STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 831

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Duke Energy Carolinas, LLC for Approval of Save-a-Watt Approach, Energy Efficiency Rider, and Portfolio of Energy Efficiency Programs	))))	PRE-HEARING ORDER REQUIRING VERIFIED INFORMATION

BY THE CHAIRMAN: On June 12, 2009, Duke Energy Carolinas, LLC (Duke or Company); and Southern Alliance for Clean Energy, Environmental Defense Fund, Natural Resources Defense Council, and the Southern Environmental Law Center (collectively, the Environmental Intervenors); and the Public Staff filed an Agreement and Joint Stipulation of Settlement (the Settlement Agreement) for consideration in this docket. The parties who filed the Settlement Agreement refer to themselves collectively as the "Stipulating Parties."

The Commission entered an Order in this docket on June 18, 2009, scheduling a hearing to consider the Settlement Agreement filed by the Stipulating Parties. On July 2, 2009, the Commission issued an Order rescheduling the hearing to August 19, 2009.

On June 19, 2009, each of the Stipulating Parties filed testimony in support of the Settlement Agreement. Specifically, Duke filed the testimony of J. Danny Wiles, Theodore E. Schultz, and Stephen M. Farmer; the Environmental Intervenors filed the testimony of John D. Wilson; and the Public Staff filed the testimony of James S. McLawhorn. Additionally, on June 26, 2009 and July 2, 2009, the testimony of Duke witness Raiford L. Smith and Public Staff witness Michael C. Maness, respectively, was filed which provided the modified internal rate of return analyses on the Settlement Agreement, as requested by the Commission in its June 18, 2009 Order. On July 21, 2009, the Public Staff filed corrections to the testimony of Michael C. Maness.

Upon review of the Settlement Agreement and supporting testimony, the Chairman finds good cause to require Duke to file the following verified information on behalf of the Stipulating Parties in the form of additional testimony and/or pre-hearing exhibits. The requested information shall be filed not later than Monday, August 10, 2009.

Information to be Provided on Behalf of the Stipulating Parties

1. Please provide a listing of all industrial and large commercial customers, if any, who have to-date notified Duke that they have opted out of participation in the Company's new demand-side management (DSM) and energy efficiency (EE) measures. If there are customers who have already opted out of participation, please explain why appropriate adjustments, consistent with those described in Exhibit B of the Settlement Agreement, in Paragraph No. D.5. of the Settlement Terms, should not be made in this proceeding.

2. By Letter filed May 1, 2009, Duke notified the Commission that it would implement Rider EE (NC), effective June 1, 2009, on an interim basis for the Company's approved conservation programs. In that same Letter, Duke stated that the Company would "true-up the interim rider charges to the compensation mechanism and rider ultimately approved by the Commission in this docket." Please provide an explanation, including workpapers, of how the Company proposes to proceed in this regard.

3. In Exhibit B of the Settlement Agreement, Paragraph No. A.1. of the Settlement Terms states, in part, that, "…the Company must recover the actual costs of programs, which includes marketing, implementing, and administering energy efficiency and demand-side management programs and impact evaluation studies". Please provide on a program-by-program basis, a detailed listing by type, including the year-by-year projected amounts, of the program costs included in the four-year pilot program. Please include in your response, as a separate line item, any capital costs which are included in such projected program costs. Please provide a detailed explanation regarding the types of capital costs, if any, included and the projected recovery period for such costs. In addition, please state whether any carrying costs are included in projected program costs. If so, please provide the rate or rates and the year-by-year calculation of such carrying costs for each program.

4. For purposes of the Settlement Agreement and for reporting the Company's regulated earnings to the Commission in Duke's quarterly NCUC ES-1 Reports, please define the terms "actual program revenues" and "actual program costs." That is, provide a complete detailed descriptive listing of the revenues and types of costs that would be included in each category. Are net lost revenues considered to be an actual program revenue? Please explain.

5. On Page 6, Lines 12 – 14, Duke witness Wiles testified that "[t]he terms of the Agreement are intended to provide for the recovery of program costs as they are incurred; therefore, the request for program cost deferral is not needed from a GAAP accounting practice viewpoint". Does this statement mean that Duke's customers will have completely paid for all program costs related to each approved program included in the pilot program at the conclusion of the four-year period? For example, if a program or vintage year starts in year four of the pilot program will all program costs

related to such programs be fully recovered by the Company in year four? Please explain.

