

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-7, SUB 1276

**In the Matter of
Application of Duke Energy Carolinas, LLC
For Adjustment of Rates and Charges
Applicable to Electric Service in North
Carolina and Performance Based
Regulation**

)
)
)
)
)
)
)

**SUPPLEMENTAL
POST-HEARING BRIEF OF DUKE
ENERGY CAROLINAS, LLC**

Duke Energy Carolinas, LLC (DEC or the Company) hereby submits its Supplemental Post-Hearing Brief (Supplemental Brief) to the North Carolina Utilities Commission (Commission) in the above-captioned docket. For the reasons detailed herein, the Commission should reject the Public Staff's proposed revenue apportionment contained in David Williamson's supplemental testimony and exhibits filed on October 20, 2023; rather, the Commission should approve the Company's proposed revenue apportionment methodology, just as it did for Duke Energy Progress, LLC (DEP) in the parallel DEP rate case proceeding (DEP Rate Case) in its *Order Accepting Stipulations, Granting Partial Rate Increase, and Requiring Public Notice* in Docket No. E-2, Sub 1300 (DEP Rate Case Order).¹

Introduction and Background

In this case, the difference between the Company's and Public Staff's rate design approaches is not so much in their objectives or guiding principles. For instance, in his direct testimony, DEC witness Morgan Beveridge discusses a number of objectives the Company's rate design team takes into consideration when establishing DEC's proposed rates, including: aligning revenues with cost to serve; designing rates to reflect cost causation and usage characteristics such as load factor and time of use; assessing subsidies using a "band of reasonableness" of class rates of return within 10 percent of the Company's North Carolina retail rate of return; reducing interclass subsidies and moving rate classes closer to parity; minimizing rate shock; employing gradualism, equitable pricing structures, and simplicity of the rate design; avoiding administrative

¹ Contemporaneously with this Supplemental Brief, the Company is also filing a Supplemental Proposed Order that updates DEC's original Proposed Order filed on October 11, 2023.

complexity; sending efficient price signals; and maintaining rate and revenue stability. (Tr. Vol. 10, 130-34). Similarly, in his direct testimony, Public Staff witness Williamson describes the Public Staff's four basic rate design principles: (1) limiting any revenue increase assigned to any customer class to no more than two percentage points greater than the overall jurisdictional revenue percentage increase, thus avoiding rate shock; (2) maintaining a plus or minus 10% "band of reasonableness" for class rate of return relative to the overall jurisdictional rate of return; (3) moving each customer class toward parity with the overall jurisdictional rate of return; and (4) minimizing subsidization of customer classes by other customer classes. (Tr. Vol. 13, 48).

Rather, the difference in approach is with respect to the implementation of those principles so as to achieve the desired objectives. DEC's proposal is both formulaic and replicable: no matter what revenue requirement the Commission ultimately decides is appropriate, the Company's rate design methodology will allow it to translate the Commission's decision into compliance rates without any subjectivity or discretion. That is how it should be. As explained by the Company's rate design witnesses – the individuals responsible for translating the Commission's order into rates – there is absolutely no place for subjectivity or controversy in the implementation of the Commission's order through compliance rates. (Tr. Vol. 17, 177-78).

By contrast, under the Public Staff's approach, the rate designer implementing the Commission's final revenue requirement decision is materially dependent upon subjective judgment in order to fashion compliance rates. While witness Williamson reiterated that he was adhering, "as practicably as possible," to the Public Staff's "four guiding principles" described above (Tr. Vol. 17, 45, 47), how he decided to apply them to apportion revenues

is a black box. Although witness Williamson viewed his approach as “surgical” (*id.* at 17, 76, 84, 88, 93, 99, 116, 122, 124), it is more properly characterized, as the Company’s witnesses described it, as an “optimization” approach involving “toggling” and “tweaking” to achieve the Public Staff’s desired outcome. (*Id.* at 156-57, 170-71, 173, 179, 180, 188). Whatever it is called, it is clear that no party that participated in the reconvened hearing knew what exactly witness Williamson did or how the various customer classes would fare if the Commission were to approve the Public Staff’s approach but require it to be applied to a different revenue requirement. This is the antithesis of a formulaic or replicable approach.

