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1 PLACE: Dobbs Building, Raleigh, North Carolina

2 DATE: Wednesday, August 19, 2009

3 DOCKET NO.: E-7, Sub 831

4 TIME IN SESSION: 2:00 P.M - 3:16 P.M.

5 BEFORE: Chairman Edward S. Finley, Jr., Presiding
6 Commissioner Robert V. Owens, Jr.
7 Commissioner Lorinzo L. Joyner
8 Commissioner William T. Culpepper, III

9 IN THE MATTER OF:

10 VOLUME II

11 Duke Energy Carolinas, LLC: Petition for Approval of
12 Save-a-Watt Approach, Energy Efficiency Rider and
13 Portfolio of Energy Efficiency Programs

14
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INDEXPAGEJOHN D. WILSON

Direct Examination by Ms. Thompson.	5
Cross-Examination by Mr. Runkle	24
Cross-Examination by Mr. Holtzman	29
Cross-Examination by Mr. Olson.	33
Redirect Examination by Ms. Thompson.	36

ROGER D. COLTON

Direct Examination by Mr. Holtzman.	38
Cross-Examination by Mr. Runkle	61
Cross-Examination by Ms. Nichols.	68
Redirect Examination by Mr. Holtzman.	79
Examination by Chairman Finley.	82

RAIFORD L. SMITH

Direct Examination by Ms. Nichols	83
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EXHIBITS IDENTIFIED/ ADMITTEDPAGE

Wilson Exhibit Nos. 1 through 4.	6/38
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P R O C E E D I N G S

CHAIRMAN FINLEY: All right, ladies and gentlemen, let's come back on the record, please.

MS. THOMPSON: Thank you, Mr. Chairman. The Environmental Intervenors call Mr. John D. Wilson to the stand.

JOHN D. WILSON; Being first duly sworn,
testified as follows:

DIRECT EXAMINATION BY MS. THOMPSON:

Q. Mr. Wilson, would you please state your name, title and business address for the record?

A. Yes. My name is John D. Wilson. I'm Director of Research at the Southern Alliance for Clean Energy at 34 Wall Street in Asheville, North Carolina.

Q. And did you previously cause to be filed in this docket settlement testimony on June 19, 2009?

A. Yes, I did.

Q. Do you have any changes or corrections to that testimony?

A. No, I do not.

Q. So if the questions in your prefiled testimony were asked to you today on the stand, would your answers be the same?

A. Yes.

1 Q. Do you have a summary of your testimony?

2 A. I do.

3 CHAIRMAN FINLEY: Let's -- we'll copy it into
4 the record -- that we'll copy Mr. Wilson's prefiled
5 testimony into the record as though given orally from the
6 stand and we'll mark his three [sic] exhibits as premarked
7 in the filing.

8 MS. THOMPSON: Thank you, Mr. Chairman.

9 (Whereupon, the prefiled testimony of John
10 D. Wilson will be reproduced in the record
11 at this point the same as if the questions
12 had been orally asked and the answers
13 orally given from the witness stand.)

14
15 (Whereupon, Wilson Exhibit Nos. 1 through 4
16 were marked for identification.)
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1 Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND EMPLOYER.

2 A. My name is John D. Wilson. I am Director of Research for Southern Alliance for Clean
3 Energy, 34 Wall Street, Suite 607, Asheville, North Carolina.

4 Q. PLEASE STATE BRIEFLY YOUR EDUCATION, BACKGROUND AND
5 EXPERIENCE.

6 A. I-graduated from Rice University in 1990 with a Bachelor of Arts degree in physics and
7 history. I received a Masters in Public Policy Degree from the John F. Kennedy School
8 of Government at Harvard University in 1992 with an emphasis in energy and
9 environmental policy and economic and analytic methods. Since 1992, I have worked in
10 the private, non-profit and public sectors on a wide range of public policy issues, usually
11 related to energy, environmental and planning topics.

12 I became the Director of Research for the Southern Alliance for Clean Energy in
13 2007. I have participated in North Carolina Climate Action Plan Advisory Group and
14 the South Carolina Climate, Energy & Commerce Advisory Committee as an alternate
15 for Dr. Stephen A. Smith, Executive Director of SACE. I have also served as a member
16 of various technical work groups dealing with energy supply and efficiency issues. I am
17 the senior staff member responsible for our energy efficiency program advocacy, as well
18 as being responsible for work in other program areas.

19 I have testified before the South Carolina Public Service Commission in the Duke
20 Energy Carolinas Save-a-Watt proceeding. I have also appeared before the Florida
21 Public Service Commission and presented to the Board of the Tennessee Valley
22 Authority.

23 I have testified before the legislatures of Florida, North Carolina and Texas, the
24 Texas Natural Resource Conservation Commission, and the U.S. Environmental

1 Protection Agency on numerous occasions. I have served on numerous state and local
2 government advisory committees dealing with environmental regulation and local
3 planning issues in Texas. I have been an invited speaker to a wide variety of academic,
4 industry and government conferences on a number of energy, environmental and
5 planning related topics.

6 A copy of my resume is attached as Wilson Exhibit 1.

7 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS CASE?**

8 A. I am testifying on behalf of Environmental Defense Fund, Natural Resources Defense
9 Council, Southern Alliance for Clean Energy and the Southern Environmental Law
10 Center (collectively, the "Environmental Intervenors").

11 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

12 A. The Environmental Intervenors, the Public Staff of the North Carolina Utilities
13 Commission and Duke Energy Carolinas, LLC ("Duke" or "the Company") have entered
14 into an Agreement and Joint Stipulation of Settlement ("Agreement") resolving the issues
15 between them in this proceeding. The purpose of my testimony is to explain why the
16 Environmental Intervenors believe that the Agreement protects ratepayers and the
17 environment while providing a reasonable incentive to Duke to pursue energy efficiency,
18 and is therefore in the public interest.

19 **Q. PLEASE EXPLAIN WHY THE ENVIRONMENTAL INTERVENORS OPPOSED**
20 **SAVE-A-WATT AS ORIGINALLY PROPOSED BY DUKE.**

21 A. Duke filed its original Save-a-Watt proposal on May 7, 2007. To be clear, the
22 Environmental Intervenors supported the fundamental concept behind Duke's original
23 Save-a-Watt proposal—that a utility should receive a financial incentive sufficient to
24 encourage pursuit of all cost-effective energy efficiency. However, as originally

1 proposed, Duke's Save-a-Watt program would have produced meager reductions in
2 annual energy use, allowed the Company to capture an unreasonable share of the total
3 savings in supply costs, i.e., the benefits, of energy efficiency, and resulted in little
4 benefit to customers. The original proposal was also structured in a manner that appeared
5 to provide a disincentive to certain cost-effective energy efficiency programs.

6 **Q. PLEASE EXPLAIN HOW THE AGREEMENT ADDRESSES THOSE**
7 **CONCERNS.**

8 **A.** The Agreement will nearly double the short-term energy savings potential of the
9 programs, and establishes an earnings cap that protects customers' interests in fair rates.
10 I will focus on four primary aspects of the Agreement that accomplish this: enhanced
11 energy savings targets, an earnings cap, lost revenue recovery for a limited period and a
12 "tiered" performance incentive structure. Taken together, these modifications to the
13 Save-a-Watt proposal contained in the Agreement provide Duke with a strong incentive
14 to achieve energy savings, while ensuring that customers benefit financially by taking
15 advantage of low cost energy efficiency resources rather than paying for higher cost
16 power plants.

17 **Q. IS THE REVISED LEVEL OF AVOIDED COST RECOVERY IN THE PUBLIC**
18 **INTEREST?**

19 **A.** Yes. The revised level of avoided cost recovery is set at a level that gives Duke the ability
20 to recover its program costs plus achieve a reasonable level of earnings under the cap
21 described above. If Duke's program costs are higher than expected (while achieving the
22 same level of program impacts), then it might not achieve the full level of earnings
23 allowed under the cap. In combination with the earnings cap, the avoided cost recovery

1 structure provides customers with an assurance that the Company has an incentive to
2 control costs.

3 **Q. PLEASE EXPLAIN THE ENERGY SAVINGS TARGETS UNDER THE**
4 **AGREEMENT.**

5 The energy savings targets contained in the Agreement represent a commitment by Duke
6 to ramp up its energy efficiency offerings in the Carolinas to levels that will make the
7 Company a leader in the industry. For example, the Company's target incremental
8 reduction in annual energy use by year 4 under the Agreement is equal to 0.75% of its
9 forecast sales for that year – this is 250% of the the year 4 target in its original proposal.
10 If the Company meets these higher annual targets, the cumulative reduction in annual
11 energy consumption by year 4 will be almost 2% of annual sales in that year. These
12 higher targets have the potential to achieve a cumulative reduction in annual energy
13 consumption of over 8% within 10 years.

14 If Duke achieves its target, by 2020 the cumulative energy savings impact in the
15 Carolinas will reach about 6,784 GWh. This is slightly more than the annual output of an
16 800 MW baseload power plant.¹ The cumulative annual energy savings impact is
17 illustrated in Wilson Exhibit 2. The estimated annual energy savings for years 1 - 4 are
18 the targets under the Agreement. Projected annual energy savings for subsequent years
19 are my own extrapolation based on my interpretation of the Agreement and the
20 assumption that Duke achieves 100% of its target or goal in each year up to year 4 and its
21 goal of 1% of 2009 retail sales thereafter.

22 **Q. HOW DOES THE AGREEMENT PROTECT RATEPAYERS?**

¹ Assumes an average annual capacity factor of 90%.

1 The Agreement contains two important modifications to Duke's original proposal that
2 will help ensure that customers receive fair value and their rates remain reasonable. First,
3 the Agreement establishes an earnings cap that ensures that the Company's earnings on
4 energy efficiency are commensurate with the allowable earnings rate for investments in
5 power plants and other capital assets. Second, the Agreement limits recovery for "lost
6 revenues" due to reduced sales of electricity to three years.

7 **Q. PLEASE EXPLAIN WHY THE EARNINGS CAP IS REASONABLE.**

8 **A.** The earnings cap addresses our concern that the original Save-a-Watt proposal could
9 result in an unreasonable level of earnings. I will discuss the performance-based tiered
10 earnings caps later in my testimony.

11 In the original Save-a-Watt proposal, the Company's earnings could be calculated
12 as 90% of avoided costs, less program costs, less net lost revenues. Using data supplied
13 by the Company, assuming the modifications to Save-a-Watt ordered by the
14 Commission², and assuming that net lost revenues are valued at the 36-month limit
15 agreed to in this Agreement, I estimate that the Company's post-tax earnings would have
16 been about 44% of program costs on a nominal basis. Using the same method of
17 analysis, but if Duke achieved the target established under the Agreement, its post-tax
18 earnings under the original proposal would have been somewhat higher, about 49% of
19 program costs.

20 In contrast, the performance-based earnings cap in the Agreement limits the
21 Company's maximum earnings substantially. If Duke achieves 90% of the new target,

² Order Resolving Certain Issues, Requesting Information on Unsettled Matters, and Allowing Proposed Rider to Become Effective Subject to Refund (Feb. 26, 2009).

1 then the applicable earnings cap is 15%. These findings are summarized in the table
2 below.

Cumulative Energy Reduction Target By Year 4 And Maximum Earnings			
	Save-a-Watt As Filed, With Commission Ordered Modifications	Save-a-Watt As Filed, With Commission Ordered Modifications and Higher Energy Reduction Target	Agreement
Cumulative impact (GWh)	926	1,440	1,440
Post-tax earnings as % of program costs	44%	49%	15%

3 When the Company invests in a power plant or some other long-lived asset the
4 Commission allows it the opportunity to recover that investment over its life and to earn
5 an annual return expressed as a percentage of the book value of that capital asset, or "rate
6 base" each year. This is referred to as its weighted average cost of capital, and includes a
7 component that is the return on debt and a component that is the return on equity. The
8 earnings referred to below are the return on equity component.

9 Under N.C. Gen. Stat. § 62-133.9(d), a utility may "defer and amortize" energy
10 efficiency program costs that are intended to produce further benefits. In layman's terms,
11 Duke is allowed to "capitalize" its efficiency program expenditures and recover them
12 over a period of time.³ We used that statute as the basis for analyses that led us to
13 conclude that the earnings caps under the Agreement are consistent with the Company's
14 allowed return on equity established by the Commission.

15 For conservation (energy savings) programs, we compared the maximum earnings
16 allowed under the Agreement to the earnings that Duke would earn if it "capitalized" its

³ The demand response programs created as a result of the Save-a-Watt proceeding assume that the benefits occur in the same year as the expenses; it is therefore inappropriate to use capitalization or deferred accounting to analyze the return associated with demand response programs.

1 energy efficiency program costs and recovered them over several years using its current
2 capital structure and authorized returns. Using data provided by Duke, we calculated the
3 post-tax earnings-to-program-cost ratios for conservation programs for amortization
4 periods varying from one to ten years. We tested various amortization periods because
5 North Carolina law does not establish a specific period over which capitalization is
6 allowed; instead it leaves that decision to the Commission.

