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) PUBLIC STAFF'S COMMENTS

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NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Robert P. Gruber, and pursuant to the Commission's February 26, 2009 *Order Resolving Certain Issues, Requesting Information on Unsettled Matters, and Allowing Proposed Rider to Become Effective Subject to Refund* and *Errata Order* (the *Orders)* in this docket and submits these comments.

Procedural History

1. On February 26, 2009, the Commission issued its *Orders* requesting that Duke Energy Carolinas, LLC (Duke) submit additional information conforming to several different scenarios put forth by the Commission. The Commission requested that Duke provide information and data showing its Modified Internal Rate of Return (MIRR), as well as other supplemental information, under eight scenarios specified by the Commission. The Commission further requested that all MIRR analyses be performed in a manner consistent with the methodology and assumptions utilized by Duke in preparing Confidential Schultz Supplemental Exhibit No. 1. The Commission directed the Public Staff to review Duke's supplemental information and file comments with the Commission and allowed other parties to file comments as well, not later than May 1, 2009. Duke was allowed until May 1, 2009, to file reply comments.

2. Duke filed the requested information on March 31, 2009. Duke included in its filing information conforming to an additional scenario, Scenario I, which was unrequested by the Commission. Duke described Scenario I as a four-year modified save-a-watt approach using avoided cost percentages developed specifically for Duke's North Carolina retail operations.

3. The Commission subsequently issued a series of Orders granting motions of various intervenors for extensions of time to file comments on Duke's March 31, 2009, filing. Comments are currently due no later than June 12, 2009.

4. On June 12, 2009, the Southern Environmental Law Center, the Environmental Defense Fund, the Natural Resources Defense Council, and the Southern Alliance for Clean Energy (collectively, Environmental Intervenors), the Public Staff, and Duke filed an Agreement and Joint Stipulation of Settlement (Settlement Agreement) in this docket.

5. Notwithstanding the Settlement Agreement, the Public Staff submits the following comments regarding certain assumptions contained in Duke's March 31, 2009 filing and the MIRR calculations.

Net Lost Revenues

6. For purposes of calculating all of the MIRRs except those presented in Scenario A, Duke assumed that, although in all of the scenarios net lost revenue recovery for measures installed in each vintage year is limited to the first 36 months of net lost revenues experienced, net lost revenues are assumed to be incurred throughout the life of the program. The Public Staff believes that this assumption is inconsistent with the premise underlying the limitation of net lost revenue recovery to 36 months, namely, that revenues lost as a result of energy efficiency (EE) or demand-side management (DSM) programs are offset over time through other processes.

7. The Public Staff does not generally oppose the recovery of net lost revenues resulting from an EE or DSM program. Such recovery can help to make a company "whole" after program implementation. Recovery of net lost revenues in the Cost Recovery and Incentive Mechanism agreed to by the Public Staff, Progress Energy Carolinas, Inc. and Wal-Mart Stores East L.P. in Docket No. E-2, Sub 931, as well as in the cost recovery and incentive mechanism recommended in this docket by Public Staff witness Spellman, however, reflects the Public Staff's belief that net revenues that are "lost" as a result of an EE or DSM measure do not continue in perpetuity. Instead, net revenues that may be "lost" are offset over time by gains in revenues for various reasons, such as customer growth or other increases in demand, so that the negative impact of the measure on the utility's reasonable return on rate base is eliminated. In other words, the company is eventually made "whole" by revenues increasing in other areas, offsetting the loss of revenues from an EE or DSM program. When that occurs, the company is "whole" and the need to recover net lost revenues no longer exists.

Truncation of Programs

8. For purposes of calculating the MIRRs, Duke has ignored any benefits, revenues, or costs after year four of the lives of its new DSM programs (Power Manager and Power Share). This "truncation" is a change from that presented in the original Schultz Supplemental Exhibit No. 1, and significantly lowers the earnings associated with these programs. The Public Staff has believed that the overall purpose of the analyses presented in this docket has been to examine the impacts of the Company's "first bundle" of DSM and EE programs, which have implementation costs incurred during the first four years (and in the case of DSM programs perhaps longer), and benefits stretching out over a longer period of time. For example, the benefits associated with the Company's first bundle of EE programs, for which program costs are incurred over four years, extend out for periods of between eight and eighteen years. These benefits are still taken into account in the calculation of revenues under

the new approach taken by Duke in March 31, 2009, filing, because they result from the implementation efforts undertaken during the first four years. The Public Staff believes that the implementation efforts made and program costs incurred during the first four years of Power Manager and Power Share will likewise yield benefits after year four of the programs, even if annual program costs still have to be paid to the participants. It is difficult to believe that the participants who sign up for these programs during years one through four will simply cease to participate in the programs at the end of year four. Thus, the savings from a customer enrolled in Power Manager or Power Share will not vanish at the conclusion of the four-year period. The Public Staff believes that truncating the programs at four years in these calculations artificially lowers the MIRR percentages.

Use of a Constant Time Period

9. For purposes of calculating the MIRRs in Schultz Supplemental Exhibit 1, Duke assumed a period of 25 years. In its March 31, 2009, filing, Duke changed this assumption to 18 years. Duke explained that 18 years is a better time period because it represents the number of years for which program data was provided in Confidential Stevie Exhibit No. 4 that was filed as part of Duke's direct testimony.

10. The Public Staff agrees that a period of 18 years is appropriate for calculating the MIRRs of the aggregated programs, because it reasonably represents the length of the life of the first bundle of the Company's aggregate portfolio. In measuring the MIRR for any individual program or group of programs with a shorter life, however, the Public Staff believes that the shorter life should be used, to more accurately represent the life of the first bundle of the program or group of programs.

Treatment of Net Lost Revenues as Cash Outflows

11. In the MIRR calculations filed with its March 31, 2009 filing, Duke has treated the incurrence of net lost revenues as a cash outflow. While the Public Staff believes that this treatment could be appropriate under certain circumstances, in other cases, particularly those in which dollar-for-dollar net lost revenue recovery is allowed, it is more appropriate to treat net lost revenues as a reduction in cash inflow rather than as a cash outflow.

Further Comments

12. In light of the Settlement Agreement, the Public Staff has chosen not to file a version of the MIRR calculations consistent with its comments on Duke's March 31, 2009, filing. Rather, the Public Staff reaffirms the concerns expressed in the Affidavit of Michael C. Maness filed in this docket on August 25, 2008, regarding the use MIRR calculations in analyzing the potential profitability of a cost recovery and incentive mechanism such as the Save-a-Watt proposal.

Respectfully submitted, this the 12th day of June, 2009.

PUBLIC STAFF
Robert P. Gruber
Executive Director

Antoinette R. Wike
Chief Counsel

Kendrick C. Fentress
Kendrick C. Fentress
Staff Attorney

430 North Salisbury Street
4326 Mail Service Center
Raleigh, North Carolina 27699-4326
Telephone: (919) 733-6110

CERTIFICATE OF SERVICE

I do hereby certify I have this day served a copy of the foregoing Public Staff's Reply Comments on each of the parties of record in this proceeding, or their attorneys of record, in accordance with NCUC Rule R1-39, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 12^{th} day of June, 2009.

Kendrick C. Fentress
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