

1 PLACE: Dobbs Building, Raleigh, North Carolina

2 DATE: Monday, December 11, 2023

3 TIME: 10:33 a.m. - 11:33 a.m.

4 DOCKET: ER-144, Subs 0 - 4

5 BEFORE: Chair Charlotte A. Mitchell, Presiding

6 Commissioner Jeffrey A. Hughes

7 Commissioner Floyd B. McKissick, Jr.

8 Commissioner Karen M. Kemerait

9 Commissioner Kimberly W. Duffley

10 Commissioner William M. Brawley

11 Commissioner Tommy Tucker

12

13 IN THE MATTER OF:

14 Charlotte Leased Housing Associates II, LLLP,

15 Application for Authority to Resell Electric Service

16 Pursuant to N.C.G.S. § 62-110(h) at 7800 Creekridge

17 Road, Charlotte, North Carolina 28212

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NORTH CAROLINA UTILITIES COMMISSION

1 A P P E A R A N C E S:

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NORTH CAROLINA UTILITIES COMMISSION

## P R O C E E D I N G S

CHAIR MITCHELL: Good morning. Let's go on the record, please. I'm Charlotte Mitchell, Chair of the Utilities Commission, and with me this morning are Commissioners Duffley, Hughes, McKissick, Kemerait, Brawley, and Tucker.

I now call for Oral Argument Docket ER-144, Sub 0 through 4, which is in the matter of Charlotte Leased Housing Associates II, LLLP, Application for Authority to Resell Electric Service pursuant to North Carolina General Statute § 62-110(h), located at 7800 Creekridge Road in Charlotte, North Carolina 28212.

In compliance with the State Government Ethics Act, I remind all members of the Commission of our duty to avoid conflicts of interest and inquire at this time as to whether any member has a known conflict with respect to the matters coming before us this morning.

(No response.)

CHAIR MITCHELL: The record will reflect that no conflicts have been identified, so we will proceed.

On March 3, 2023, Charlotte Leased Housing Associates III, LLLP, which I will refer to as the

NORTH CAROLINA UTILITIES COMMISSION

1 Applicant, filed Applications with the Commission in  
2 Docket ER-144, Sub 0,1,2,3, and 4, for Certificates of  
3 Authority to Resell Electric Service at the complex  
4 known as Creekridge on the Park, located at 7800  
5 Creekridge Road in Charlotte, North Carolina.

6 On May 1, 2023, the Public Staff filed  
7 correspondence to the Applicant in each docket  
8 outlining the deficiencies in each Application and  
9 requesting the Applicant to file a motion to  
10 consolidate the five dockets into an single docket.

11 On May 2nd, in each docket in response to  
12 the Public Staff's May 1st filings, the Commission  
13 issued an Order Finding the Application Incomplete,  
14 and they're working now with the Public Staff to  
15 correct the deficiencies.

16 On July 11, 2023, the Applicant filed in the  
17 Sub 0 Docket only an Application for a Waiver in which  
18 it requested the Commission grant it a waiver from the  
19 prohibition on master metering set forth in North  
20 Carolina § 143-151.42(a), and authorized the use of  
21 master metering in its planned income-qualified  
22 multifamily residential property consisting of 150  
23 residential apartments.

24 On September 14, 2023, the Applicant filed

1 in each separate docket a request to consolidate each  
2 docket in the Docket ER-144, Sub 0.

3 On September 20th, the Applicant filed in  
4 Docket ER-144, Sub 0, responses to the Public Staff's  
5 deficiency letter of May 1st.

6 On November 17, 2023, the Public Staff filed  
7 a second deficiency letter in each separate docket  
8 seeking further information from the Applicant. The  
9 Public Staff's filing noted that the Public Staff did  
10 not object to the Applicant's request to consolidate  
11 the dockets.