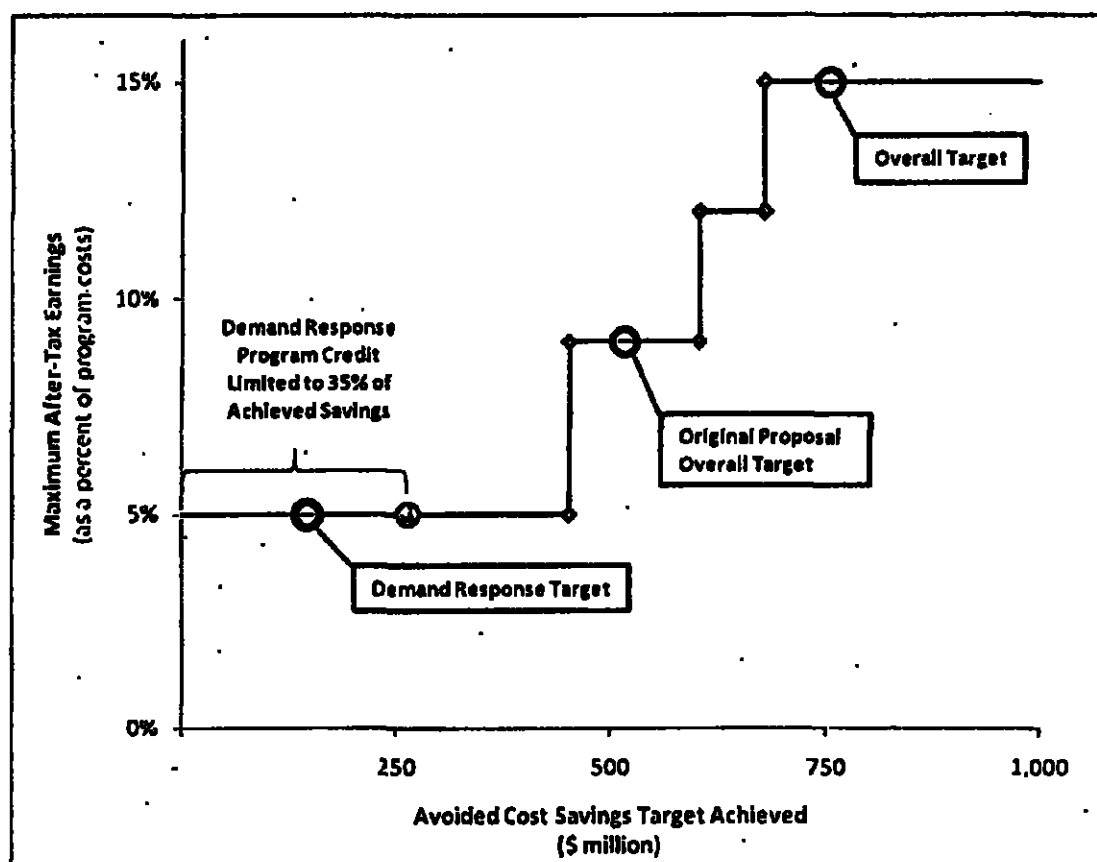
7 Analysis of amortization periods varying from two to eleven years indicated that
8 the maximum ratio of post-tax earnings to program costs allowed under the Agreement
9 would range from 1.7% to 15.2%, as illustrated in Wilson Exhibit 3. Therefore, the
10 proposed range of earnings cap tiers from 5% to 15% is consistent with the Company's
11 potential earnings if it chose to capitalize its program costs using an amortization period
12 of 4 to 11 years.

13 For the purposes of the Agreement we consider this to be reasonable. The
14 efficiency measures will produce energy reductions over that period and this maximum
15 level of earnings represents a reasonable balancing of ratepayer and Company interests.
16 Because of the differences between the Company's investment in and recovery of a
17 capital asset and its expenditures on and recovery of energy efficiency program costs, I
18 acknowledge that the discussion above does not provide a direct link between a utility's
19 authorized return on equity and the financial incentive it might receive for an energy
20 efficiency program. Nevertheless, I believe that the earnings caps in the Agreement limit
21 the earnings opportunity to reasonable levels consistent with Duke's authorized return on
22 equity.

1 Q. PLEASE ELABORATE ON THE TIERED EARNINGS LEVELS.

2 A. The Agreement establishes a "tiered" approach to earnings – the more successful the
 3 Company is in achieving energy savings, the greater its earnings opportunity becomes.
 4 This approach provides Duke with a strong incentive to achieve high levels of energy
 5 efficiency as rapidly as possible. The tiers established in the Agreement are depicted in
 6 the following chart.

Tiered Earnings Levels Recommended in Agreement



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 8 Q. WHAT ABOUT THE INCENTIVE FOR DEMAND RESPONSE?

9 A. Our organizations agree that some level of financial incentive for demand response
 10 programs is justified for two main reasons. First, demand response programs benefit

1 ratepayers by enabling the utility to avoid investments or acquisition of new capacity as
2 well as avoiding higher-than-average fuel costs associated with meeting demand during
3 peak periods. Second, we recognize that the providers of demand response programs
4 view them as a business opportunity. If the Company is going to deliver those programs
5 it is reasonable that it will expect to earn a return commensurate with the risk it incurs to
6 offer them. In some other jurisdictions, unregulated companies, referred to as curtailment
7 service providers, compete to offer demand response programs and have the opportunity
8 to earn a profit on them if they are successful. Thus, in order to attract investment in high
9 quality demand response programs it appears that the program provider should have an
10 earnings opportunity.

11 For the purposes of the Agreement, and based on these observations, we have
12 agreed to support application of the earnings cap framework to demand response at the
13 agreed levels. We were not able to identify a specific empirical rationale for the proposed
14 levels in a manner that is similar to that of the conservation incentive. Nevertheless, we
15 consider these levels to be in the public interest for two reasons.

16 First, Duke estimates that the avoided cost savings associated with its demand
17 response programs will be about 20% of its total avoided cost savings. Thus, the demand
18 response incentive is a relatively small part of the total package. To ensure that energy
19 savings is the larger part of the package, the Agreement specifies that the avoided cost
20 savings associated with demand response can make up no more than 35% of the total
21 avoided cost savings considered when establishing the percent of target achievement.

22 Second, the demand response programs represent the measures that will come on
23 line most quickly and with the least program development effort. Accordingly, I think of

1 the demand response programs as earning the 5% performance incentive, with the higher
2 performance incentive levels being marginally responsive to the energy savings impact of
3 Save-a-Watt. This limitation is illustrated above for reference.

4 **Q. WHAT STEPS SHOULD THE COMMISSION TAKE TO FURTHER**
5 **INVESTIGATE THE APPROPRIATE LEVEL OF FINANCIAL INCENTIVE**
6 **FOR DEMAND RESPONSE PROGRAMS?**

7 **A.** The Agreement is a settlement that we consider to be in the public interest for its four
8 year term, i.e., on an interim basis. Prior to the end of the four year period covered by
9 this Agreement, I encourage the Commission to undertake a study of best practices of
10 delivering and funding demand response programs in order to determine the best
11 approach for this region's particular regulatory and economic characteristics. I would
12 encourage the Commission to consider investigating this matter on a regional basis.

13 **Q. PLEASE ELABORATE ON THE LOST REVENUE RECOVERY PROVISION.**

14 **A.** Under the Agreement, Duke will recover its lost revenues due to lost sales for a period of
15 three years. The intent of this mechanism is to mitigate the disincentive to pursue energy
16 efficiency created by the existing electric rate structure in North Carolina. Limiting this
17 mechanism to three years, however, ensures that Duke does have a strong incentive to
18 adjust its supply-side resources (power plants and contracts) to reflect reduced demand.

19 I note that the Environmental Intervenors generally prefer the use of decoupling,
20 which is a different rate structure that breaks the link between utility revenues and energy
21 sales and thus inherently removes the disincentive to offer energy efficiency programs,
22 aligning the interests of utility shareholders with those of consumers. Therefore we are
23 only accepting net lost revenue recovery as an interim approach. We expect that the
24 complexity and other fundamental issues associated with the use of net lost revenue

1 recovery will ultimately demonstrate the value of shifting to a decoupling-based utility
2 rate structure as it has in other states.

3 **Q. TAKEN AS A WHOLE, HOW DOES THE AGREEMENT PROVIDE DUKE**
4 **WITH A FINANCIAL INCENTIVE TO ACHIEVE HIGH LEVELS OF ENERGY**
5 **EFFICIENCY?**

6 **A.** The combination of the performance-based tiered earnings cap and a reasonable level of
7 lost revenue recovery provide Duke with the opportunity to maintain or even increase
8 slightly its overall earnings relative to business-as-usual. However, if the Company fails
9 to achieve high levels of efficiency and its program costs are substantially higher than
10 expected, its earnings could decrease. I base these conclusions generally on my own
11 examination of various scenarios, but most specifically on the findings in a recent report
12 by Lawrence Berkeley National Laboratory.

13 The report, "Financial Analysis of Incentive Mechanisms to Promote Energy
14 Efficiency: Case Study of a Prototypical Southwest Utility" (Cappers et al., LBNL-
15 1598E, March 2009), examined several financial structures for utility energy efficiency
16 programs. Among the structures examined are "Save-A-Watt (NC)," which reflects the
17 original proposal design, and "Save-a-Watt (OH)," a structure that is quite similar to the
18 Agreement. I should disclose that I was a reviewer for this report and provided extensive
19 input into the type of analysis that the report ultimately presented, including several of
20 the findings I will discuss in my testimony.

21 It should be noted that there are a number of important differences between the
22 "prototypical southwest utility" and utilities in the Carolinas (or elsewhere in the
23 southeast). For example, the model assumes frequent rate cases, which tends to limit the
24 duration of earnings erosion due to under-recovery of fixed costs due to a reduction in

1 retail sales between rate cases. Nevertheless, the report provides important findings that
2 give us confidence that the financial structure in the Agreement will promote energy
3 efficiency in the public interest.

4 I would like to offer several observations based on my review of the report.

5 First, a positive financial structure is needed for an investor-owned utility to
6 invest in energy efficiency. With no financial incentive, both absolute earnings and ROE
7 are lower than they would be without energy efficiency, illustrating the classic
8 disincentive to energy efficiency facing a vertically integrated utility. (This is illustrated
9 in Figure ES-4 in the report.) In short, the model results demonstrate how important a
10 fair and properly structured utility incentive structure is to energy efficiency.

11 Second, energy efficiency programs reduce total ratepayer bills for all financial
12 structures studied (including the original Save-A-Watt (NC) proposal) and at all scenario
13 levels for energy efficiency. Consistent with other studies and historical findings, the
14 reduced revenue requirement occurs even though the model indicates small retail rate
15 increases (see Figure 20 of the report). The original Save-A-Watt (NC) proposal stands
16 out as saving customers less than other financial structures studied, and aggressive levels
17 of energy efficiency save customers the most money.

18 Third, the Save-a-Watt (OH) structure performs quite similarly to structures such
19 as a cost capitalization with decoupling (includes a bonus ROE), shared net benefits with
20 decoupling, and performance target with decoupling (program costs plus earnings). As
21 illustrated in Wilson Exhibit 4, which is Figure ES-7 in the report, all of these financial
22 structures offer an enhanced ROE at any level of energy efficiency performance, thus
23 illustrating that the combination of a shareholder incentive mechanism with a fixed cost

1 recovery mechanism (decoupling or lost revenue recovery) puts energy efficiency on the
2 positive side of the balance sheet compared to business-as-usual.

3 Fourth, the Save-A-Watt (OH) structure (similar to the Agreement) is a major
4 improvement over the Save-A-Watt (NC) structure (original proposal). As I previously
5 commented, the model findings are that customer savings for the OH structure are greater
6 than the NC structure; this is because the rate impact of the NC structure is approximately
7 twice as much as the OH structure at the same level of impact. Returning to Wilson
8 Exhibit 4, the model indicates that the NC structure (original proposal) has far higher
9 absolute earnings and ROE than the OH structure.

10 Earlier in my testimony, I presented evidence to support my opinion that the
11 proposed range of earnings cap tiers from 5% to 15% is consistent with the Company's
12 potential earnings if it chose to capitalize its program costs using an amortization period
13 of 4 to 11 years. Based on the LBNL report, I can broaden this opinion to the entire
14 financial structure in the Agreement. Taken as a whole, the Agreement appears likely to
15 result in an opportunity for the Company to maintain or increase slightly its overall
16 earnings relative to business-as-usual if it achieves the targets set out in the Agreement at
17 a cost similar to the one it anticipates. If the Company falls short in meeting either of
18 those objectives, its opportunity to maintain or increase its earnings would diminish.

19 **Q. WOULD YOU LIKE TO MENTION ANY OTHER ASPECTS OF THE**
20 **AGREEMENT?**

21 **A.** Yes. The Agreement includes provisions for greater flexibility to allow the utility to
22 rapidly implement higher-performing programs. The agreement also includes provisions
23 for a strong stakeholder advisory group to ensure transparency and encourage new ideas.

1 These provisions are consistent with the recommendations of Brian Henderson, who
2 testified for Environmental Intervenors regarding the proposed Save-a-Watt programs.