6. Does the Company anticipate that additional (new) programs will be introduced during the four-year pilot program? If so, how does the Company propose to recover the program costs related to such new programs?

7. With respect to the total revenue requirements provided in Exhibit B of the Settlement Agreement, in Paragraph No. H.3. of the Settlement Terms, please provide a detailed listing by year and by program of the various components which comprise the estimated revenues at 85% and 100% achievement (i.e. the amount related to recovery of program costs, the amount related to the recovery of incentive compensation, the amount related to the recovery of net lost revenues, etc.).

8. In Exhibit B of the Settlement Agreement, Paragraph No. D.6. of the Settlement Terms states that "[t]he Company's avoided cost target is $754 million (nominal system dollars) based on programs implemented during the four-year term of the agreement…" Please provide on a year-by-year basis and by program what portion of the $754 million is related to DSM programs and what portion is related to EE programs. In addition, please provide a breakdown of the $754 million into the various savings components and provide a definition of each component. Please provide summary workpapers which set forth the calculation of the Company's avoided cost target of $754 million.

9. With respect to the chart entitled, "System Portfolio Impacts" contained in Exhibit B of the Settlement Agreement, in Paragraph No. D.6. of the Settlement Terms, do the figures provided each year for the MWh and MW amounts relate to an increase over a base year? (i.e. is the Year 3 amount of 872,548 MWh compared to a base year? If so, what year is the base year? Please provide the MWh and MW amounts for the base year.) Please explain.

10. Do the Stipulating Parties consider that the term "return on investment" and "return on program costs" are, for purposes of the Settlement Agreement, the same conceptually? Please explain.

11. Regarding the earnings caps provided in Exhibit B of the Settlement Agreement, in Paragraph No. F.1. of the Settlement Terms, please provide a workpaper which sets forth the calculation of the corresponding pretax return on program costs for the 5%, 9%, 12%, and 15% after-tax earnings cap rates.

12. Are the costs associated with the regional efficiency advisory group discussed in Exhibit B of the Settlement Agreement, in Paragraph Nos. K.1. through K.6. of the Settlement Terms, included as estimated program costs? Please provide the projected year-by-year expense amounts. If these costs will not be recovered as

program costs, how will they be recovered? Has a third-party facilitator for the regional efficiency advisory group been identified and/or selected and, if so, who will serve in that capacity?

13. In Exhibit B of the Settlement Agreement, Paragraph No. G.1. of the Settlement Terms states that net lost revenues shall be recovered for 36 months for each vintage year, except that the recovery of net lost revenues will end upon Commission approval of, among other things, the implementation of new rates in a general rate case or comparable proceeding to the extent that rates set in a rate case or comparable proceeding are set to explicitly or implicitly recover those net lost revenues. Pursuant to such provision of the Settlement Agreement, has any adjustment been made in Docket No. E-7, Sub 909, Duke's pending general rate case proceeding filed on June 2, 2009, related to the projected amount of net lost revenues included in this present proceeding?

14. Duke witness Farmer testified on Page 15, Lines 8–9, that "[t]he calculation of net lost revenues does not apply to demand-side management programs". This statement appears to be in conflict with the following statement included in Exhibit B of the Settlement Agreement, in Paragraph No. G.1. of the Settlement Terms: "Net lost revenues mean revenue losses, net of marginal costs avoided at the time of the lost kilowatt hour sale(s) incurred by the Company's public utility operations as the result of a new demand-side management or energy efficiency measure." Please explain which statement is correct.

15. With respect to Farmer Exhibit No. 1 attached to the testimony of Duke witness Farmer filed on June 19, 2009, it appears that Footnote Nos. 2 and 4 were inadvertently omitted from the schedule. Please provide a revised copy of Farmer Exhibit No. 1 with all appropriate footnotes.

16. The Settlement Agreement is for four years and in numerous places the Settlement Agreement and the supporting testimony reference "Year 1." Please clarify, when "Year 1" will commence and when it will conclude.