12 On November 27, 2023, the Applicant filed a  
13 Motion for Oral Argument requesting that the  
14 Commission issue an Order scheduling an Oral Argument  
15 to permit the Applicant an opportunity to seek  
16 Commission approval to use master metering in  
17 Creekridge Road Apartment.

18 On November 28, 2023, the Commission issued  
19 an Order consolidating the five dockets in ER-144, Sub  
20 0, and scheduling an oral argument to take place on  
21 this date and at this time in Raleigh.

22 The Public Staff, which represents the Using  
23 and Consuming Public, is a party to this proceeding  
24 pursuant to North Carolina General Statute

1 § 62-15, Sub (D).

2 I now call upon counsel for the parties to  
3 announce their appearances for the record. We'll  
4 begin with the Applicant.

5 MR. KAYLOR: Madam Chair, members of the  
6 Commission, Robert Kaylor, appearing on behalf of  
7 Charlotte Leased Housing Associates.

8 CHAIR MITCHELL: Good morning, Mr. Kaylor.

9 MR. CREECH: Chair Mitchell, William Creech,  
10 C. Creech, with the Public Staff, joined by William  
11 Freeman on behalf of the Using and Consuming Public.  
12 Thank you.

13 CHAIR MITCHELL: All right. Good morning,  
14 Mr. Creech and Mr. Freeman. Before we get started,  
15 any preliminary matters?

16 MR. KAYLOR: Not that I'm aware of.

17 CHAIR MITCHELL: All right. Mr. Kaylor, you  
18 may -- we'll begin with you, so you may proceed.

19 MR. KAYLOR: Thank you. This is pretty  
20 straightforward, and I first of all thank the  
21 Commission for allowing us to have an oral argument  
22 and try to present our case to allow us to use master  
23 metering for this complex.

24 North Carolina is maybe one of only a couple

1 states that has a prohibition against master meters.  
2 I have checked with Duke Energy, who I represent when  
3 I'm not representing this case, obviously, they have  
4 no objection to using a master meter at this complex  
5 because if a master meter is used and we're allowed to  
6 do that and put in our own submeters, then Duke would  
7 not have to have separate meters in each apartment.  
8 Therefore, they would get one bill, and they would be  
9 compensated for all of the electricity that goes to  
10 that master meter.

11           The statute doesn't seem to help us very  
12 much. It does have some exceptions to allow master  
13 meters, and I think the Commission -- obviously, we  
14 think there's enough room in there for you to stretch  
15 it a little bit and to allow us to use master meters  
16 here because, you know, there are exceptions that are  
17 exceptions for procedures -- or projects that have  
18 energy efficiency-type central units. Obviously, they  
19 could use a master meter. There's also an exception  
20 for homes for the elderly. So we are actually seeking  
21 an exception for affordable housing. This unit--  
22 these units, 150, will be for affordable housing. And  
23 the way it works for them to make this available for  
24 those low-income affordable housing is that with a

1 master meter and their own submeters, they can charge  
2 a different rate to the -- each tenant in the  
3 apartment. And the rate they would charge would be  
4 under Duke's general service. And you would think  
5 that might be more expensive, but it's actually less.

6 So by using Duke's general service rate for  
7 each tenant, each apartment, they actually save  
8 anywhere from \$13 to \$15 for a one-bedroom apartment  
9 and up to \$30 for a two or three-bedroom apartment.  
10 This goes into a combined lease that they can charge  
11 for the apartment under rules set forth by the U.S  
12 Housing and Urban Development. So they have to be  
13 very careful in terms of how much they charge for each  
14 unit for it to qualify as an affordable housing.

15 So we believe that allowing us to pass that  
16 lower cost onto the individual tenants makes it  
17 feasible to have this affordable housing. We do  
18 believe that as many as 25 percent of the tenants  
19 would qualify as elderly, and we also believe that  
20 it's in the best interest to allow this to move  
21 forward. If we can't move forward now, we would  
22 attempt to try to get the statute changed, but the  
23 general assembly is not in session. They won't come  
24 back in until May. We don't think there's any



1 resistance to having a change that would allow an  
2 exception for affordable housing, but we think that if  
3 we had to wait until May, it throws our construction  
4 cycle off. It throws everything that we do off almost  
5 for over a year.