3 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

4 **A. Yes, it does.**

1 MS. THOMPSON: Would you please -- and I believe
2 I passed out summaries to the Commission. Does everybody
3 have a copy of Mr. Wilson's --

4 Q. Would you please read your summary to the
5 Commission.

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**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
DOCKET NO. E-7, SUB 831**

**SUMMARY OF JOHN D. WILSON SETTLEMENT TESTIMONY
ON BEHALF OF ENVIRONMENTAL DEFENSE FUND, NATURAL
RESOURCES DEFENSE COUNCIL, SOUTHERN ALLIANCE FOR CLEAN ENERGY
AND THE SOUTHERN ENVIRONMENTAL LAW CENTER**

AUGUST 19, 2009

Mr. Chairman and members of the Commission, my name is John D. Wilson, and I am Director of Research for Southern Alliance for Clean Energy. I am very pleased to testify today on behalf of Environmental Defense Fund, the Natural Resources Defense Council, Southern Alliance for Clean Energy and the Southern Environmental Law Center (collectively, the "Environmental Intervenors") in support of the Agreement and Joint Stipulation of Settlement (the "Agreement") we have reached with Duke Energy Carolinas and the Public Staff. The purpose of my testimony is to explain why the Environmental Intervenors believe that the Agreement is a sustainable approach to linking a pro-consumer energy efficiency program with a key solution to global warming, and is therefore in the interest of both the public and Duke's shareholders.

In my testimony, I focus on four primary aspects of the Agreement: enhanced energy savings targets, a "tiered" performance incentive structure, an earnings cap, and lost revenue recovery for a limited period.

The energy savings targets contained in the Agreement represent a commitment by Duke to ramp up its energy efficiency offerings in the Carolinas to levels that will make Duke a leader in the industry. For example, Duke's target incremental reduction in annual energy use by year 4 under the Agreement is equal to 0.75% of its forecast sales for that year—250% of the year 4 target in its original proposal. If Duke meets its savings targets, the cumulative reduction in annual energy consumption by year 4 will be almost 2% of annual sales in that year and over 8%

within 10 years. If Duke stays on target, by 2020 the cumulative energy savings impact in the Carolinas will reach about 6,784 GWh—slightly more than the annual output of an 800 MW baseload power plant.

In addition, the Agreement establishes a “tiered” approach to earnings tied to the savings targets—the more successful the Company is in achieving energy savings, the greater its earnings opportunity becomes. This approach provides Duke with a strong incentive to achieve high levels of energy efficiency as rapidly as possible.

The Agreement also contains two important modifications to Duke’s original proposal that will help ensure that customers receive fair value and that their rates remain reasonable. First, the Agreement establishes an earnings cap that ensures that the Company’s earnings on energy efficiency are commensurate with the allowable earnings rate for investments in power plants and other capital assets. Second, the Agreement allows Duke to recover “lost revenues” due to reduced sales of electricity in order to mitigate the disincentive to pursue energy efficiency created by the existing electric rate structure in North Carolina, but limits the recovery to three years to ensure that Duke does have a strong incentive to adjust its supply-side resources (power plants and contracts) to reflect reduced demand.

Finally, the Agreement includes provisions for greater flexibility to allow the utility to rapidly implement higher-performing programs. The agreement also includes provisions for a strong stakeholder advisory group to ensure transparency and encourage new ideas.

Taken together, these modifications to the Save-a-Watt proposal contained in the Agreement provide Duke with a strong incentive to achieve energy savings, while ensuring that customers benefit financially by taking advantage of low cost energy efficiency resources rather than paying for higher cost power plants.

1 A. Thank you very much.

2 Q. Thank you.

3 MS. THOMPSON: Mr. Wilson is now available for
4 cross-examination.

5 CHAIRMAN FINLEY: Cross-examination by any
6 intervenor?

7 MR. RUNKLE: Yes.

8 CHAIRMAN FINLEY: Mr. Runkle.

9 CROSS-EXAMINATION BY MR. RUNKLE:

10 Q. Good afternoon, Mr. Wilson. Can you turn to your
11 Wilson Exhibit 2, which is the Cumulative Energy Savings
12 Impact.

13 A. I'm with you.

14 Q. All right. Now, you have two really lines. One
15 is the SAW as filed and one is the Settlement Agreement;
16 is that correct?

17 A. Yes.

18 Q. Where did you get the figures for the SAW as
19 filed?

20 A. The SAW as filed, I would need to consult my work
21 papers to verify that, but I believe I got those from Duke
22 Energy and from either their filings or from work papers
23 that were exchanged during the course of the proceedings.
24 And the continuation of those programs was assumed at the

1 same level as the original "as filed" numbers.

2 Q. Okay. And so with the SAW settlement, that
3 includes the first four years -- or we characterized
4 earlier to -- earlier today as a ramp-up and then a
5 one percent growth per year; is that correct?

6 A. Yes. The only qualification to that is I believe
7 that there's a one-year period between the four-year
8 period represented in the settlement that you described
9 and the beginning of the one percent. And so I've made an
10 assumption for that year that reflects an intermediate
11 level of savings for that year.

12 Q. So that would be the fifth year there's some --
13 somewhere between the .75 percent and the one percent?

14 A. That's right. And so it's a -- there's not a huge
15 quantitative difference. This exhibit was really prepared
16 to sort of be illustrative and not definitive.

17 Q. Well, in your -- in your summary statement, also
18 in your prefiled, you talk about if Duke stays on target,
19 then we'll have the -- the red line on the Settlement
20 Agreement; is that correct?

21 A. That's correct.

22 Q. Will Duke stay on target in this? I mean, do you
23 -- you've talked to them; you've entered into the
24 settlement. What's your expectation? Is Duke going to do

1 this?

2 A. The reason that we agreed to the settlement is we
3 believe that they will stay on target and that we believe
4 the financial incentive structure that's set up in this
5 agreement will align their interests with those of the
6 customers and the broader interest of achieving high
7 levels of energy efficiency and the use of that resource.

8 MR. RUNKLE: Chairman, can I approach the
9 witness?

10 CHAIRMAN FINLEY: Sure.

11 Q. Well, I handed the witness NC WARN Roger's Cross
12 Exhibit 1 that we passed out this morning. It's been
13 admitted into evidence and it's also looking at Hager's
14 Supplemental Exhibit No. 2, which is -- has four lines.
15 And the one line is -- his SAW as filed is -- is
16 substantially lower than your SAW as filed line, is it
17 not?

18 A. I believe I agree with you on that, yes.

19 Q. There's a second line that is -- it's SAW that --
20 as put into the IRP, which is closer to your line, but it
21 does -- it stays fairly flat, does it not, after 2,000
22 gigawatt hours?

23 A. It does. It's pretty close. And that -- the IRP
24 may actually be where I have those numbers from. I

1 apologize that I don't really remember exactly how I
2 generated the SAW-Filed numbers on my exhibit.

3 Q. And also on your Exhibit 2, you do not have on
4 there the national commitment to the energy efficiency --
5 energy efficiency associations, do you not?

6 A. It is built into the red line, but it is not
7 distinguished -- there's not a third line on there that
8 would be sort of "as filed" plus just that, that's
9 correct.

10 Q. And so the stipulation of the -- looking at after
11 the initial ramp-up period of four years and maybe another
12 year of transition, are you saying that the -- that the
13 Settlement Agreement incorporates the one percent a year
14 of the national commitment?

15 A. I believe the Settlement Agreement has a paragraph
16 that refers specifically to that agreement, yes.

17 Q. Yeah. And it does reflect that national
18 commitment?

19 A. Yes. The language reflecting that commitment,
20 since it refers to a period after the term of this
21 agreement, is not as binding as the other portions of the
22 agreement, but it is a -- I believe it is a good faith
23 commitment by the -- by Duke. And when we return to renew
24 this program in four years, I expect to hold them at least

1 accountable to that level, if not a higher level.

2 Q. And so what -- what the Settlement Agreement
3 basically does is, is push that -- push that one percent a
4 year up a couple of years? Is that what it actually does
5 or --

6 A. You could think of it that way. I wouldn't
7 characterize it in exactly that sense. That was one of
8 the reasons we were not satisfied with that original
9 one percent commitment was that it -- it appeared to be
10 sort of a flat level of effort for the first four to five,
11 six years, depending on when it got started, of the
12 program and then suddenly a jump up in 2015 and we wanted
13 to see a more aggressive ramp-up.

14 Q. And so -- and -- and underneath -- in the NC WARN
15 Roger's cross exhibit that's -- starting in 2015, the
16 actual one percent a year starts out less than 2,000
17 gigawatt hours and under -- under the settlement it's
18 closer to 3,000?

19 A. I believe that's correct.

20 Q. Okay. All right.

21 MR. RUNKLE: I have no further questions. Thank
22 you.

23 CHAIRMAN FINLEY: Mr. Holtzman.

24 MR. HOLTZMAN: I have a few. Thank you.

1 CROSS-EXAMINATION BY MR. HOLTZMAN:

2 Q. Mr. Wilson, hi. Good afternoon.

3 A. Good afternoon.

4 Q. I believe you stated on Page 2 of your testimony
5 that a utility should receive a financial incentive
6 sufficient to encourage pursuit of all cost-effective
7 energy efficiency; is that correct? Is that what you
8 remember?

9 A. Yes.

10 Q. Okay. And would you agree that if an energy
11 efficiency investment is cost-effective, the fact that the
12 energy efficiency investment might serve multiple
13 functions such as economic development and job creation,
14 that wouldn't detract from the cost-effectiveness of the
15 -- of the energy efficiency investment, would it?

16 A. No. I don't think it would detract from it. I
17 think that we would like to see -- you know, from a sort
18 of an organizational principal point of view, I think we
19 would like to see cost-effectiveness defined in as broad a
20 manner as is appropriate under state law and approp -- you
21 know, a reasonable amount of effort put into establishing
22 that measure.

23 Q. And based upon your experience, if I suggested to
24 you that if some group of customers could not afford to

1 pay their utility bills, the utility providing electricity
2 to that group of customers would very likely incur costs
3 associated with that inability to pay, costs such as
4 working capital and credit and collection expenses, would
5 you accept that as reasonable premise?

6 A. I certainly would. I think it would be a
7 reasonable thing for the utility to investigate and
8 determine what its particular circumstances are within its
9 customer base, but I think it's a -- it's a reasonable
10 concept.

11 Q. And if I were to suggest to you further that if
12 some group of customers could not afford to pay their
13 electric bills, cost-effective investments and usage
14 reduction that result in reduction of those electrical
15 bills to those customers would improve their situation,
16 wouldn't you accept that as a reasonable premise?

17 A. I would give the same answer with the
18 qualification that your opening premise that they couldn't
19 pay their electric bills is a pretty broad --

20 Q. Well, assuming they could not.

21 A. I mean, but it's a pretty broad statement. I
22 mean, if, you know, they couldn't pay any electric bill
23 whatsoever, then probably an energy efficiency solution
24 won't address that fundamental problem. But I think if

1 you're saying that they have a financial difficulty in
2 paying a high utility bill, which I understand is often
3 the case, then energy efficiency is a terrific solution to
4 helping them balance that out.

5 Q. And just like the fact that cost-effective
6 investment in energy efficiency might have additional
7 positive economic development and job creation impacts
8 would make that investment more desirable rather than less
9 desirable, the fact that the cost investment --
10 cost-effective investment in energy efficiency might have
11 additional positive impacts on bill affordability would
12 make that investment more desirable rather than less
13 desirable, wouldn't that be correct?

14 A. I think that's a reasonable general presumption.

15 Q. Now, Mr. Wilson, in your work with the Southern
16 Alliance for Clean Energy have you become familiar with an
17 organization called the American Council for an Energy
18 Efficient Economy, ACEEE?

19 A. Yes.

20 Q. Would you consider ACEEE to be one of the
21 preeminent energy efficiency organizations in the country?

22 A. I suppose so, depending on what you mean by
23 preeminent and the context.

24 Q. Okay. Would you regularly use the work product of

1 ACEEE in your own work?

2 A. I do evaluate their work and often use it.

3 Q. Okay. Are you familiar with the ACEEE report on
4 exemplary low-income energy efficiency programs?

5 A. I believe I'm familiar that they've written it. I
6 can't recall if that's one of the reports I've reviewed on
7 that topic.

8 Q. Okay. Are you aware of the fact that the Public
9 Interest Intervenors have recommended that approval of the
10 settlement be conditioned upon Duke preparing and
11 presenting a low-income energy efficiency plan as
12 recommended by Roger Colton?

13 A. I'm aware of the general nature of his testimony,
14 yes.

15 Q. So given your experience, would you -- do you
16 believe that it would be reasonable for a utility to
17 develop a low-income energy efficiency program as
18 recommended by Mr. Colton within a 60-day time period
19 after final order by the Commission?

20 MS. THOMPSON: I'm going to object to this --
21 this -- the gen -- this particular question. I think the
22 line of questioning is getting pretty far afield from
23 Mr. Wilson's testimony, which really had nothing to do
24 with Mr. Colton's testimony.

1 MS. NICHOLS: And I would agree that the
2 Commission has addressed and dealt with the NC Justice's
3 concern in its Order on February 26 in which it approved
4 Duke's proposed low-income services program.

5 CHAIRMAN FINLEY: Well, I will allow this line
6 of questioning to proceed to some extent.

7 MR. HOLTZMAN: It's my last question.

8 CHAIRMAN FINLEY: We do have -- beg your pardon?

9 MR. HOLTZMAN: That will be my last question.

10 CHAIRMAN FINLEY: All right. If that's your
11 last question, answer that one and we'll be done.

12 A. Yeah. I don't think I would make such a specific
13 recommendations [sic] to the Commission. I think that
14 those issues should be dealt with, but I don't think that
15 the recommendation that you suggested is one that I would
16 put forward without further thought.

