

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**DOCKET NO. E-7, SUB 1146****DOCKET NO. E-7, SUB 819****DOCKET NO. E-7, SUB 1152****DOCKET NO. E-7, SUB 1110****DOCKET NO. E-7, SUB 1146**)

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In the Matter of)**Application of Duke Energy Carolinas,**)**LLC, for Adjustment of Rates and**)**Charges Applicable to Electric Utility**)**Service in North Carolina**)

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DOCKET NO. E-7, SUB 819)

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In the Matter of)**Amended Application by Duke Energy**)**Carolinas, LLC, for Approval of**)**Decision to Incur Nuclear Generation**)**Project Development Costs**)

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DOCKET NO. E-2, SUB 1152)

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In the Matter of)**Petition of Duke Energy Carolinas,**)**LLC, for an Order Approving a Job**)**Retention Rider**)

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DOCKET NO. E-7, SUB 1110)

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In the Matter of)**Joint Application by Duke Energy**)**Progress, LLC, and Duke Energy**)**Carolinas, LLC, for Accounting Order**)**to Defer Environmental Compliance**)**Cost**)**NCSEA'S NOTICE OF
APPEAL**

NCSEA’S NOTICE OF APPEAL

NOW COMES the North Carolina Sustainable Energy Association (“NCSEA”), by and through the undersigned counsel, pursuant to N.C. Gen. Stat. § 7A-29(b), § 62-90 *et al.*, and Rule 18 of the North Carolina Rules of Appellate Procedure, and hereby gives Notice of Appeal to the North Carolina Supreme Court from the 22 June 2018 Order Accepting Stipulation, Deciding Contested Issues, and Requiring Revenue Reduction, as clarified by the Commission’s 2 July 2018 Order on Motions for Clarification, (together the “Order”) issued by the North Carolina Utilities Commission (the “Commission”) in these proceedings.

The primary focus of this appeal is the Commission’s decision that Duke Energy Carolinas, LLC (“DEC”) shall increase the monthly Basic Facilities Charge (the “BFC”), charged to customers falling under a residential rate class schedule to \$14.00.

Pursuant to N.C. Gen. Stat. § 62-90(a), NCSEA identifies the exceptions and the grounds on which they consider the decision to be unlawful, unjust, unreasonable, or unwarranted because it is in excess of the Commission’s statutory authority; affected by errors of law; unsupported by competent, material, and substantial evidence in view of the entire record as submitted; and arbitrary or capricious.

EXCEPTION NO. 1:

The Commission’s findings and conclusions that DEC shall increase the monthly basic facilities charges (“BFC”) for the residential rate class (Schedules RS, RT, RE, ES, and ESA) to \$14.00 and that such an increase is “just and reasonable” are affected by errors of law; unsupported by competent, material, and substantial evidence in view of the entire record as submitted; in excess of statutory authority; and arbitrary or capricious

in view of the following (Order pp. 18-19, Findings of Fact No. 30 & 36, Evidence and Conclusions pp. 88-101 & 108-113):

- The Commission failed to adequately set forth its reasoning and conclusions, supported by substantial evidence on the record, that the increase in BFC to \$14.00 for residential rate class schedules is just and reasonable considering all the evidence presented; and
- The Commission failed to adequately set forth its reasoning and conclusions, supported by substantial evidence on the record, that increasing the BFC for residential customers while leaving the BFC for the remaining rate class schedules unchanged is just and reasonable or not unjustly discriminatory considering all the evidence presented (Order pp. 18-19, Findings of Fact No. 30 & 36, Evidence and Conclusions pp. 88-101 & 108-113); and
- DEC failed to meet its burden of proof to show any increase in the BFC was appropriate. The only purported justification for an increase in the BFC was not supported by legal precedent or substantial evidence and, therefore, the Commission erred in finding, concluding and ordering that the BFC shall be increased; and
- The Commission failed to adequately set forth its reasoning and conclusions, supported by substantial evidence on the record, that the methodology it used to determine an increase in the BFC is just and reasonable in light of all the evidence presented; and

- The Commission's decision to increase the BFC violates N.C. Gen. Stat. § 62-155 as it fails encourage the conservation and reduction of demand in electricity as such an increase in a fixed charge and transition shifting costs away from variable and volumetric charges reduces customer opportunity and economic incentive to adopt energy efficiency or other measures; and
- The finding and conclusion to increase the BFC is not reasonable or prudent, gives no consideration for conservation and efficiency policy set forth in N.C. Gen. Stat. § 62-155, and is unjustly discriminatory as prohibited by N.C. Gen. Stat. § 62-2(a)(4) and § 62-140.

CONCLUSION

For the reasons stated above, the Commission's Order is in excess of the Commission's statutory authority; affected by errors of law; unsupported by competent, material, and substantial evidence in view of the entire record as submitted; and arbitrary or capricious.

Respectfully submitted, this the 23rd day of July, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing Joint Notice of Appeal by hand delivery, first class mail deposited in the U.S. mail, postage pre-paid, or by email transmission with the party's consent.

This the 23rd day of July, 2018.

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