Moreover, the Company’s approach – *and the resulting rates for all customer classes* – was described from the beginning of the case. Witnesses Beveridge and Jonathan Byrd explain at length in their direct testimony how the Company designed rates to achieve and balance those objectives and provide detailed evidence relating to class revenue changes, despite the fact that the revenue requirement the Company requested in the Application is unlikely to be the final revenue requirement at the end of the case. Specific to the issue at hand – revenue apportionment – witness Beveridge explained that the Company is recommending a subsidy reduction of 10% in this case to reduce interclass subsidies to better align each rate class to the average rate of return. (Tr. Vol. 10, 133). He described how the rate adjustments proposed by the Company in this proceeding are intended to move all rate schedules closer to a more equitable pricing structure in steps to employ the principle of gradualism, acknowledging that “the imbalance in class and rate schedule returns did not occur overnight and should not be corrected overnight.” (Tr. Vol. 10, 136, 171). Further, in their rebuttal testimony, witnesses

Beveridge and Byrd explained that while typically the Company had proposed a 25% subsidy reduction in the past, due to the change in cost of service methodology in this case, the rate increase to the lighting class was disproportionately high when the Company evaluated a subsidy reduction of 25%. (*Id.* at 187). In short, while a subsidy reduction greater than 10% would more rapidly move rates closer to parity, a subsidy reduction of 10% was selected because, in the Company's view, it struck the right balance between the competing objectives of aligning revenues collected from each class with cost and reducing interclass subsidies on the one hand with gradualism and minimizing rate shock on the other. (*Id.* at 187-89).

By contrast, Public Staff in its direct testimony refused to make a recommendation on the assignment of the revenue requirement to North Carolina retail customers at that time.² Rather, witness Williamson stated that he intended to file supplemental testimony based on the Public Staff's final revenue requirement once it is determined, to provide final recommendations on class revenue changes. (Tr. Vol. 13, 54). This supplemental testimony was filed, with the Commission's permission, after the hearings had been concluded and prompted the Commission to hold the reconvened hearing on October 30. But Public Staff cannot have it both ways – witness Williamson's methodology either is or is not capable of being applied to a range of revenue requirements. If the methodology is replicable, formulaic, and could be applied to any revenue requirement (including DEC's recommendation, as witness Williamson claimed during his live testimony), then there was nothing preventing the Public Staff from recommending, describing, and applying this

² In his direct testimony, witness Williamson did, however, agree that the 10% subsidy reduction proposed by the Company was appropriate to mitigate the potential for significant rate shock in the multiyear rate plan. (Tr. Vol. 13, 51).

methodology to the Company's proposed revenue requirement earlier in the case. If, however, the methodology is specifically tailored to the Public Staff's revenue requirement and requires independent manipulation of the return for each rate class, then it would make sense that the Public Staff would have to wait until it came up with its revenue requirement recommendation – but that also means the recommended revenue apportionment would not be applicable to any other revenue requirement without additional subjective adjustments. In any event, the Public Staff's approach is simply unworkable for the reasons set forth herein and should be rejected by the Commission.

Argument

A. The Public Staff's approach is not formulaic or replicable and cannot be applied to any other revenue requirement.

Rate design undeniably requires the exercise of informed judgment, and reasonable rate designers can differ on how they apply certain rate design principles. Further, rate design by its very nature balances a number of competing priorities, and rate designers have decisions to make in how to achieve the right balance in each case when they develop their recommended revenue apportionment. However, in order for other parties to understand a rate design proposal, how it impacts them, and weigh in on that proposal and for the Commission to make an informed decision that can then be implemented by the Company, a party proposing revenue apportionment needs to "show its work" by explaining its reasoning and how, mathematically, it arrived at a revenue apportionment that, in that party's opinion, best achieves that balance.

In the abstract, the parties likely agree with many or even all of the Public Staff's rate design principles, just as the parties likely agree with many or even all of the

Company's rate design objectives. However, these are inherently competing objectives that are often in tension with one another, and which objectives should be prioritized and how to accomplish the right balance through rate design is what the parties litigate in a rate case. In order for parties to have informed debate, a party supporting a particular rate design – in this case, a method for apportioning revenues – needs to propose something concrete and tangible for the other parties to evaluate.

The Company's recommendation of a 10% subsidy reduction clearly meets those criteria. To be sure, intervenors challenged the Company's recommendation. For example, according to CIGFUR III witness Brian Collins, 25% would be the minimum subsidy reduction that would be appropriate in this case. CUCA witnesses Jeffry Pollock and David Lyons also urged the Commission to move rates more aggressively toward cost. While some parties had different opinions on how to accomplish certain objectives and the weight to be given to competing priorities in determining the appropriate subsidy reduction, the bottom line is that the Company's revenue apportionment methodology is transparent, formulaic, replicable, and capable of allowing for informed debate, as evidenced by the differing opinions on the appropriate subsidy reduction.

By contrast, witness Williamson's approach is not formulaic or replicable, which makes it impossible for the parties to evaluate in a meaningful way. It appears the Public Staff manually adjusted the rate increase for each rate class independently to "apply the Public Staff's revenue assignment principles as practicably as possible." (Tr. Vol. 17, 47).