17 MR. HOLTZMAN: Thank you.

18 CHAIRMAN FINLEY: All right. Mr. Olson.

19 CROSS-EXAMINATION BY MR. OLSON:

20 Q. Good afternoon, Mr. Wilson. My name is Kurt Olson
21 and I represent the North Carolina Sustainable Energy
22 Association. I have one quick question related to lost
23 revenues.

24 In your summary statement on Page 2, on the second

1 full paragraph on that page you talk about lost revenues
2 and you say that limiting recovery to three years ensures
3 that Duke has a strong incentive to adjust its supply-side
4 resources pow -- (power plants and contracts) to reflect
5 reduced demand.

6 Can you just elaborate on that a little bit?
7 Explain to me how that works or will work.

8 A. Well, I think the details of exactly how that work
9 I would have to defer to other individuals who are more
10 familiar with exactly how that process would work in a
11 regulatory sense. But I think that the -- the concept is
12 very consistent with what the Public Staff witnesses
13 testified to earlier today, which is basically that there
14 are effectively new opportunities to sell power that
15 emerge over time and so the period of lost revenues is
16 limited in duration and the three-year sort of stop is a
17 -- is a best estimate of how long that takes.

18 I think another way to look at it might be that
19 after two and a half years it begins to taper off and
20 three and a half years it goes to zero and so three years
21 is sort of a -- you know, a way of representing that. But
22 I don't -- so I think the idea is basically that, you
23 know, as Duke in year one sees that it has had success in
24 implementing its program -- let's say its target is -- I'm

1 going to use some round numbers here -- .3 percent. And
2 let's say they achieve .4 percent. While they've already
3 acquired resources for maybe years one, two and three, and
4 all of a sudden they have effectively reduced demand
5 further than they expected and so they have effectively
6 two or three years to then -- perhaps they had intended to
7 renew some contracts at a certain level or perhaps they
8 were building a power plant and they might see that it
9 would be financially in the interests of the ratepayers to
10 delay construction of that for a few months.

11 So there would be different things they could
12 adjust and I would defer to them exactly how they would do
13 that and how that would be brought before the Commission,
14 but I think that that would be the basic concept. Does
15 that address your question?

16 Q. Well, I mean, I understand how energy efficiency
17 would reduce demand and how that there's a financial
18 disincentive for that to happen, but at the end of a
19 three-year period you're no longer being paid for that
20 lost demand; is that correct?

21 A. That's correct.

22 Q. So how does that in -- give them an incentive to
23 not put new supply-side resources on line?

24 A. Well, at that point they don't have the demand to

1 justify it. So they would -- if they went ahead and
2 continued with plans to enter into contracts or build
3 power plants or whatever the case might be and they hadn't
4 adjusted, then they would end up with a reserve margin
5 that was higher than they probably needed given the
6 decrease in demand. And so I think then that would be
7 something that would be dealt with in a -- in an
8 appropriate proceeding.

9 Q. So through an IRP or something of that nature and
10 the Commission wouldn't approve it, so -- is that the
11 concept then?

12 A. That's the concept. And I don't want to speak
13 specifically as to what the nature of the proceeding would
14 be and how that would be dealt with. My assumption would
15 be that Duke would be on top of this and would be watching
16 this unfold and taking the appropriate management steps.

17 Q. Thank you.

18 CHAIRMAN FINLEY: Cross by Duke?

19 MS. HEIGEL: We have no cross.

20 CHAIRMAN FINLEY: Redirect, Ms. Thompson?

21 MS. THOMPSON: Yes, Mr. Chairman. Just a couple
22 of questions.

23 REDIRECT EXAMINATION BY MS. THOMPSON:

24 Q. Mr. Wilson, just following up on some questions

1 from Mr. Holtzman. As part of the agreement there is a
2 provision that would establish a regional stakeholder
3 advisory group, correct?

4 A. Yes, that's correct.

5 Q. And is it your understanding that that group is to
6 be comprised of a broad spectrum of stakeholders
7 representing various interests and customer interests?

8 A. Yes.

9 Q. Would you anticipate -- or is it your expectation
10 -- having been involved in negotiation of this Agreement,
11 is it your expectation that that stakeholder group would
12 include representatives from the low-income community or
13 advocates for low-income customers?

14 A. It would certainly be my hope and personal
15 expectation. I'm not basing that on any kind of an
16 informal or formal commitment from Duke.

17 Q. And would it also be your expectation that some of
18 the issues that have been raised by -- by Mr. Holtzman's
19 clients would be addressed through that stakeholder
20 advisory group with regard to improving or creating more
21 robust low-income programs?

22 A. Yes. Low -- the improvement and expansion of
23 low-income programs and also programs that affect renters
24 and others who have particular obstacles to overcome would

1 be something I would personally, if I'm part of that
2 group, be pressing for, and I would hope that there would
3 be other people in the group who would deal with that,
4 too.

5 MS. THOMPSON: Thank you. No further questions.

6 CHAIRMAN FINLEY: Questions by the Commission?

7 (No response.)

8 All right, Mr. Wilson, thank you very much.

9 THE WITNESS: Thank you.

10 CHAIRMAN FINLEY: And we will receive and copy
11 into evidence his prefiled exhibits.

12 MS. THOMPSON: Thank you.

13 (Whereupon, Wilson Exhibit Nos. 1 through 4
14 were admitted into evidence.)

15 (Whereupon, the witness was dismissed.)

16 CHAIRMAN FINLEY: All right. Mr. Holtzman.

17 MR. HOLTZMAN: At this time we would call Roger
18 Colton to the stand.

19 ROGER D. COLTON; Being first duly sworn,
20 testified as follows:

21 DIRECT EXAMINATION BY MR. HOLTZMAN:

22 Q. Good afternoon, Mr. Colton. Would you please
23 state your name and business address for the record.

24 A. My name is Roger D. Colton, C-O-L-T-O-N. My

1 business address is Fisher Sheehan & Colton, Public
2 Finance & General Economics, 34 Warwick Road, Belmont,
3 Massachusetts.

4 Q. And can you state your title or --

5 A. I'm a principal in the firm of Fisher Sheehan &
6 Colton.

7 Q. Mr. Colton, did you prepare and cause to be
8 prefiled on July 27, 2009, in this docket 14 pages of
9 supplemental testimony in question-and-answer format?

10 A. I did.

11 Q. And if I were to ask you the same questions in
12 your prefiled testimony today, would your answers be the
13 same?

14 A. Yes.

15 Q. Do you have any corrections to your prefiled
16 testimony?

17 A. No.

18 MR. HOLTZMAN: Mr. Chairman, I would like to ask
19 that Mr. Colton's prefiled supplemental testimony be
20 copied into the record as if given orally.

21 CHAIRMAN FINLEY: Mr. Colton's direct prefiled
22 supplemental testimony shall be copied into the record as
23 though given orally from the stand.

24 (Whereupon, the prefiled supplemental

1 testimony of Roger D. Colton will be
2 reproduced in the record at this point the
3 same as if the questions had been orally
4 asked and the answers orally given from the
5 witness stand.)
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1 Q. PLEASE STATE YOUR NAME AND ADDRESS.

2 A. My name is Roger Colton. My address is Fisher, Sheehan & Colton, Public Finance and
3 General Economics, 34 Warwick Road, Belmont, Massachusetts, 02478.

4

5 Q. ARE YOU THE SAME ROGER COLTON WHO HAS PREVIOUSLY FILED
6 DIRECT AND REBUTTAL TESTIMONY IN THIS PROCEEDING?

7 A. Yes.

8

9 Q. PLEASE EXPLAIN THE PURPOSE OF YOUR TESTIMONY.

10 A. In my Supplemental Testimony, I outline the reasons why the proposed Settlement
11 offered in this proceeding should not be approved and adopted by the North Carolina
12 Utilities Commission (Commission) specifically as to the impact of the settlement on
13 low-income customers and low and fixed-income senior customers. Absent
14 modifications, the Settlement proposal should be rejected. The North Carolina Justice
15 Center, AARP, NC Council of Churches and Legal Aid of North Carolina continue to
16 oppose the "Save-A-Watt" design, even as modified in the settlement, and recommend
17 that an independent third party administrator is a better approach to ensuring that all cost-
18 effective usage reduction occurs on the Duke Energy system in North Carolina.

19

20 Q. PLEASE EXPLAIN THE ASPECTS OF THE SETTLEMENT THAT
21 SPECIFICALLY IMPLICATE THE INTERESTS OF CUSTOMERS WHO ARE
22 LOW-INCOME AND LOW AND FIXED-INCOME SENIORS.

- 1 A. The Settling Parties purport to address issues involving low-income and low and fixed-
2 income seniors customers in three separate sections of the Agreement and Joint
3 Stipulation of Settlement (Settlement Document). Through the Settlement Document,
4 Duke Energy (Company) proposes:
- 5 ➤ To make available its residential programs “without regard to whether (program
6 participants) own or rent their home”;
 - 7 ➤ To “continue to pursue partnerships with third party agencies to help implement
8 programs, including partnerships offering assistance to low-income households”; and
 - 9 ➤ To “convene the Advisory Group to guide efforts to expand cost-effective programs
10 for low-income customers.”

11 Certainly, the elimination of the requirement that program recipients be homeowners is a
12 positive modification of the Company’s original low-income program. The remaining
13 two steps, however, are inadequate to address the concerns of the low-income and low
14 and fixed-income seniors.

15
16 **Program Design**

17 **Q. PLEASE EXPLAIN WHAT THE SETTLEMENT PROPOSAL OFFERS IN**
18 **TERMS OF ENERGY SAVINGS.**

19 A. A review of the Settlement Document from the perspective of low-income and low and
20 fixed-income senior customers should begin with the recognition that the Settlement
21 provides for a substantial overall increase in energy efficiency. The Settlement Document
22 (attached as Exhibit No. 1 to the Supplemental Testimony of Theodore Shultz) provides
23 that “Duke Energy Carolinas has increased the amount of energy efficiency avoided cost

1 savings it will target to achieve for customers.” (Settlement Document, at 4). The
2 Settlement Document provides that “the overall energy savings percentage for each
3 settlement year during the 4 year term is cumulative; which results in the energy savings
4 percentage for the fourth year of the settlement being equal to . . . 1.9% of retail sales
5 forecast for Year 4.” (Settlement Document, at 19).

6
7 This Settlement proposal is a substantial increase over that which was originally
8 proposed. According to witness John Wilson, testifying on behalf of the environmental
9 groups, “the Company’s target incremental reduction in annual energy use by year 4
10 under the Agreement is equal to 0.75% of its forecast sales for that year – this is 250% of
11 the year 4 target in its original proposal.” (Wilson Settlement Testimony, at 4).
12 (emphasis added).

13
14 **Q. IN WHAT WAY DOES THIS INCREASE IN EFFICIENCY INVESTMENT GIVE**
15 **RISE TO CONCERN FROM A LOW-INCOME AND LOW AND FIXED-**
16 **INCOME SENIORS PERSPECTIVE?**

17 **A.** Despite the proposed 250% increase in energy savings, the commitments that the
18 Settlement Document provides to low-income and low and fixed-income senior
19 customers are relatively meaningless. For example, the Settlement Document provides
20 that “the Company will continue to pursue partnerships with third party agencies to help
21 implement programs, including partnerships offering assistance to low-income
22 households.” The primary existing partnership through which Duke currently offers
23 “assistance to low-income households,” however, is through the Company’s “energy

1 efficiency starter kits." The starter kit provides low-cost efficiency measures such as
2 compact fluorescent light bulbs. According to the Company's prior testimony, the value
3 of the kit is "not to exceed \$30.00 in value. . ."

4
5 The use of these low-cost kits as an efficiency program to be "continued" (in the words of
6 the Settlement Document) for low-income and low and fixed-income senior customers
7 has been found ineffective in a variety of circumstances.

8
9 Indeed, the kits are ineffective at providing energy savings even under the Company's
10 own analysis. Duke's own discussion of its starter kits program shows the extremely
11 limited energy use savings to low-income and low and fixed-income senior customers
12 resulting from such starter kits. Duke witness Richard A. Morgan stated that the
13 Company has already installed 32,554 starter kits through Duke Carolinas. As a result of
14 those 32,554 starter kits, Duke Carolinas has generated "total annual savings" in
15 electricity of 422,936 kWh and 12,413 therms of natural gas. Therefore Duke's "starter
16 kits" have generated an "annual savings" per each starter kit of 13 kWh ($422,936 / 32,554$
17 $= 12.992$), and 0.4 therms ($12,413 / 32,554 = 0.38$). Morgan reported that these are the
18 "total savings for all measures" in the kits. The average savings per each starter kit are
19 clearly negligible. In effect, they offer low-income and low and fixed-income senior
20 customers virtually no usage reduction assistance at all.

21
22 Accordingly, for the Company to assert that it will "continue" its existing low-income
23 partnerships, despite increasing the overall usage reduction projections by 250%, is of

1 substantial concern. Duke Energy does not currently offer meaningful partnerships for
2 low-income and low and fixed-income senior customers in North Carolina.

3
4 **Q. PLEASE RESPOND TO DUKE'S ASSERTIONS THAT IT HAS**
5 **SUCCESSFULLY PURSUED LOW-INCOME PROGRAMS IN OTHER**
6 **JURISDICTIONS.**

7 A. Duke has argued in this proceeding that it has successful low-income usage reduction
8 programs in other jurisdictions in which Duke affiliates operate. The operative phrase in
9 that argument, however, involve the words "in other jurisdictions." Duke has made no
10 proposal to import these successful programs to North Carolina. In the proposed
11 Settlement, Duke has made no commitment to a reasonable portfolio of low-income
12 usage reduction programs in North Carolina, despite agreeing to increase its overall
13 savings by more than 250%.