6           So we're asking the Commission to, I guess,  
7 bend the rules a little bit and to say it's in the  
8 best interest for these -- these low-income residents  
9 to be allowed -- for us to be allowed to use a master  
10 meter to submeter each one of the apartments and to  
11 pass that along.

12           In addition to that, we do have an energy  
13 advisor that works with this company, and they will be  
14 monitoring the bills each month to make sure that each  
15 tenant in those apartments is being efficient with  
16 regards to the use of electricity. And they will  
17 provide advice to them, you know, if they're being  
18 inefficient. So they'll be recording those values  
19 each month.

20           You might ask, well, why didn't we go ahead  
21 and just put Duke meters in and let Duke do the  
22 metering until we could get an exception for the  
23 master meter? That would be a tremendous expense for  
24 Duke to come in and put the meters then have to pull

1     them out, then for us to come in and put the meters.  
2     And so, it's much more economical if we're allowed to  
3     use the submeters, use the master meter statute and  
4     move forward.

5             So that basically is our argument. It's  
6     pretty straightforward. We think that there's no  
7     other party that's harmed by this. There's no one  
8     that's opposed to it. I've been working with the  
9     Public Staff on this for several months. They've been  
10    very, very helpful in working with us to see if we  
11    could solve this problem. There's a few things we  
12    need to do with regard to the CPCN Application, which  
13    we've answered, and the Public Staff will review that  
14    then will make that filing. But we're actually really  
15    not a reseller. We're actually -- even though we  
16    filed under that statute, which would have to -- the  
17    bill that we pass along to the -- to the individual  
18    tenant. It's a straight passthrough on Duke rate.  
19    They will not be reselling that and charging anything  
20    higher. So they'll essentially be charging a lower  
21    rate. So I don't think there's any problem with --  
22    with Duke putting in the master meter and the billing  
23    taking place on that general statute towns rather than  
24    a residential statute, which would be higher. I would

1 be glad to try and answer any questions you might have  
2 with regard with how it's set up and any other thing  
3 you might have in terms of how we would bill these  
4 customers.

5 CHAIR MITCHELL: All right. Mr. Kaylor, I  
6 do thank you for your argument. I do have a question  
7 for you because my recollection in reviewing the  
8 record is that the Company, the Applicant, did propose  
9 to charge an administrative fee up to 3.75?

10 MR. KAYLOR: Yes, that's under the resellers  
11 statute. That's correct.

12 CHAIR MITCHELL: So is that -- I'm trying to  
13 understand. Does the -- does your client want to  
14 proceed as a reseller pursuant to the statutory  
15 authority in 62 --

16 MR. KAYLOR: I think we would have to  
17 proceed under that statute and it would be limited to  
18 that 3.75 and we would be bound by all the other rules  
19 that apply to a reseller, obviously.

20 CHAIR MITCHELL: So your comments were not  
21 actually a reseller. You're just saying, sort of --

22 MR. KAYLOR: Under the statute, we have to  
23 apply under those conditions, yes.

24 CHAIR MITCHELL: Okay. Thank you. That

1 helps me understand, sort of, the specific ask here.

2           You also mentioned -- I understand the --  
3 the --rate schedule that your client would be able to  
4 use and the mechanism that you all are going to use to  
5 pass cost on to the ultimate customer here, and you  
6 indicated specific savings. I think you said \$15 a  
7 month for a one-bedroom, \$30 a month for two-bedroom,  
8 sort of, approximately.

9           MR. KAYLOR: Yes. Yes.

10           CHAIR MITCHELL: Can you confirm for me that  
11 the savings that you would achieve here through this  
12 proposed arrangement are actually going to be passed  
13 on to the customers I don't --

14           MR. KAYLOR: Yes --

15           CHAIR MITCHELL: Hang on. Let me finish my  
16 question. Because I don't know enough about the way  
17 these -- the way a rental arrangement can be  
18 structured. They're not going to increase the rent  
19 because they are able to decrease the electric bill.  
20 That's ultimately what I'm getting at.