Thus, this “methodology” relies on the subjective determination of optimal rate increase percentages by the Public Staff, independently for each customer class.³

While witness Williamson suggested that other inputs for rate base, operating expenses, etc., other than the precise values selected by the Public Staff, could “flow through” his revenue apportionment model, the Company’s rate design experts stated in no uncertain terms that it is not possible to run inputs related to any other revenue requirement through witness Williamson’s model. Witness Williamson’s workpapers show that “specific outcomes by rate class were based on subjective adjustments of the revenue apportionment amounts by class. As such, replicating the apportionment methodology for any other approved revenue requirement would be impossible.” (Tr. Vol. 17, 159-60; Tr. Ex. Vol. 17). Witness Byrd noted that “taking those subjective, very unique changes and applying them to any other revenue requirement...I’m not sure how to even do that.” (Tr. Vol. 17, 160). “In contrast, the Company’s recommended apportionment methodology could be consistently applied and validated for the Company’s proposed revenues, the Public Staff’s proposed revenues, or anything in between.” (*Id.* at 160-61; Tr. Ex. Vol. 17).

³ As both witness Byrd and witness Beveridge acknowledged, the Company used discretion in selecting 10% (as opposed to another percentage) in attempting to balance the proposed rate increase so that no rate class received a disproportionate increase. (Tr. Vol. 17, 173-76, 187). However, as witness Byrd explained, in concluding the Public Staff’s approach employs “a level of subjective determination that is simply unreasonable,” “what we’re emphasizing is no subjectivity in the process.” (*Id.* at 148, 187). He stated that while the Company’s proposed 10% number is “absolutely discretionary” – in that “there’s no perfect calculation we could show that comes up with 10 percent,” but rather it is a result of a “weighing of different factors” described at length in the Company’s testimony – “the application of that [10% subsidy reduction] is in no way subjective.” (*Id.*) Witness Beveridge similarly stated that the 10% value is discretionary and certainly something that should be debated in the proceeding, but then the process of implementing that subsidy reduction is formulaic. (*Id.* at 173). Whether the Commission approves 10%, 20%, or another number, the application and implementation is in no way subjective and would not be subject to interpretation. (*Id.* at 173-74).

When Presiding Commissioner Duffley asked specifically whether the Company's recommended revenue requirement could be run through the Public Staff's model, witness Byrd responded, "I'm not sure how to do that." (Tr. Vol. 17, 153, 156). He explained that there are several hard coded cells in the Public Staff's model where witness Williamson has "used his discretion to manipulate the revenue requirement by class." (*Id.* at 155). As a result, it is not possible to take the Company's revenues and plug them into witness Williamson's "discretionary" "toggling approach." (*Id.* at 156). By contrast, witness Byrd noted "you can apply [the Company's apportionment methodology to] a wide range of revenue requirements." (*Id.*). Witness Beveridge added that his understanding was that witness Williamson's testimony was that an optimization of the Public Staff's four rate design principles needs to be done on a specific revenue requirement. (*Id.* at 157). "And so if that couldn't have been done originally on DEC's revenue requirement, it's not completely clear how it could be done now on DEC's revenue requirement." (*Id.*)

In other words, if the Public Staff's approach could be applied to the Company's revenue requirement, as witness Williamson stated on the stand in response to the Presiding Commissioner's request for a late-filed exhibit (*id.* at 136-37), then why could he not have done so in his direct testimony? If the Public Staff's approach is, in reality, applicable for all other revenue requirements, then witness Williamson should have proposed it earlier, and the entire hearing on October 30 was therefore unnecessary.

Witness Williamson's claim that his model could be used for revenue requirements other than that recommended by the Public Staff is also belied by the fact that several of the numbers in his model were "hard coded," meaning that specific numbers were typed into the cells of the Excel model. (Tr. Vol. 17, 178-79). By definition, hard coded numbers

are *not* the result of a formula or mathematical model. As witness Byrd testified, “there’s a line that says, ‘Public Staff adjustments,’ with hard coded numbers in [witness Williamson’s workpapers]. And it is my understanding that Witness Williamson has testified that those values are based on discretion that was invoked after he received a specific revenue number, and that it was not possible to do that work without having the recommended revenue number from Public Staff. I have no idea how to adjust that line item for any other revenue requirements number using the Public Staff discretionary subjective approach.” (*Id.* at 169). Importantly, “what those hard coded numbers are right now is Witness Williamson’s professional judgment. And so if we got a different revenue requirement and those numbers needed to change to optimize the new revenue requirement, well, Witness Beveridge’s judgment is different than Witness Williamson’s, is maybe different than the Commission. So what those numbers should be is unclear.” (*Id.* at 180).