14
15 **Q. PLEASE EXPLAIN THE BASIS FOR THIS CONCLUSION.**

16 A. Although Duke provided testimony regarding model low-income energy efficiency
17 programs Duke has implemented elsewhere, the Company never acknowledges that Duke
18 has not proposed similar programs in North Carolina. Instead, Duke has testified to this
19 Commission about the programs the Company has developed in coordination with
20 Weatherization in the Midwest. For example, Duke has provided information about:

- 21 ○ The two-tier Indiana Duke low-income program;
- 22 ○ The Ohio Electric Partnership program;

Duke has told this Commission that the Company's proposed low-income program in North Carolina is "modeled" after its low-income program in Indiana. The Company's actual program design, however, does not comport with these assertions. Unlike Duke's low-income program in Indiana, for example, which includes the large segment of low-income customers below 150% of the Federal Poverty Level, Duke has chosen to exclude that same segment of its low-income and low and fixed-income senior customers here in its North Carolina.

Q. DOES NOT THE SUCCESS OF THESE DUKE PROGRAMS IN OTHER STATES MAKE IT LIKELY THAT THE PROGRAMS WILL BE IMPLEMENTED IN NORTH CAROLINA AS WELL?

A. No. Despite the glowing reports that Duke provides of how well its low-income programs are working in Ohio and Indiana, Duke's current proposed SAW program does not include any commitment to pursue those programs in North Carolina. Indeed, Duke's witness regarding low-income programs was more than somewhat equivocal in expressing what commitments Duke was willing to make in North Carolina. Duke witness Morgan stated that "If this level of services proves to be cost-effective, the Company could seek to increase the program availability." (Morgan Rebuttal, at 12). (emphasis added).

As can be seen, Duke does not acknowledge that its successful programs are transferable to North Carolina ("if this level of services proves to be cost-effective"). Moreover, Duke's own witness stated that even if those programs were found to be cost-effective in

1 North Carolina, the Company does not commit to offering them in North Carolina. The
2 only commitment that the Company made is it "could" seek to increase the program
3 availability.

4
5 Particularly in light of the Company's commitment to increase its energy reductions by
6 "more than 250%" (as testified to by Mr. Wilson), this lack of commitment to programs
7 directed toward the low-income and low and fixed-income seniors is unreasonable at
8 best.

9
10 **Q. WHY IS THE LACK OF A COMMITMENT TO MEANINGFUL PROGRAMS**
11 **FOR THE LOW-INCOME AND LOW AND FIXED-INCOME SENIORS,**
12 **DESPITE A PROPOSED 250% INCREASE IN USAGE REDUCTION, OF**
13 **PARTICULAR CONCERN?**

14 **A.** As previously described in this proceeding, under the Save-a-Watt approach, the
15 Company would choose to exclude low-income customers in favor of efficiency
16 programs provided to customers generating higher returns. Consider, for example, that
17 Duke previously objected to additional low-income programs by saying that "Mr. Colton
18 is advocating for a major increase in spending for low-income customer programs that
19 are not cost effective or not as cost effective as the Company's other current program
20 designs."

21
22 In fact, we know that the objections that these programs are not cost-effective at all are
23 not well-grounded. Indeed, Duke spent a good part of its rebuttal testimony praising the

1 efficacy of the low-income programs that have been adopted by the Company in other
2 states (e.g., baseload programs, refrigerator replacements, home repair piggyback).

3
4 As can be seen, the real problem that Duke has with these low-income programs in North
5 Carolina is with the second part of the observation above, that they are not as cost-
6 effective. Given the incentive structure created by Save a Watt, the Company is
7 inherently incentivized to implement those programs that are the most cost-effective, and
8 systematically exclude other programs (such as programs for the low-income and low and
9 fixed-income seniors). The Duke Save a Watt program allows the Company greater
10 benefits for those programs where the spread between the avoided costs and the program
11 costs are the greatest (i.e., where the cost-effectiveness is the highest).

12
13 Indeed, Mr. Wilson, testifying on behalf of the environmental intervenors, acknowledges
14 the conflict. Mr. Wilson states that the Settlement "includes provisions for greater
15 flexibility to allow the utility to rapidly implement higher performing programs."
16 (Wilson, at 13). I acknowledge that:

- 17 ➤ low-income programs are not likely to save the most energy (low-income
18 customers tend to be small users offering smaller savings potential);
- 19 ➤ low-income programs will tend to have lower cost-benefit ratios (coupled with
20 smaller savings are higher per-unit costs), even while having positive cost-
21 benefit ratios overall.

22 As a result, low-income programs will not be the highest performing (or most cost-
23 effective) programs. That does not mean, however, that low-income programs are not

1 cost-effective. As the Company acknowledges, it has implemented cost-effective low-
2 income programs in a variety of states outside North Carolina. The pursuit of these
3 programs for low-income and low and fixed-income senior customers, however, is not
4 sufficiently contemplated by the Save-a-Watt program, even as set forth in the Settlement
5 Document.

6
7 **Q. DOES NOT THE SETTLEMENT DOCUMENT PROPOSE TO DEVELOP A**
8 **PORTFOLIO OF LOW-INCOME PROGRAMS TO OFFER TO THE**
9 **COMMISSION?**

10 A. No. The Settlement Document does not do that. The Settlement Document says that
11 Duke will "convene the Advisory Group. . .to guide efforts to expand cost-effective
12 programs for low-income customers." This discussion, however, occurs only after the
13 Commission approves the Company's efficiency plan for the year. By design, therefore,
14 this work will not influence what the Company offers in the near-term. The Company
15 does not commit to expanding its low-income programs.

16
17 Moreover, there is no time frame placed on the work of the Advisory Group regarding
18 low-income programs. For example, the Advisory Group only meets twice a year. While
19 the Advisory Group may "establish working groups on specific topics," no specific
20 commitment to establish a low-income working group is made, let alone a work group
21 with a specific workplan and a specific timeframe within which to complete that
22 workplan.

1 Q. IN LIGHT OF THE SETTLEMENT, PLEASE SUMMARIZE WHAT
2 MODIFICATIONS SHOULD BE MADE TO ACCOUNT FOR THE INTERESTS
3 OF LOW-INCOME AND ELDERLY CUSTOMERS.

4 A. In addition to offering weatherization services to customers at or below 150% of the
5 Federal Poverty Level, Duke Energy should commit to implementing a baseload electric
6 usage reduction program modeled on the "exemplary" low-income programs presented in
7 the catalogue of such programs developed by the American Council for an Energy
8 Efficient Economy (ACEEE) previously discussed in this proceeding. In addition, Duke
9 Energy should commit to importing its own successful low-income programs from
10 Indiana and Ohio to North Carolina beginning in the first year.

11
12 The scope and funding for the program components identified above should be made
13 subject to the deliberations of the Advisory Group identified in the Settlement Document.

14 A plan to deliver efficiency services, including baseload electric efficiency services, to
15 low-income and low and fixed-income senior customers should be delivered to the
16 Commission for approval within 60-days after a final order in this proceeding. The
17 Advisory Group should be directed to respond to the question: what level of programs
18 should be offered to low-income and low and fixed-income senior customers. The
19 Settlement Document should be modified, however, to make clear that the question of
20 *whether* such programs should be offered to low-income and low and fixed-income
21 senior customers has been decided.

22
23 The plan to be developed by the Advisory Committee should include:

- a specific dollar commitment to low-income programs, including either a specific commitment to the number of low-income units to be served, or a specific proportion of total residential budget to be devoted to low-income customers;
- a commitment to pursue electric baseload programs, including refrigerator replacements;
- a commitment to deliver energy efficiency services to households with income below 150% of the Federal Poverty Level;
- a commitment to a program directed specifically toward rental properties, including investments directed toward property owners participating in the Section 8 housing program; and
- a specific workplan through which housing units treated not only through the Department of Energy's Weatherization Assistance Program (WAP), but housing units constructed or rehabbed through public programs such as HOME and the Low-Income Housing Tax Credit (LIHTC), will be reached.

Cost Recovery

Q. DO YOU OFFER ANY POSITION ON THE COST RECOVERY MECHANISM INCLUDED IN THE SETTLEMENT DOCUMENT?

A. No. My testimony is limited to the specific cost recovery issues I identify below.

Q. PLEASE EXPLAIN YOUR COST RECOVERY CONCERNS.

1 A. Duke Power should be required to reflect all avoided costs in its financial analysis. In its
 2 financial analysis, the Commission should direct that utility-related Non-Energy Benefits
 3 (NEBs) generated by low-income efficiency investments be quantified on an annual
 4 basis.

5
 6 **Q. DO THESE AVOIDED COSTS INVOLVE REFLECTING SOCIAL COST**
 7 **REDUCTIONS IN THE DUKE AVOIDED COST SAVINGS?**

8 A. What I propose does not involve any calculation of “social” cost savings. The avoided costs
 9 that Public Interest Intervenors have identified are not “social costs” that are outside the
 10 realm of the utility ratemaking process. Rather, this analysis is limited to the specific cost
 11 components that would otherwise be reflected in Duke Power’s revenue requirement
 12 collected from ratepayers.

13
 14 Recent authoritative assessments have been made of the utility-related non-energy benefits
 15 arising from the implementation of energy efficiency improvements in low-income housing
 16 units. An assessment of non-energy benefits by Oak Ridge National Laboratory¹ found
 17 utility benefit as follows classified as “ratepayer benefits” in 2001 dollars:

- 18 ➤ Lower bad debt write-off: \$89
- 19 ➤ Reduced carrying costs on arrearages: \$57
- 20 ➤ Fewer notices and customer calls: \$6
- 21 ➤ Fewer shutoffs and reconnections for delinquencies: \$8
- 22 ➤ Insurance savings: \$1

¹ Martin Sweitzer and Bruce Tonn (April 2002). Non-energy Benefits From the Weatherization Assistance Program: A Summary of Findings from the Recent Literature, Oak Ridge National Laboratory: Oak Ridge (TN).

1 ➤ Transmission and distribution loss reduction: \$48

2
3 As can be seen, the total cost reductions accruing to Duke Power would thus be \$209 per
4 treated customer in 2001 dollars. Bringing these avoided costs forward to 2009 dollars
5 places the value at \$255 (using the U.S. Department of Labor's Inflation Calculator). The
6 dollar value of the non-energy avoided costs would need to be adjusted on an annual
7 basis for inflation.

8
9 **Q. WHY SHOULD THESE NON-ENERGY UTILITY AVOIDED COSTS BE**
10 **REFLECTED IN THE SAVE A WATT COST RECOVERY?**

11 **A.** On the revenue side, Duke Energy's proposed Rider would allow the Company to recover
12 the revenue that the Company loses as a result of the usage reduction resulting from low-
13 income efficiency programs by charging these lost revenues to all other customers. With
14 respect to the low-income weatherization program, to allow the Company to collect this
15 entire lost margin is inappropriate, since on the expense side, the Company has proposed
16 no corresponding mechanism to reflect the decreased costs resulting from the efficiency
17 investments. As a result, these dollars of non-energy avoided costs, in the absence of their
18 identification and capture, would simply flow through as increased earnings to Duke's
19 shareholders. If Duke shareholders are to be held harmless against a decrease in revenue,
20 they should not also be allowed to benefit from the decrease in expenses. These decreases
21 in expenses should not be pocketed by Duke shareholders as increased profits.

1 This process of capturing the non-energy avoided costs will have no negative
2 consequences under the terms of the Duke Save-A-Watt program. Low-income and
3 elderly customers can not expect to see rates lower than they would have seen without the
4 efficiency investments. However, if the Commission allows the Company to capture
5 some percentage of its energy avoided costs, it stands to follow that the non-energy
6 avoided costs should be treated the same way. Simply because one set of avoided costs is
7 energy-related, while the other set of avoided costs is non-energy-related does not change
8 the fact that both represent real sets of avoided costs.

9
10 **Q. PLEASE SUMMARIZE YOUR TESTIMONY REGARDING NON-ENERGY**
11 **UTILITY AVOIDED COSTS.**

12 A. The avoided costs identified here are not social benefits. They are concrete, quantifiable,
13 expense reductions that, in the absence of the recommended ratemaking treatment, would
14 flow through to investors as additional, unwarranted, increases in equity returns. The
15 offsets calculated as described above should be provided as a supplement to the
16 Weatherization Assistance Program (WAP) to fund additional weatherization activities in
17 low-income housing units.

18
19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 A Yes, it does.

1 Q. Mr. Colton, have you prepared a summary of your
2 testimony today?

3 A. I have.

4 Q. Could you please give your summary.

5 A. Thank you. The purpose of my supplemental
6 testimony on behalf of the Public Interest Intervenors is
7 to present certain conclusions and recommendations
8 regarding the Joint Stipulation of Settlement, which I
9 will call the Settlement Agreement, proposed by the
10 stipulating parties. I explain why the Settlement
11 Agreement as currently proposed is unreasonable and not in
12 the public interest of Duke's many low-income customers
13 and low- and fixed-income senior customers. Absent
14 further modifications as set forth below, the North
15 Carolina Utilities Commission should reject the Settlement
16 Agreement as not in the public interest.