21           MR. KAYLOR: Yes, that's correct. And my  
22 client can confirm --

23           CHAIR MITCHELL: Okay.

24           MR. KAYLOR: -- that under the rules set

1     forth by HUD, you have to show that the total rent is  
2     at a certain value, and you cannot -- we would not be  
3     able to increase the rent to make up for the  
4     difference.

5             CHAIR MITCHELL:    Okay.

6             MR. KAYLOR:    So we pass both of those along  
7     to these tenants, and we're bound by those rules set  
8     forth by HUD in terms of affordable housing.

9             CHAIR MITCHELL:    So the savings that you  
10    would achieve through using a master meter taking at  
11    the general service rate are actually going to go to  
12    your customers -- to your -- to the tenants, bottom  
13    line here?

14            MR. KAYLOR:    Absolutely.   We guarantee that.

15            CHAIR MITCHELL:   Let me see if there are  
16    other questions from Commissioners.

17            Commissioner Duffley, go ahead.

18            COMMISSIONER DUFFLEY:   So how -- how is that  
19    lease structured then?   Is it like an electric  
20    reseller where you have the rental portion and then  
21    you have the -- you mentioned a passthrough, you're  
22    simply passing through the lower rate.   So will they  
23    receive an electric bill as well, or is it all within  
24    the one rent.

1 MR. KAYLOR: I believe they receive one bill  
2 each month, which is a bundled rate, which shows the  
3 rental and the electric usage for that unit, and it's  
4 monitored for that unit for each tenant, yes.

5 COMMISSIONER DUFFLEY: So when a tenant uses  
6 less electricity one month -- like say, one month it's  
7 a certain amount and then the next month it's a lower  
8 amount, they will receive a lower rent?

9 MR. KAYLOR: That's correct, yes.

10 COMMISSIONER DUFFLEY: Okay. Thank you.

11 MR. KAYLOR: And we have our own submetering  
12 that we would put in for each apartment to measure  
13 that. And they only be billed for the electricity for  
14 their apartment. Not for any common usage or anything  
15 else. Each apartment will be built just for their  
16 usage.

17 COMMISSIONER DUFFLEY: Okay. Thank you.

18 CHAIR MITCHELL: Go ahead.

19 COMMISSIONER MCKISSICK: Mr. Kaylor, I guess  
20 I go back to the statute.

21 MR. KAYLOR: Right.

22 COMMISSIONER MCKISSICK: Now, statutorily,  
23 when I read through that statute, there is no  
24 exception today for affordable housing; is that

1 correct?

2 MR. KAYLOR: That's correct.

3 COMMISSIONER MCKISSICK: So are you aware of  
4 any circumstances under which this Commission has  
5 previously established a precedent similar or  
6 comparable to what you're asking us to do today?  
7 Because I have to look at what we are empowered to do,  
8 not what I might like to do.

9 MR. KAYLOR: I understand that. And I'm not  
10 aware of any. We did get a -- we did have a change to  
11 the statute in '21, which I was involved in. Having  
12 to do with you had a central system, and that was a  
13 system that would bring a lower -- more efficient to  
14 each apartment based on a system that could be  
15 installed on the roof. So that was a change there  
16 made in 2021. But you're correct. There's nothing  
17 straight on point that says for an affordable housing,  
18 you can have an exception. You have exceptions in the  
19 statute.

20 COMMISSIONER MCKISSICK: Right.

21 MR. KAYLOR: We're reclaiming that you could  
22 say that if they are going to be elderly in these  
23 units -- and we believe up to 25 percent -- then that  
24 comes close to allowing you to base your Order on that

1 or that proposal that we make to you.