17. Page 15, Lines 5-11, of Duke witness Farmer's settlement testimony explains how net lost revenues would be calculated: "The Company calculated the portion of retail tariff rates representing the recovery of fixed costs by deducting the recovery of fuel costs from its tariff rates." Please answer the following questions:

a. How this approach complies with Commission Rule R8-68(b)(5) which defines net lost revenues as being "revenue losses, net of marginal costs avoided…" Do the Stipulating Parties agree that fuel costs are Duke's only marginal costs? Does Duke have other kinds of marginal costs that the Company avoids when EE and DSM programs are effective? If yes, please explain why those marginal costs are not being considered in the calculation of net lost revenues.

b. Is the calculation referred to on Lines 9-11 in the record? If yes, please provide a citation. If no, please provide the calculation.
c. Would this calculation be updated if Duke's tariffs change as a result of its general rate case (Docket No. E-7, Sub 909)?

18. In Exhibit B of the Settlement Agreement, Paragraph No. D.4. of the Settlement Terms states:

> To address any concern that the avoided-cost savings target could be met merely through an increase in per MWh and per MW-Year avoided energy costs and capacity costs rather than through energy and capacity savings, the per MWh and per MW–Year avoided energy costs and avoided capacity costs will be fixed at the outset of the plan for its four-year term. If the Company's combined avoided energy and capacity costs increase or decrease by more than 25%, due to changes in the per MWh and per MW-Year avoided energy or capacity costs, the programs may be re-analyzed…[Emphasis added.]

Page 6, Lines 11–16 of Duke witness Schultz's settlement testimony states:

> The avoided energy costs will be based on the avoided energy costs per the Company's Integrated Resource Plan, as described in the direct testimony of Company Witness Dr. Stevie.

Turning to Dr. Stevie's direct testimony filed April 4, 2008, Page 14, Lines 16–19:

> Comparing the energy costs from an IRP with the energy efficiency impacts to one without the energy efficiency impacts provides the best overall estimate of the avoided energy costs that also embodies any base load and intermediate avoided capacity costs not captured in the peaker capacity cost. This approach and analysis will be conducted annually, to ensure that the estimation and valuation of avoided energy costs is consistent with the Company's alternative supply side resources, and with forward expectations of avoided energy costs. [Emphasis added.]

Confidential Attorney General's Office Stevie Cross-Examination Exhibit No. 1 provides various specific dollar values for each year (2008 through 2027), under the heading "Avoided Energy Costs $/MWH."

Under the Settlement Agreement, will avoided energy costs, in fact, “be fixed,” that is, will the avoided cost/MWh be the same for the term of the Settlement Agreement? If the avoided energy cost is fixed, please state what the avoided energy cost is, under the Settlement Agreement, in dollars per MWh, and how it was calculated. If the avoided energy cost will, in fact, change during the term of the Settlement Agreement, please explain what is proposed and how the avoided energy cost will be calculated. Will the dollar values in Confidential Attorney General’s Office Stevie Cross-Examination Exhibit No. 1 be used? Please explain. Finally, exactly what pages of Dr. Stevie’s direct testimony and exhibits are relevant to the Settlement Agreement? That is, what exactly was Duke witness Schultz referencing in his settlement testimony?

19. Page 7, Lines 8-9 of Duke witness Schultz’s settlement testimony reference the “NPV of avoided lifetime capacity and energy costs…” Please explain how this will be calculated and provide relevant references to the record in this proceeding.

20. Consistent with Commission Rule R8-68(b)(5), the following sentence appears in Exhibit B of the Settlement Agreement, in Paragraph No. G.1. of the Settlement Terms:

> Net lost revenues shall also be net of any increases in revenues resulting from any activity by the Company’s public utility operations that cause a customer to increase demand or energy consumption, whether or not that activity has been approved pursuant to R8-68.

Please provide examples of activities that could cause revenue increases and result in reductions to net lost revenues? If revenues increase as a result of wholesale sales, would net lost revenues be reduced? What procedures will the Company utilize to identify and record any such revenue increases?

IT IS, THEREFORE, ORDERED that the information requested herein shall be filed not later than Monday, August 10, 2009.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of July, 2009.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Deputy Clerk

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