17 No one disputes that there have been substantial
18 changes in the Duke Save-a-Watt proposal since the
19 Commission last considered the issues raised by the Public
20 Interest Intervenors. According to Mr. Wilson, testifying
21 on behalf of the Environmental Intervenors, "The Company's
22 target incremental reduction in annual use by year 4 under
23 the Agreement is 250 percent of the year 4 target in its
24 original proposal."

1 In previous orders, the Commission has held that
2 the Company's proposed low-income programs "strike an
3 appropriate balance between assisting low-income customers
4 and maintaining cost-effectiveness." That balance, based
5 on previous levels of recommended usage reduction, must
6 now be revisited and modified. To more than double the
7 total usage reduction proposed through Save-a-Watt,
8 without also rebalancing what is specifically directed
9 toward low-income customers and low- and fixed-income
10 seniors, is unreasonable.

11 Duke has argued in this proceeding that it has
12 successful low-income usage reduction programs in other
13 jurisdictions in which Duke affiliates operate. Although
14 Duke has provided testimony regarding model low-income
15 energy efficiency programs Duke has implemented elsewhere,
16 the Company never acknowledges that Duke has not proposed
17 similar programs for the State of North Carolina.

18 Duke's witness regarding low-income programs was
19 equivocal in expressing what commitments Duke might be
20 willing to make in North Carolina. Duke Witness Morgan
21 stated that "If this level of services proves to be
22 cost-effective, the Company could seek to increase the
23 program availability." Duke does not even acknowledge
24 that the successful programs that its own affiliates

1 operate else -- as operated elsewhere are transferable to
2 North Carolina, he states, "if this level of services
3 proves to be cost-effective." Moreover, Duke's own
4 witness stated that even if those programs were found to
5 be cost-effective in North Carolina, the Company does not
6 commit to offering them in North Carolina. The only
7 commitment that the Company has made is that it could seek
8 to increase the program availability.

9 Despite doubling the usage reduction proposed
10 for North Carolina, the proposed settlement does not
11 commit to developing a portfolio of low-income programs to
12 offer to the Commission. The settlement document says
13 merely that Duke will convene the advisory group to guide
14 efforts to expand cost-effective programs for low-income
15 customers. This discussion, however, occurs only after
16 the Commission approves the Company's efficiency plan for
17 the year. By design, therefore, this work will not
18 influence what the Company offers in the near-term.

19 Moreover, there is no timeframe placed on the
20 work of the advisory group regarding low-income programs.
21 For example, Duke proposes that -- for the advisory group
22 to only meet twice a year. While the advisory group may,
23 in the words of the settlement, "establish working groups
24 on specific topics," no specific commitment to establish a

1 low-income working group is made, let alone a low-income
2 work group with a specific work plan and a specific
3 timeframe within which to complete that work plan.

4 In my prior direct testimony opposing the
5 initial Save-a-Watt proposal, I recommended a specific
6 menu of low-income program options. While those program
7 options are still supportable, consistent within the
8 framework -- with the framework of the settlement, today I
9 am stead -- instead recommending a process through which
10 those program options should be developed and implemented.
11 My recommendations are, one, in addition to offering
12 low-income weatherization services, Duke Energy should
13 commit to implementing baseload electric usage reduction
14 programs. For example, Duke Energy should commit to
15 importing its own successful low-income programs from
16 Indiana and Ohio to North Carolina beginning in the first
17 year.

18 Two --

19 MS. NICHOLS: I don't mean to interrupt. I just
20 want to make sure I understand. This Page 3 is not in the
21 prefiled testimony.

22 THE WITNESS: Sure it is.

23 MS. NICHOLS: When I originally looked at it, I
24 thought it was from the direct testimony. Oh, I'm sorry.

1 I'm sorry. Is it coming from --

2 MR. HOLTZMAN: It is. It is taken from his
3 supplemental.

4 MS. NICHOLS: Okay. My apologies.

5 MR. HOLTZMAN: Will you continue?

6 THE WITNESS: Thank you.

7 A. Two, the scope and funding for the program
8 components identified above should be made subject to the
9 deliberation of the advisory group identified in the
10 settlement document. A plan to deliver energy efficiency
11 services, including baseload electric efficient services,
12 should be delivered to the Commission for approval within
13 60 days after a final order in this proceeding. The
14 settlement document should be modified, however, to make
15 clear that the question of whether those programs should
16 be offered to low-income and low-income senior -- low- and
17 fixed-income senior customers has been decided.

18 Third, the plan to be developed by the advisory
19 committee should include a specific dollar commitment to
20 low-income programs, including either a specific
21 commitment to the number of low-income units to be served
22 or a specific proportion of total residential budget to be
23 devoted to low-income customers; two, a commitment to
24 pursue electric baseload reduction programs, including

1 refrigerator replacements -- replacements; three, a
2 commitment to deliver energy efficiency services to
3 households with income below 150 percent of the federal
4 poverty level; four, a commitment to a program directed
5 specifically toward rental properties; and five, a
6 specific work plan through which housing units treated not
7 only through the Department of Energy's Weatherization
8 Assistance Program, the WAP program, but housing units
9 constructed or rehabbed through public programs such as
10 the Federal HOME Investment Partnership program, known as
11 HOME, and the Low-Income Housing Tax Credit program.

12 The absence of any discussion of the cost
13 recovery issues, as well as the need for an independent
14 third-party administrator directed specifically to
15 low-income customers and low- and fixed-income senior
16 customers in this summary, both of which I raised in my
17 supplemental testimony, should not be construed -- or
18 should be construed simply as a recognition of the time
19 constraints in offering this summary and not as any
20 commentary on the relative importance to which I attach to
21 that testimony.

22 This concludes the summary of my prefiled
23 supplemental testimony.

24 MR. HOLTZMAN: Now make Mr. Colton available for

1 cross-examination.

2 CHAIRMAN FINLEY: All right. Are there
3 questions of Mr. Colton from the intervenors? Mr. Runkle.

4 MR. RUNKLE: Yes, sir, I have a couple.

5 CROSS-EXAMINATION BY MR. RUNKLE:

6 Q. Good afternoon, Mr. Colton. In Page 1 of your
7 testimony you say that the North Carolina Justice Center,
8 AARP, the Council of Churches and Legal Aid continue to
9 oppose the Save-a-Watt design even as modified in the
10 settlement. And then you go on to say you recommend an
11 independent third-party administrator is a better
12 approach.

13 What do you mean by an independent third-party
14 administrator?

15 A. An independent third-party administrator involves
16 the company providing the funding for low-income energy
17 efficiency programs, but contracting for the delivery of
18 those energy efficiency programs to an outside party
19 administrator that has both the experience and the
20 expertise not only to reach low-income households, but to
21 leverage the utility dollars with other public and private
22 dollars so that the total budget is greater than the
23 utility budget and such that the utility efficiency budget
24 is used in conjunction with and in collaboration with

1 other programs so that the -- there is a holistic approach
2 to the delivery of services to the low-income households.

3 Q. And in this delivering of -- delivery of services,
4 we're talking energy efficiency programs. Are there other
5 kinds of programs that can be coupled with energy
6 efficiency programs?

7 A. Sure. The primary -- the primary type of program
8 that a low-income efficiency program could and should be
9 coupled with is probably -- probably involves housing
10 programs, affordable housing programs. Whether it's the
11 Home Investment Partnership program as I previously
12 mentioned or the Low-Income Housing Tax Credit program,
13 the Community Development Block -- Block Grant program.

14 There are opportunities for utility dollars to
15 be leveraged with home dollars with tax credits so that
16 the utility is investing in the efficiency within the
17 context of making sure that when those publicly funded and
18 publicly subsidized housing programs are being pursued,
19 we're not losing the efficiency opportunities. When the
20 Home Investment Partnership program produces units, if --
21 of affordable housing, if those units of affordable
22 housing don't have the most efficient energy systems that
23 are cost-effective, then the opportunity to install that
24 cost-effective energy efficiency is lost for the life of

1 the housing unit.

2 Q. And so you make a differentiation in your
3 testimony between sort of the societal benefits, making
4 housings more livable, more comfortable, more economical
5 as opposed to energy benefits, be the energy from the --
6 ben -- energy efficiency programs?

7 A. Sure. When you think of the benefits of energy
8 efficiency, what you could do is you could almost draw
9 three columns on a piece of paper. And in the first
10 column are those traditional avoided costs that we've been
11 all talking about for the last two or three decades and --
12 in rate cases; avoided energy costs, avoided capacity
13 costs. And those are the traditional energy related --
14 not energy as opposed to capacity or demand, but utility
15 related savings that are generated by an efficiency
16 program.

17 In the second column you can put societal
18 benefits: Economic development, which we talked about
19 earlier; comfortable housing, which you just mentioned.
20 We know that energy efficiency directed toward low-income
21 households will improve health and reduce public health
22 expenses. Those are all societal benefits.

23 Then in the third column there is another group
24 of utility benefits that are not societal benefits, but

1 they're not the traditional utility avoided costs. We
2 know from empirical evaluations that efficiency programs
3 directed toward low-income households will reduce bad debt
4 from those low-income households. We know that low-income
5 energy efficiency programs or efficiency programs directed
6 toward low-income households will reduce working capital
7 through the reduction of arrears. We know that the --
8 that directing energy efficiency programs toward
9 low-income households will reduce credit and collection
10 costs.

11 Those are all utility costs. Those are -- or
12 utility benefits. Those are revenue requirement issues
13 that, again, we would all talk about in a rate case. And
14 those expenses will be reduced through the -- the
15 directing of cost-effective energy efficiency to
16 low-income households.

17 Q. Now, the advantages of a -- the independent
18 third-party administrator aside, are there utility based
19 programs for low-income and fixed-income populations that
20 are working or effective?

21 A. Yes. And particularly setting aside natural gas
22 programs, just -- and just focusing on electric programs,
23 there are utility programs that are directed toward
24 low-income households. You can have everything from what

1 Public Service Company of Colorado through its energy
2 savings partnership program does in Colorado where the
3 utility works with -- with the DOE WAP program, the
4 Department of Energy Weatherization Assistance Program, to
5 the baseload programs, the refrigerator replacement
6 programs that Duke affiliates themselves offer in other
7 states other than North Carolina, to baseload programs
8 such as those offered through the Pennsylvania Low-Income
9 Usage Reduction Program, the LIURP program, L-I-U-R-P
10 program, which involves not directing investments toward
11 electric heating customers, but directing investments
12 specifically toward not -- non-heating electric users.

13 Q. And so do you have an opinion after looking at the
14 Settlement Agreement and hearing the testimony and your --
15 why isn't Duke proposing these kind of low-income programs
16 in North Carolina?

17 A. I think there are a couple of things that are
18 going on. One is that low-income households tend to be
19 more difficult to reach because you have to find them, you
20 have to income qualify them, you have to enroll them in a
21 program. So it's not simply a program that you can
22 operate for everybody.

23 I think low-income households tend to, at least
24 on a total basis or on a per customer basis -- perhaps not

1 on a per square foot basis, but on a per customer basis,
2 tend to be lower users and so every dollar of investment
3 generates less -- while the dollar of investment may be
4 cost-effective -- and we wouldn't do it unless it was
5 cost-effective -- it would nonetheless generate a lower
6 amount of energy or electricity usage reduction than
7 perhaps investments elsewhere.

8 I think that low-income programs, again while
9 cost-effective, may be somewhat more expensive to operate.
10 So I think there are a variety of things that are at
11 issue. I think low-income programs are easy to put off
12 and I think that that's what's happened in North Carolina.

13 Q. So if -- if you had 60 days, your proposed 60 days
14 after the order, for Duke to make a proposal -- and you
15 had the resources of Duke Energy and Mr. Schultz' team --
16 how would you go about making recommendations in 60 days?

17 A. I think it would be a very doable proposition --
18 if I understand your question -- to develop an enhanced
19 low-income portfolio of programs. And I think Duke Energy
20 could look at its own programs in other -- in other states
21 to begin to import those programs.

22 The first thing I would do would be to roll out
23 a refrigerator replacement program like Duke Energy is
24 doing in Indiana. One thing I would do would be to roll

1 out a baseload electric efficiency program such as PECO --
2 what used to be the Philadelphia Electric Company is now
3 PECO -- is doing in Pennsylvania. Two -- one thing I
4 would do would be to expand the partnership between Duke
5 Energy and the Federal Weatherization Assistance Program,
6 the Federal WAP program, so that when the WAP program goes
7 into using DOE dollars to treat the weatherization for
8 low-income households, those service providers could be
9 using Duke money to deliver the electric efficiency
10 investments. All of that could be easily developed and
11 put into an approvable plan within 60 days.

12 Q. And I think you recommend 60 days after an order
13 was entered into, so Duke could start today and have
14 several months to put together such a plan?

15 A. Well, remember -- yes. But remember, one thing
16 I'm recommending is that Duke simply commit to -- in large
17 part to implementing in North Carolina that which it has
18 spoken so favorably about -- of which it is doing on a --
19 by its own affiliates in other states. So it's not even
20 as though Duke would be starting to develop a program, it
21 would be starting to package the programs that it is doing
22 elsewhere and making a commitment to say, not that we
23 could do it or that we might do it or that we'll talk
24 about doing it, but that we will do those programs and we

1 commit to doing those low pro -- low-income programs in
2 North Carolina.