Even as applied to the Public Staff’s specific revenue requirement, witness Williamson provided no explanation of how he arrived at the numbers contained in the hard coded cells. As witness Beveridge explained in response to questioning from counsel for CIGFUR:

- Q. Did...Witness Williamson provide any kind of explanation for how he arrived at the numbers that are contained in those hard coded cells?
- A. (Morgan D. Beveridge) To...my knowledge, no. There...are the four guiding principles, of course, and I think that was part of the determination, but of how, you know, he may have chosen 2,000 versus 2,500 versus some other number or, again, earlier there was testimony on, well, where do you stop? What the exact balancing was and why a certain level was picked was not clear.

In other words, it appears that witness Williamson looked at the revenue apportionment for each class and decided whether, in his opinion, it was reasonable using

the four principles to varying degrees within his discretion and shifted the dollars around accordingly. This approach is simply not workable.

Regardless of the specific methodology for which any party may advocate, it is crucial to utilize a precisely defined and scalable process for revenue allocation to provide transparency into the direction and range of potential outcomes, even when applied to something other than the precise revenue requirement a party supports. Witness Williamson's "methodology" does not meet these criteria.

B. A formulaic, replicable approach to revenue apportionment is critical for developing compliance rates.

The approved revenue apportionment methodology should be clear and able to be applied in a straightforward manner based on a final Commission order. In other words, the approach should not be subject to interpretation. For compliance rates, informed parties should be able to easily verify that the Company followed the Commission order in apportioning revenues by class.

The Company's revenue allocation methodology is clear and replicable – meaning that the Company's recommended methodology can be easily applied to the final revenue requirement approved by the Commission and requires no further subjective determinations. By contrast, the Company has no clear guidance on how to apply witness Williamson's allocation principles to any other revenue requirement that the Commission may order. As a result, this "optimization" approach based on certain Public Staff principles could easily result in different outcomes from different parties seeking to apply those same principles. As witness Byrd stated during the hearing, "for a given revenue requirement, if multiple rate designers were asked to apply the approach witness

Williamson used, it's very reasonable to expect you would get five different answers from five different rate designers." (Tr. Vol. 17, 161; see also, Tr. Ex. Vol. 17: "[R]easonable rate designers could apply the Public Staff's principles and reach multiple different conclusions even if they all were using the same revenue requirements.").

Witness Beveridge described the typical compliance process as "straightforward" and not controversial – "there's no subjectivity left at that point." (Tr. Vol. 17, 177). The Company's approach is formulaic, and "it's very easy for any party in the case to verify that we comply with the Commission's order on that point." (*Id.* at 162). By contrast, witness Williamson's approach would introduce subjectivity and significant controversy in the two-week period the Company has to develop compliance rates (see *id.* at 177-78) and could very well land the parties and the Commission right back in the hearing room.

C. There is no reason to deviate from the approach the Commission approved for DEP.

The allocation methodology recommended by the Company is identical to the methodology approved by the Commission in the DEP Rate Case proceeding in Docket No. E-2, Sub 1300, and there is no reason to depart from such methodology in this proceeding. (*Id.* at 149). The Public Staff applied its same four basic revenue assignment principles in the DEP rate case to arrive at exactly the same allocation methodology as DEP – i.e., the 10% subsidy reduction – despite not agreeing on the proposed revenues. (*Id.* at 146-47). While the Public Staff, of course, is not required to use the same approach in both cases, from a rate design perspective, there is no basis in the record in the DEC case that would support the use of a different methodology than that recommended by Public Staff and ultimately approved by the Commission in the DEP proceeding. (*Id.* at

147). In both this case and the DEP Rate Case, the 10% subsidy reduction (as opposed to the 25% subsidy reduction proposed in previous cases) is necessary to ensure that no rate class – and, in particular, the lighting class – receives a disproportionate increase, particularly considering the change in cost of service methodology. (Tr. Vol. 10, 187). As witness Beveridge testified, “the Company doesn’t see an obvious distinction between the two rate cases as to why there would be a different methodology applied.” (Tr. Vol. 17, 181.) In addition, as witness Byrd explained, a key goal of the Comprehensive Rate Design Study was to improve alignment of the rate design structure between DEP and DEC and that they have done an effective job of bringing the rate design structure of the two companies closer together (see *id.* at 180-81), which is yet another reason that the Commission reach the same conclusion in this case as it did in the DEP Rate Case.

Conclusion

For the reasons set forth herein, the Company respectfully requests that the Commission reject the Public Staff’s proposed revenue apportionment and approve DEC’s recommended revenue apportionment methodology.

Respectfully submitted this 6th day of November, 2023.

DUKE ENERGY CAROLINAS, LLC

/s/ Jack Jirak

Jack Jirak
Deputy General Counsel
Duke Energy Corporation
PO Box 1551/NCRH 20
Raleigh, North Carolina 27602
Telephone: (919) 546-3257
Jack.Jirak@duke-energy.com