achieve affordability for all customers, the Carbon Plan must support expanded programs and increased participation in existing energy efficiency and demand response programs for low-income households. The Companies’ Grid Edge Panel witnesses testified on rebuttal that they “agree that developing new

³⁸ Kinkhabwala, Tr. Vol. 24, p. 47

³⁹ Kinkhabwala, Tr. Vol. 24, p. 47-48.

programs to more effectively target low-income customers and increase participation in existing low-income programs is very important,” and maintain that program funding levels are not a barrier to achieving this shared goal.⁴⁰ What appears to be lacking is the will and determination to achieve the shared goal and a willingness to embrace the recommendations of the LIAC and to leverage the tools and needed partnerships resulting from that collaborative effort.

V. DUKE’S PROPOSAL TO EXPAND INCOME-QUALIFIED ENERGY EFFICIENCY PROGRAMS TO INCLUDE HOUSEHOLDS ABOVE 200% OF FEDERAL PROVERTY LINE MUST BE REJECTED.

Instead of acting on the recommendations it supports in the LIAC final report, in the Carbon Plan Duke proposes to expand income qualification for energy efficiency programs to customers making up to 300% of FPG, which would be \$83,250 for a family of four, or 40,776 for a single person.⁴¹ As part of the LIAC recommendations, Duke, Public Staff, and a large percentage of stakeholders recommended that for purposes of addressing affordability challenges, income-qualified programs should be limited to households making less than 200% of federal poverty guidelines. Thus, a single person with an annual household income of \$27,180 or a family of four with an annual household income of \$55,500 would qualify for income-qualified programs at the 200% threshold.⁴² Duke’s proposed “enabler” for enhanced “low-income” energy efficiency programs to include households making up to 300% FPG is contrary to

⁴⁰ Duff, Tr. Vol. 29, p. 184.

⁴¹ Fentress, Tr. Vol. 14, p. 107.

⁴² Fentress, Tr. Vol. 14, p. 107-108.

the recommendations of the LIAC, and does not target households with the highest energy use or highest peak demand. The Commission should therefore reject Duke's proposal.

PROPOSED FINDINGS AND CONCLUSIONS

In light of the above, Appalachian Voices asks the Commission to make the following supplemental findings and conclusions.

1. Affordability is a core objective of the Carbon Plan.
2. Affordability means the degree to which customers, including representative households, are able to pay for essential utility service charges given their socioeconomic status.
3. The Commission has the authority and responsibility to promote adequate, reliable, and economical utility service to all citizens and residents of the State.
4. Currently, one household of every six of the Companies' residential customers faces significant affordability challenges, which likely will be exacerbated by additional costs and higher rates associated with implementation of the Carbon Plan.
5. A primary driver of affordability under the Carbon Plan is poor household energy efficiency, both for low-income customers and all customers generally.
6. Assisting low-income customers and customers struggling with affordability challenges with implementation of energy efficiency improvements

can lower system energy demand, including during peak energy demand periods.

7. Decreasing system-wide energy demand, particularly during peak energy demand periods through increased implementation of energy efficiency measures in low-income households can contribute to a least cost (and more affordable) path for implementation of the Carbon Plan for all customers.

8. The Commission therefore directs the Companies, in implementation of this Carbon Plan, to take all reasonable steps to increase participation by low-income customers in programs designed to increase energy efficiency and decrease energy demand, including non-behavioral energy efficiency investments, such as weatherization and other energy efficiency improvements, in-community distributed energy, and demand reduction programs.

9. Reasonable steps include:

- a. Continued tracking and regular reporting of data relating to energy use, arrearages, and disconnections for non-payment by low-income and LIEAP/CIP households;
- b. Expanding efforts to assist low-income customers and customers struggling with affordability challenges to lower energy demand and costs through energy efficiency and demand response programs;

- c. Tracking and regular reporting of energy efficiency savings by low-income customers as a percentage of total energy efficiency savings;
- d. Tracking and annual reporting of participation in any EE or DR programs by low-income and LIEAP/CIP customers as a percentage of total number of low-income households;
- e. Setting annual near-term goals for increased participation by low-income customers in energy efficiency programs;
- f. Developing new and enhanced partnerships with state and local governments and community organizations to:
 - i. identify income-qualified customers;
 - ii. remove barriers to participation by income-qualified customers; and
 - iii. leverage funding for non-behavioral energy efficiency improvements.
- g. Continuing participation with the Low-Income Affordability Collaborative (LIAC) and focused implementation of LIAC recommendations.

10. The Companies have not demonstrated that expanding the definition of income-qualified eligible customers to include customers with household incomes of up to 300% of the Federal Poverty Guidelines (FPG) is reasonable or warranted. Further, the proposed expanded definition is contrary to the final recommendations of Duke and Public Staff to the Commission in the

LIAC proceedings that eligibility for income-qualified programs should be at or below 200% of the FPG.

CONCLUSION

For the reasons set forth above, Appalachian Voices respectfully requests that the Commission direct the Companies to take all reasonable steps to increase participation by low-income customers in programs designed to increase energy efficiency and decrease energy demand, including non-behavioral energy efficiency investments, such as weatherization and other energy efficiency improvements, in-community distributed energy, and demand reduction programs. Further, Appalachian Voices requests that the Commission reject the Companies' request to redefine income-qualified programs to include customers with incomes that exceed 200% of FPG. Finally, Appalachian Voices urges the Commission to adopt the Joint Near Term Execution Plan filed by North Carolina Sustainable Energy Association, et al in this matter.

Respectfully submitted this 24th day of October, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing *Initial Comments* by Appalachian Voices upon each of the parties of record in these proceedings or their attorneys of record by electronic service.

This the 24th day of October, 2022.

LAW OFFICE OF F. BRYAN BRICE, JR.

By: /s/ Catherine Cralle Jones
Catherine Cralle Jones

Counsel for Appalachian Voices