3 Q. So you could take the same brochure and cross out
4 Ohio and put North Carolina on it?

5 A. Yes.

6 MR. RUNKLE: I have no further questions. Thank
7 you.

8 CHAIRMAN FINLEY: Okay. Any other questions
9 from the intervenors?

10 MR. OLSON: I don't have any questions.

11 CHAIRMAN FINLEY: By Duke?

12 MS. NICHOLS: Yes. I have a few.

13 CROSS-EXAMINATION BY MS. NICHOLS:

14 Q. Mr. Colton, I want to apologize for interrupting
15 you before. I'm going to try not to do that again. Good
16 afternoon.

17 A. I've never had an attorney --

18 Q. Are you aware that on February 26, 2009, the
19 Commission issued an Order in this docket in which it
20 approved various energy efficiency and DSM programs
21 proposed by the Company in its original Save-a-Watt
22 filing?

23 A. Yes. Within the context of the original
24 Save-a-Watt filing, yes.

1 Q. And are you aware that the Commission approved the
2 -- specifically approved the Company's low-income energy
3 efficiency and weatherization assistance program?

4 A. I -- what I would say is I'm aware of the fact
5 that the Commission said that the programs that the
6 Company offered within the context of the original
7 Save-a-Watt proposal were reasonable as filed. The
8 Commission certainly didn't say that those programs were
9 the exclusively reasonable programs or that the balance
10 that they talked about in approving those programs would
11 forever be the balance irrespective of what the total
12 investment would be.

13 So I'm aware of the fact that the Commission
14 said given the balance within the context that it was
15 presented at the time, that the programs that were offered
16 by the Company were reasonable.

17 Q. And are you aware that the parties for whom you
18 are testifying today did not seek reconsideration of the
19 Commission's February 26th Order?

20 A. I'm not aware one way or the other.

21 CHAIRMAN FINLEY: Ms. Nichols, how about pulling
22 that mike up a little closer to you, please.

23 MS. NICHOLS: Sorry.

24 Q. Are you also aware that the Company's low-income

1 energy efficiency and weatherization program that was
2 approved by the Commission in the February 26th Order
3 includes refrigerator replacement as a component?

4 A. No.

5 Q. So you were not aware of that.

6 Have you seen the tariff sheet that's been filed
7 in connection with the approval of that program?

8 A. I have not seen -- you mean a compliance tariff?

9 Q. Yes.

10 A. No.

11 Q. So your criticism of Duke Energy's --its
12 low-income program is based on the premise that it in part
13 does not include a baseload program like refrigerator
14 replacement?

15 A. Directed toward low-income households, including
16 those at or below 150 percent of poverty, yes.

17 Q. And are you aware that the Commission has
18 considered a third-party administrator approach as, in
19 fact, proposed by NC WARN and determined that that
20 approach is not appropriate under North Carolina law?

21 A. I am. Actually, my understanding of the -- just
22 to make -- we may be quibbling about words. My
23 understanding is that the Commission decided that it was
24 more appropriate for the legislature to direct the

1 creation of a third-party administrator should a
2 third-party administrator be appropriate for the total
3 range of low -- of energy efficiency.

4 I think that what my proposal has been is much
5 more limited than that. And I'm suggesting a third-party
6 administrator for low-income programs simply because the
7 Company doesn't have the experience or expertise to
8 deliver low-income programs. So I -- I -- my proposal for
9 the third-party administrator is -- is much more limited
10 than that which the Commission has previously considered.

11 Q. I want to turn your attention to Page 4 of your
12 prefiled testimony. And if you look at lines 12 through
13 20 where you're computing the impact associated with the
14 starter kits that are a part of the Company's low-income
15 program -- do you see that?

16 A. Yes.

17 Q. This is based -- is it correct that this portion
18 of your testimony is based on a review of testimony
19 provided by Duke witness Mr. Morgan --

20 A. Yes.

21 Q. -- in the original hearing?

22 A. In -- I don't know if it was the original hearing,
23 but it was in the 2000 --

24 Q. Last year?

1 A. Yes, the 2008 hearings.

2 Q. And do you have a copy of Mr. Morgan's testimony
3 with you?

4 A. No.

5 MS. NICHOLS: May I approach the witness?

6 CHAIRMAN FINLEY: Yes, ma'am.

7 Q. I've handed you Mr. Morgan's testimony. It was
8 prefiled in this docket last year as rebuttal testimony to
9 your direct testimony. Is this the -- I'll give you a
10 minute to look at it, but my question is is this the
11 testimony upon which you based your calculations on Page
12 4?

13 A. Yes.

14 Q. Okay. I want to ask you a few questions about
15 those. If you would look at pages 19 and 20 of
16 Mr. Morgan's testimony.

17 A. Yes. I'm there.

18 Q. Is that the section from which you derive your
19 calculations on Page 4 of your supplemental testimony?

20 A. I believe it is, yes.

21 Q. Okay. And if you look on the -- near the bottom
22 of Page 20 of Mr. Morgan's testimony, he cites a study by
23 Tec Works [sic] from June of 2007. Did you review that
24 report in computing your calculations?

1 A. I did not.

2 Q. Let me -- I want to walk through how I think you
3 arrived at your energy impacts and you can tell me if
4 I'm -- if I've gotten this correct.

5 Did you take the total number of energy efficiency
6 kits that the Company had distributed from Page 19, Line
7 4, of Mr. Morgan's testimony?

8 A. Yes.

9 Q. So that --

10 A. The 32,554.

11 Q. Yeah. So you took that as -- that's the total
12 number of kits that the Company distributed. You took
13 that number, 32,554, and then -- did you then go to the
14 next page on Page 20 to Table 1, and going to the fifth
15 column over, did you then look to the total kWh savings
16 number, the 422,936 kWh?

17 A. Yes.

18 Q. And so did you divide that 422,936 by the number
19 of total kits --

20 A. Yes.

21 Q. -- to arrive at what you have calculated to be the
22 energy savings impacts from the starter kits?

23 A. Yes.

24 Q. And on page -- did you note on Page 19 of

1 Mr. Morgan's testimony at lines eight through nine that he
2 indicated that over 80 percent of the CFLs were installed
3 from the kits?

4 A. Yes.

5 Q. And so 80 percent of the 32,000 would be a lower
6 number, correct?

7 A. Yes.

8 Q. And then furthermore, did you note that Mr. Morgan
9 talked about this evaluation of the program on page -- on
10 lines 13 through 15 he talks about low-income customers
11 are less likely to respond to evaluations. As a result,
12 the low-income sample size was small and the statistical
13 accuracy is less reliable than the total population.

14 A. Yes.

15 Q. So in your mind did that indicate that the way
16 this evaluation was performed is that some sample of the
17 customers receiving the kits were sent a survey to -- to
18 answer?

19 A. I did not read it that way, no.

20 Q. So if, in fact -- well, let me then turn your
21 attention to Page 20, Table No. 1 and Table No. 2. If you
22 look at column two, the installed number --

23 A. Yes.

24 Q. -- if, in fact, this column number two on

1 "Installed" were the number of respondents to a survey
2 that provided information about what they did with the
3 kits, would that change your opinion as to how to
4 calculate the effectiveness?

5 A. If this is the -- if this is what I believe you
6 are suggesting that it is, we would need to know the total
7 number that this represents, yes.

8 Q. Okay.

9 A. That would -- the answer to your question would be
10 yes.

11 Q. Okay. So if hypothetically the "Installed" column
12 represents the number of respondents who responded to the
13 survey, would you then go -- to calculate the
14 effectiveness of the kits, would you then go to the "Total
15 kWh savings" line -- and if we're looking at the 15-watt
16 CFL on Table 1, would you then go to the kWh savings of
17 56,897 and divide that by the 1109 responding
18 participants?

19 A. No.

20 Q. If those are the kWh savings reported for the
21 responding survey participants, then dividing the 56,000
22 number by the 1109 would give you the savings per kit --
23 per CFL in that kit, correct?

24 A. It would -- it would give you the total savings

1 for the CFLs that were installed within the population of
2 people responding to the survey.

3 Q. Correct.

4 A. It would certainly not give you the total savings
5 per kit or per CFL in the kit.

6 Q. For that you would have to go back and then
7 consider that over 80 percent of the CFLs were installed
8 from the kit. You would want to take that into
9 consideration as well?

10 A. That -- that would be one thing to take into
11 consideration, yes.

12 Q. And you didn't take that into consideration --

13 A. No, I did not.

14 Q. -- in your evaluation?

15 So if you divide -- and I'm doing math here, so be
16 -- I'll have to be careful. But if you divide 56,897 by
17 1109, that gets you to 51.3 kWh savings for those
18 respondents to the survey, correct?

19 A. I think I've already said that I would not do it
20 that way. And what you just said is -- I will accept for
21 the moment is a correct division, a correct exercise in
22 arithmetic, I just don't accept that that's a meaningful
23 exercise.

24 Q. So you would then take that math and apply a

1 factor to say how many people who received the kits
2 actually installed that measure?

3 A. That would be one thing I would do, yes.

4 Q. Okay. And so 80 percent of 51.3 kilowatt hour
5 savings is significantly higher than the number that
6 you're reporting in your testimony, correct?

7 A. Yes. Clearly.

8 Q. And --

9 A. Well, it's higher. I will let other people decide
10 whether it's significantly higher. It's clearly a
11 different number, yes.

12 Q. And if we do the same math for -- let's look at
13 the -- the low-income kits. And let's look at the 20
14 megawatt -- sorry, 20-watt CFL on the second line of Table
15 2 on Page 20 of Mr. Morgan's testimony. If we do that
16 same math, dividing the 2,935 kWh savings by the 33
17 installed, that's going to give you -- if you want to
18 accept my math -- 88.9 k -- kWh?

19 A. I'll accept your arithmetic without having
20 doublechecked it.

21 Q. And then you would --

22 A. With all the caveats that I've previously said,
23 then -- I see the arithmetic you've done, and I don't
24 accept the fact that that's a meaningful or an arithmetic

1 exercise to do.

2 Q. But would you accept that you assumed in your
3 testimony that these total kWh savings reported in
4 Mr. Morgan's testimony are based on the total number of
5 kits and not a sample size?

6 A. I do.

7 Q. Thank you. And did you also notice on Page 19,
8 lines 10 through 12, of Mr. Morgan's testimony that based
9 upon the evaluation and discussion with participating
10 agencies, Duke Energy Carolinas will simplify the kits and
11 provide six CFL bulbs as -- as the new starter kits and no
12 water measures? Did you note that?

13 A. Yes.

14 Q. And so if the C -- if the CFL measures included in
15 the kits are the most cost-effective and produce the most
16 kWh savings from all of the measures that were analyzed
17 here, then the new kits containing the six CFLs will have
18 higher -- should have higher energy impacts, savings
19 impacts than the kits that were analyzed here?

20 A. If you make all sorts of unsupported assumptions
21 about that. If you assume that by increasing the number
22 of CFLs that you proportionally increase the number of
23 installed CFLs, you're correct. I don't think that you
24 could make that assumption.

1 Q. You don't disagree that CFL programs are a
2 cost-effective energy efficiency program, do you?

3 A. I certainly do not disagree with that.

4 Q. Oh, and I believe you may have been asked this at
5 the last hearing, but I'm not sure if I recall. Are you
6 aware that one of the parties that you're testifying on
7 behalf of today, AR -- AARP, was invited to participate in
8 the Company's collaboratives and it chose not to do so?

9 A. I'm not aware one way or the other.

10 Q. Thank you.

11 MS. NICHOLS: Nothing further.

12 CHAIRMAN FINLEY: Redirect?

13 MR. HOLTZMAN: Yes.

14 REDIRECT EXAMINATION BY MR. HOLTZMAN:

15 Q. Mr. Colton, even taking into consideration the
16 possible revised numbers concerning the starter kits with
17 the CFLs, what's your opinion regarding the effectiveness
18 and sufficiency of Duke's current low-income energy
19 efficiency program?

20 A. Can I have a minute here?

21 Q. Sure.

22 A. Let's assume that each CFL of the -- the 15-watt
23 CFL saves 50 kWh a year. Let's assume that -- and I'm
24 just going to pull a number out of the air here. Let's --

1 let's assume that electricity, the electricity price to
2 those folks is 12 cents a kWh. Now, running the same risk
3 that the -- my esteemed colleague over here does in doing
4 arithmetic, that would be a savings of about \$6 a year or
5 about 50 cents a month.

6 In my opinion, the delivery of CFLs cannot and
7 will not be an effective or efficient or reasonable
8 baseload energy efficiency program directed toward
9 low-income households. It just --

10 Q. Why not?

11 A. They provide insufficient savings both in energy
12 reduction and in bill reduction for that to be a
13 reasonable low-income program. So whether the numbers are
14 50 kWh a year or 5 kWh a year doesn't change -- that --
15 when I said that I accept the arithmetic but don't accept
16 the fact that it's a meaningful exercise, it simply
17 doesn't affect the bottom line of whether the low-income
18 program is sufficient -- delivers sufficient energy
19 savings to be a reasonable program and to be a reasonable
20 commitment to low-income customers.

21 Q. And am I correct that the recommendations that you
22 have in your supplemental testimony concerning the
23 adoption of Duke-affiliate programs in Indiana and Ohio
24 and all the other various things, those could be done by

1 Duke even without the adoption of an independent
2 third-party administrator; isn't that correct?

3 A. Certainly, yes.

4 Q. So even putting aside any issues concerning
5 third-party independent administrators, all the various
6 programs that you were proposing that Duke should adopt
7 Duke itself can do?

