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March 9, 2010

FILED

MAR 10 2010

Clerk's Office
N.C. Utilities Commission

OFFICIAL COPY

Ms. Renné C. Vance, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center .
Raleigh, North Carolina 27699-4325

RE: Docket No. E-7, Sub 831
Duke Energy Carolinas' Application for Approval of Save-a-Watt Approach,
Energy Efficiency Rider and Portfolio of Energy Efficiency Programs

Dear Ms. Vance:

Enclosed for filing with the Commission are an original and 31 copies of Duke Energy Carolinas' Motion for Clarification and Reconsideration in the above-referenced matter.

If you have any questions, please let me know.

Sincerely,



Lara Simmons Nichols

Full Dist. NY

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Enclosures

FILED

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

MAR 10 2010

DOCKET NO. E-7, SUB 831

Clerk's Office
N.C. Utilities Commission

In the Matter of:

Application of Duke Energy Carolinas, LLC for)	DUKE ENERGY CAROLINAS, LLC'S
Approval of Save-a-Watt Approach, Energy)	MOTION FOR CLARIFICATION
Efficiency Rider and Portfolio of Energy)	AND RECONSIDERATION
Efficiency Programs)	
)	

Pursuant to N.C. Gen. Stat. § 62-80, Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or the "Company") hereby moves the North Carolina Utilities Commission (the "Commission") for clarification and reconsideration of its *Order Approving Agreement and Joint Stipulation of Settlement Subject to Certain Commission-Required Modifications and Decisions on Contested Issues* issued in this docket on February 9, 2010 ("Order"). In particular, the Company seeks clarification and reconsideration as to the Commission's modifications of Section G, the "Net Lost Revenues" section, of the Agreement and Joint Stipulation of Settlement ("Settlement Agreement") as follows:

1. The Commission modified Section G of the Settlement Agreement to add the following provision: "Programs or measures with the primary purpose of promoting general awareness and education of energy efficiency as well as research and development activities are ineligible for the recovery of net lost revenues." (Order, pp. 21-22). The Company is unable to find guidance within the Order itself, or the sources cited by the Commission in footnote 11 of the Order, as to the meaning of "[p]rograms or measures with the primary purpose of promoting general awareness and education," and what, if any, of the Company's programs or measures would qualify as such. While it is clear that the Commission has excerpted this modification from its *Order Approving Agreement and Stipulation of Partial Settlement, Subject to Certain Commission-Required Modifications*, in Docket No. E-2, Sub 931 ("PEC Order"), the Company

cannot find a definition of or clarification of what would qualify as “general awareness and education” programs in the PEC Order either. Accordingly, the Company respectfully requests clarification of this provision from the Commission. In particular, the Company seeks guidance as to whether such “general awareness and education” programs ineligible for recovery of net lost revenues include those for which the Company can demonstrate verified kW and/or kWh reductions resulting from such programs.

2. To the extent that the Commission determines that even those education and awareness programs that the Company can show produce verified kW and/or kWh reductions are ineligible for recovery of net lost revenues, the Company seeks reconsideration. Duke Energy Carolinas should be allowed to recover measured and verified net lost revenues resulting from energy efficiency programs, as provided by Commission Rule R8-68. If the Company is not permitted to do so for certain programs for the arbitrary reason that these programs have the primary purpose of promoting general awareness and education of energy efficiency, it will lose revenue, which could discourage the Company from implementing such programs. For example, the Company plans to file a new energy efficiency program, Home Energy Comparison Report, which will assist residential customers in assessing their energy usage by supplying them with comparative usage data for similar residences in the same geographic area. The program will also provided recommendations for more efficient energy use and will identify those customers who could benefit most by investing in new energy efficiency measures and participating in other Duke Energy Carolinas programs. Absent recovery of net lost revenues, reductions in energy use resulting from Home Energy Comparison Report would impair the Company’s ability to recover sufficient revenues to cover its fixed costs, creating a financial disincentive to the implementation of this beneficial program. General education and awareness programs help to

transform the market by making customers increasingly receptive to specific program offerings, as well as by providing information to customers about how they can save money on their utility bills through either specific utility programs or other energy saving activities. So long as these programs are specifically designed to result in quantified capacity and/or energy savings, there is no logical reason for their wholesale exclusion from net lost revenue recovery.

3. Moreover, the modified save-a-watt compensation mechanism is based exclusively upon actual capacity and energy savings achieved, as measured and verified by an independent third party. As such, Duke Energy Carolinas assumes the risk of recovering its energy efficiency and demand-side management program costs or any management incentive – including net lost revenues for energy efficiency programs – based upon its performance. Net lost revenues will be included in the final true-up process at the end of the four-year save-a-watt pilot. The outstanding balance of net lost revenues will be adjusted based on the actual measured and verified lost revenues determined in the final true-up process, and any overcollection will be returned to customers with interest. Due to the fact that Duke Energy Carolinas is compensated only if it can demonstrate results, the Company has every incentive to perform robust measurement and verification of its programs, which will support the existence of net lost revenues for the Company's energy efficiency programs, including those that promote general awareness and education.

4. The Commission also modified Section G of the Settlement Agreement to read:

Utility activities shall be closely monitored by the Company to determine if they are causing a customer to increase demand or consumption, and the Company shall identify and keep track of all of its activities that cause customers to increase demand or consumption, whether or not those activities are associated with demand-side management or energy efficiency programs, as provided in the Settlement Agreement, so that they may be evaluated by the parties and the Commission for possible confirmation as "found revenues."