8 A. I agree with that. But I also again want to note
9 that unlike my testimony in 2008 where I laid out a menu
10 of programs that I think are reasonable to do, within the
11 context of considering the settlement in this case, what I
12 recommended is simply that Duke be directed toward -- to
13 prepare a low-income program and to deliver that to the
14 Commission within 60 days.

15 Q. Has Duke not committed to do that in the current
16 Settlement Agreement?

17 A. What Duke is committed to do in the current
18 Settlement Agreement is to convene this regional
19 stakeholder group to talk about expanding low-income
20 programs with the caveat that -- the Duke witness said
21 that even if those programs were found to be
22 cost-effective, the most that the Company would commit to
23 is that they could implement those programs, not that they
24 will implement those programs or shall implement those

1 programs, but simply that they could implement those
2 programs.

3 Q. And is there any expressed timeline that you saw
4 in the Settlement Agreement as to when Duke might even go
5 into that process?

6 A. No. That's one of the problems with the
7 settlement is that not only is there not a timeline within
8 which those conversations should begin, there's not a
9 timeline within which those conversations need to be
10 brought to a conclusion with a proposal submitted to the
11 Commission, with a menu submitted to the Commission.

12 MR. HOLTZMAN: Nothing further, Mr. Chairman.

13 CHAIRMAN FINLEY: Thank you. Questions by the
14 Commission? I've got one question for you, Mr. Colton.

15 EXAMINATION BY CHAIRMAN FINLEY:

16 Q. On these refrigerator replacement programs, do
17 those typically have a -- like the Clunker program, do you
18 have to turn in your old refrigerator to get the new one?

19 A. Yes.

20 Q. Okay. I was hoping that was the case.

21 A. Yes. Yes. And those programs do not provide that
22 we'll give you a new refrigerator and let you keep your
23 old one.

24 Q. All right.

1 A. It is a Cash for Clunkers program, yes.

2 Q. Good, good.

3 CHAIRMAN FINLEY: That's all I had. Any
4 questions on these questions?

5 (No response.)

6 Thank you, Mr. Colton.

7 THE WITNESS: Thank you.

8 (Whereupon, the witness was dismissed.)

9 CHAIRMAN FINLEY: Rebuttal, Duke?

10 MS. NICHOLS: We recall Mr. Smith. I think
11 you've already be sworn. You can have a seat.

12 RAIFORD L. SMITH; Being previously duly sworn,
13 testified as follows:

14 DIRECT EXAMINATION BY MS. NICHOLS:

15 Q. Mr. Smith, in addition to your MIRR testimony you
16 presented earlier today, did you also cause to be prefiled
17 in this docket what has been termed very short rebuttal
18 testimony consisting of five pages?

19 A. Yes, ma'am, I have.

20 Q. And do you have any changes or corrections to your
21 rebuttal testimony?

22 A. No, I do not.

23 MS. NICHOLS: I move that Mr. Smith's rebuttal
24 testimony be copied into the record as if given orally

1 from the stand.

2 CHAIRMAN FINLEY: Mr. Smith's prefiled rebuttal
3 testimony shall be copied into the record as though given
4 orally from the stand.

5 (Whereupon, the prefiled rebuttal testimony
6 of Raiford L. Smith will be reproduced in
7 the record at this point the same as if the
8 questions had been orally asked and the
9 answers orally given from the witness
10 stand.)

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1 Q. PLEASE STATE YOUR NAME, ADDRESS, AND POSITION WITH DUKE
2 ENERGY BUSINESS SERVICES, LLC.

3 A. My name is Raiford L. Smith, and my business address is 526 South Church Street,
4 Charlotte, North Carolina. I am Director, Strategy and Collaboration for Duke
5 Energy Business Services, LLC, a service company affiliate of Duke Energy
6 Carolinas, LLC ("Duke Energy Carolinas" or the "Company") and am responsible for
7 leading collaborative efforts on new product development and energy efficiency
8 across all retail markets served by Duke Energy Corporation ("Duke Energy"),
9 including Duke Energy Carolinas' service territory.

10 Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?

11 A. Yes, I have. I filed MIRR Supporting Testimony on June 26, 2009.

12 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

13 A. The purpose of my rebuttal testimony is to rebut the Supplemental Testimony of
14 Roger D. Colton filed on behalf of the North Carolina Justice Center, AARP, NC
15 Council of Churches, and Legal Aid of NC.

16 Q. MR. COLTON IN HIS SUPPLEMENTAL TESTIMONY STATES THAT THE
17 AGREEMENT AND JOINT STIPULATION OF SETTLEMENT AMONG
18 DUKE ENERGY CAROLINAS, THE ENVIRONMENTAL INTERVENORS,
19 AND THE PUBLIC STAFF ("SETTLEMENT") SHOULD BE REJECTED BY
20 THE COMMISSION ABSENT MODIFICATIONS HE RECOMMENDS. DO
21 YOU AGREE WITH MR. COLTON?

22 A. No.

1 **Q. PLEASE EXPLAIN.**

2 **A. First, Duke Energy Carolinas Witnesses Wiles, Schultz, and Farmer have previously**
3 **filed direct testimony explaining why the settlement is in the public interest. Public**
4 **Staff Witness McLawhorn addressed the key components of the Settlement**
5 **Agreement in his filing on June 19, 2009 by stating that it contains a provision**
6 **requiring the Company to make residential programs available to low-income**
7 **customers without regard to whether they own or rent homes and that the Company is**
8 **now committed to pursuing partnerships with third-party agencies to implement**
9 **programs and offer assistance to low-income customers while recognizing**
10 **improvement for low-income customers in the Settlement Agreement.**

11 **Q. ARE THE CONCERNS EXPRESSED BY WITNESS COLTON IN HIS**
12 **SUPPLEMENTAL TESTIMONY ANY DIFFERENT FROM THE BASIC**
13 **RECOMMENDATIONS HE MADE DURING THE AUGUST 2008**
14 **EVIDENTIARY HEARING IN THIS DOCKET?**

15 **A. No.**

16 **Q. DID THE COMPANY ADDRESS THOSE CONCERNS IN ITS OCTOBER 7,**
17 **2008 PROPOSED ORDER?**

18 **A. Yes.**

1 Q. DID THE COMMISSION RULE ON THE RECOMMENDATION MADE BY
2 WITNESS COLTON IN ITS FEBRUARY 26, 2009 ORDER RESOLVING
3 CERTAIN ISSUES, REGARDING INFORMATION ON UNSETTLED
4 MATTERS, AND ALLOWING PROPOSED RIDER TO BECOME
5 EFFECTIVE SUBJECT TO REFUND ("ORDER")?

6 A. Yes. At pages 21 and 22 of the Order the Commission discussed Witness Colton's
7 testimony as follows:

8 ...Colton criticized Duke's proposed portfolio of EE programs as
9 failing to serve low-income households, and described a number of
10 exemplary programs that he suggested the Company model its
11 programs after instead. Specifically, witness Colton expressed
12 concern that the Low Income Energy Efficiency and Weatherization
13 Program will not be widely available to low-income households
14 because its application is restricted to households with incomes of
15 150% to 200% of the federal poverty level and is limited to owner-
16 occupied, single-family, all-electric residences. Witness Colton
17 criticized the Company for assuming that weatherization agencies are
18 available to distribute and install weatherization and starter kits. He
19 based this criticism on his assumption that Duke is planning to
20 leverage federal funds for these purposes, and federal regulations
21 disallow federal weatherization assistance for households above
22 125% of poverty level. Witness Colton cited the Public Service of
23 Indiana (now Duke Energy Indiana) low-income program as an
24 exemplary program that Duke should emulate.

25 The Commission concluded that it was "...of the opinion that Duke's Low Income
26 Energy Efficiency and Weatherization Assistance Program strikes an appropriate
27 balance between assisting low-income customers and maintaining cost-
28 effectiveness...and that the Low Income Energy Efficiency and Weatherization
29 Assistance Program, as proposed, is in the public interest and will benefit Duke's
30 customer body as a whole. As such, the Commission approves this program." (Order
31 at 23).

1 Q. HAS WITNESS COLTON PRESENTED ANY NEW OR DIFFERENT
2 EVIDENCE IN HIS SUPPLEMENTAL TESTIMONY TO JUSTIFY
3 CHANGES FOR LOW-INCOME CUSTOMER PROGRAMS?

4 A. No.

5 Q. DOES THIS CONCLUDE YOUR SETTLEMENT REBUTTAL TESTIMONY?

6 A. Yes.

1 Q. Do you have a summary, which is likewise very
2 short?

3 A. Yes, I do.

4 Q. Could you please give your summary to the
5 Commission.

6 A. The purpose of my rebuttal testimony is to rebut
7 the supplemental testimony of Roger D. Colton filed on
8 behalf of the North Carolina Justice Center, AARP, the
9 North Carolina Council of Churches and Legal Aid of North
10 Carolina.

11 I disagree with Mr. Colton's testimony that the
12 Settlement Agreement should be rejected absent
13 modifications. Duke Energy Carolinas, the Public Staff
14 and the Environmental Intervenors have all filed testimony
15 explaining why the settlement is in the public interest.

16 The concerns expressed by Mr. Colton in his
17 supplemental testimony are no different from the
18 recommendations he made during the August 2008 evidentiary
19 hearing in this docket. Mr. Colton's concerns were
20 addressed by the Commission in its February 26, 2009,
21 Order resolve -- resolving certain issues regarding
22 information on unsettled matters and allowing proposed
23 Rider to become effective subject to refund.

24 Mr. Colton has not presented any new or

1 different evidence in his supplemental testimony to
2 justify changes for low-income customer programs
3 previously approved by this Commission.

4 This concludes the summary of my settlement
5 rebuttal testimony.

6 MS. NICHOLS: Mr. Smith is available for
7 cross-examination.

8 CHAIRMAN FINLEY: All right. Are there
9 cross-examination questions of Mr. Smith?

10 (No response.)

11 All right. Are there questions by the
12 Commission on Mr. Smith's rebuttal testimony?

13 (No response.)

14 All right. That will do for you, Mr. Smith.
15 Thank you very much.

16 (Whereupon, the witness was dismissed.)

17 MS. NICHOLS: Well, so he truly did get a pass
18 on his first time testifying before this Commission.

19 CHAIRMAN FINLEY: That's not a pass.

20 MS. NICHOLS: That concludes the Company's
21 rebuttal case.

22 CHAIRMAN FINLEY: Okay. We have -- the
23 Commission has one request of Duke to supply us with an
24 additional exhibit, if you don't mind.

1 MR. KAYLOR: We'd be happy to.

2 MS. NICHOLS: We would be happy to, absolutely.

3 CHAIRMAN FINLEY: If you would take a look at
4 the Exhibit 3-1 that has been supplied as supplemental
5 information that has been discussed some today, the
6 Commission would request that that exhibit or an exhibit
7 similar to that one be prepared that shows rather than the
8 system numbers that we understand to exist on that
9 exhibit, that the numbers be North Carolina numbers if
10 possible.

11 MS. HEIGEL: Does the Commission also wish to
12 receive North Carolina-only numbers for attachment 8-1?
13 That was also, I believe, the subject of --

14 CHAIRMAN FINLEY: We'll be happy to have that.

15 MS. NICHOLS: We're gluttons for punishment.

16 CHAIRMAN FINLEY: Okay. And also with regard to
17 Exhibit 3-1, if you could make an exhibit with North
18 Carolina numbers that would add as costs the incentives
19 paid to Duke.

20 MS. NICHOLS: Under the modified Save-a-Watt --

21 CHAIRMAN FINLEY: Yes.

22 MS. NICHOLS: -- proposal as proposed in the
23 settlement?

24 CHAIRMAN FINLEY: Yes, ma'am.

1 Are there any other matters that we have to
2 address before we close the hearing?

3 MR. RUNKLE: Chairman, we'd -- we'd stipulate
4 that that evidence could come into the record without
5 needing verification and witness and cross-examination.

6 CHAIRMAN FINLEY: Thank you very much.

7 MS. FENTRESS: Actually, Public Staff would
8 always want to review and comment appropriately any
9 evidence that was submitted.

10 CHAIRMAN FINLEY: We'll let you have that
11 opportunity, Ms. Fentress. Is there anything further that
12 we need to address before we close the hearing?

13 (No response.)

14 What about post-hearing filings?

15 MS. NICHOLS: Thirty days if that's the
16 Commission's preference.

17 MS. FENTRESS: From the transcript.

18 CHAIRMAN FINLEY: All right. Without objection,
19 we will follow the normal practice and expect post-hearing
20 filings for those parties who wish to make them 30 days
21 after the mailing of the transcript.

22 And we thank you all very much for your
23 participation in this long and protracted hearing. I'm
24 glad to see you all, but I hope this is the last I have to

1 see of you in this docket.

2 MS. NICHOLS: Thank you.

3 CHAIRMAN FINLEY: Thank you very much. We'll be
4 adjourned.

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6 Whereupon, the hearing was adjourned.

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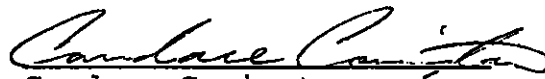
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CERTIFICATE

The undersigned Court Reporter certifies that this is the transcription of notes taken by her during this proceeding and that the same is true, accurate and correct.



Candace Covington
Court Reporter II

FILED

AUG 25 2009

Clerk's Office
N.C. Utilities Commission