(Order, p. 22). However, the Commission does not provide sufficient guidance as to what constitutes a utility activity that increases consumer demand or consumption that should offset net lost revenues. The Commission does reference the Public Staff's Responses to the Second Pre-Hearing Order Requiring Verified Information in footnote 11, but unfortunately these responses do little to clarify which utility activities would qualify. Accordingly, the Company respectfully requests clarification regarding the meaning of a utility activity that causes a customer to increase demand or consumption.

5. To the extent that the Commission defines "utility activities [that] shall be closely monitored by the Company to determine if they are causing a customer to increase demand or consumption" to include those activities that are independent of the Company's energy efficiency and demand-side management programs, the Company requests reconsideration of this monitoring requirement. The Company also seeks reconsideration of the Commission's requirement that it identify and track changes in revenues that occur as a result of actions of customers that increase or decrease their energy use that are independent of the Company's energy efficiency and demand-side management programs.

6. It is important to acknowledge that there are several types of changes in revenues that could be construed – some erroneously – as being caused by utility activities. For example, one occurs as a result of changes in the economy or actions of customers that cause them to change their energy use up or down that are independent of the Company's energy efficiency and demand-side management programs. Another can originate from actions of customers that change their energy use up or down that are directly related to the Company's energy efficiency and demand-side management programs. With regard to the first type, these are changes that do not result from any activity by the Company's public utility operations; they are actually

customer driven. If the Company is to count revenue changes under this first type as “found” revenues, even those that may occur from economic development actions, then it must also count customer driven decreases, such as those that occur when a plant or business closes or when a customer reduces its energy use in response to an increase in electricity price. To consider increases and decreases on a case-by-case basis on such a broad basis is incorrect and creates a tremendous administrative burden, including lengthy and contested proceedings over what constitutes “found revenues.” Indeed, if all possible changes are to be considered included, the Commission might as well investigate whether it is more appropriate to institute a decoupling mechanism because every increase or decrease in revenues must be considered. Instead, a more workable application of net lost revenues would be limited to the results of those actions taken by customers in response to the Company’s energy efficiency and demand-side programs. While the Company does not have energy efficiency or demand-side management programs that are designed or intended to increase energy consumption, the Company expects the measurement and verification process to identify areas where there may have been increases in energy usage, and these impacts, if any, would be used to reduce the level of lost sales and lost revenues.

7. In addition, under the Settlement Agreement, Duke Energy Carolinas is limited to recovering net lost revenues for a period of 36 months despite the fact that, absent a general rate case through which rates are set to recover those net lost revenues, the Company will continue to lose revenues beyond 36 months to the extent that successful energy efficiency programs continue to result in kilowatt-hour savings. This more limited recovery period inherently takes into account the possibility of any increase in revenues resulting from any activity of the Company that causes customers to increase demand or energy consumption. As such, issues of lost and “found” revenues should be restricted to the activities associated with the Company’s

energy efficiency and demand-side management programs. Similarly, in the Company's Comments filed in Docket No. E-100, Sub 113 on March 1, 2010, Duke Energy Carolinas recommended that the definition of net lost revenues in Commission Rule R8-68 be amended to provide simply for a limited recovery of net lost revenues for thirty-six months and eliminate the complexities and burden associated with attempting to identify and track found revenues.

For the reasons set forth above, the Company requests that:

(1) The Commission clarify the meaning of "Programs or measures with the primary purpose of promoting general awareness and education of energy efficiency as well as research and development activities [that] are ineligible for the recovery of net lost revenues";

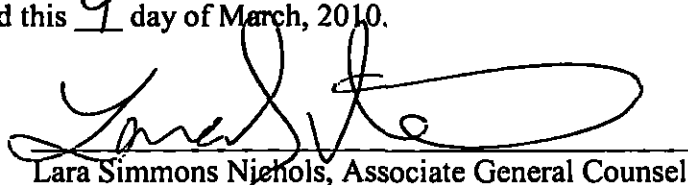
(2) The Commission exclude education and awareness programs that produce quantified capacity and/or energy savings from its definition of "Programs or measures with the primary purpose of promoting general awareness and education of energy efficiency as well as research and development activities [that] are ineligible for the recovery of net lost revenues";

(3) The Commission clarify which "utility activities shall be closely monitored by the Company to determine if they are causing a customer to increase demand or consumption";

(4) The Commission exclude from its definition of "utility activities [that] shall be closely monitored by the Company to determine if they are causing a customer to increase demand or consumption" those activities that are independent of the Company's energy efficiency and demand-side management programs;

(5) The Commission eliminate the condition that Duke Energy Carolinas be required to identify and keep track of its activities that cause customers to increase demand or consumption that are not associated with demand-side management or energy efficiency programs.

Respectfully submitted this 9 day of March, 2010.



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CERTIFICATE OF SERVICE

DOCKET NO. E-7, Sub 831

I certify that a copy of Duke Energy Carolinas' Motion for Clarification and Reconsideration was sent by regular U.S. mail or electronic distribution to the persons listed below.

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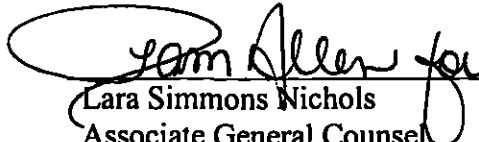
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This the 9th day of March, 2010.


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