2 COMMISSIONER MCKISSICK: On that premise?

3 MR. KAYLOR: On that premise, yes.

4 COMMISSIONER MCKISSICK: Even though  
5 75 percent would likely not be elderly?

6 MR. KAYLOR: And it could be that there  
7 could be years where you have more than 25 percent or  
8 less, depending on the area, where it's located, and  
9 the number of people that are renting those type  
10 apartments.

11 COMMISSIONER MCKISSICK: Now, how long has  
12 this project been pending?

13 MR. KAYLOR: Well --

14 COMMISSIONER MCKISSICK: And, when I say  
15 pending, has it been planned and, you know, moving  
16 forward?

17 MR. HODGES: We've been working with the  
18 Commission since 2023, but this has been in the works  
19 probably for two years prior to that.

20 COMMISSIONER MCKISSICK: Two years.

21 MR. KAYLOR: This is Matt Hodges.

22 COMMISSIONER MCKISSICK: So you've been  
23 working with the Commission for 2023, but for two  
24 years prior to that, the project is being worked on,



1     approvals are being a obtained by other government  
2     authorities?

3             MR. HODGES:   Right.

4             MR. KAYLOR:   See I think what happened here  
5     is they looked at maybe some Orders from the  
6     Commission having to do with this type of master  
7     meter, and there was an exception, which I indicated  
8     was based -- it was an Order based on the change to  
9     the statute.  And I think they thought that that would  
10    apply, you know, there is an exception to the master  
11    meter.  And, so once they got involved and the Public  
12    Staff pointed out the master meter, they saw that I  
13    had been involved in the previous docket, so they  
14    contacted me, and that's how I became involved.

15            COMMISSIONER MCKISSICK:  Got it.  I  
16    understand.  I guess I would have reasonably  
17    anticipated it.  For two years, they had a chance to  
18    go to the General Assembly and try to -- and  
19    theoretically get this addressed.

20            MR. KAYLOR:   Yes.  And I tried to get to the  
21    General Assembly this year.  I thought I was going to  
22    have a chance to get it in the Technical Corrections  
23    Bill, but it was passed in one chamber and not in the  
24    other.  And there is a change that would work for

1     them, and I've worked with the Public Staff and even  
2     with Duke Energy to make sure that language would be  
3     acceptable. I think, I don't think it -- well, I  
4     can't say what the General Assembly will do, but I  
5     think there would be a reasonable chance that there  
6     could be a change, but that couldn't take place until  
7     May.

8                 So if we allowed to proceed now, we can be a  
9     year ahead of the schedule in terms of constructing  
10    this and bringing more savings to these low-income.

11                COMMISSIONER MCKISSICK: Thank you.

12                CHAIR MITCHELL: All right. Commissioner  
13    Kemerait.

14                COMMISSIONER KEMERAIT: Mr. Kaylor, I'd like  
15    for you to elaborate on one point that you made in  
16    your motion.

17                MR. KAYLOR: Okay.

18                COMMISSIONER KEMERAIT: First -- and I think  
19    in your motion you stated that, what you're requesting  
20    here meets the spirit and intent of 143-151.42?

21                MR. KAYLOR: Correct. Yes.

22                COMMISSIONER KEMERAIT: And by invoicing and  
23    billing for just the actual usage for each tenant, can  
24    you just elaborate a little bit more about how that

1 would promote energy conservation, because I assume  
2 your argument is, is that the tenants would have  
3 motivation to keep their bills lower so they would  
4 have motivation to reduce their energy or their  
5 electricity usage; can you elaborate?

6 MR. KAYLOR: Yes. And exactly. And plus,  
7 we have a utility manager that monitors those. And  
8 that manager would be looking at those bills, and if  
9 they were to see that someone that is out of -- out of  
10 line in terms of bill much higher, then they would  
11 consult with them and try to show them ways that they  
12 could conserve on their energy in their apartment. So  
13 yes, we would be involved in that on a monthly basis.

14 COMMISSIONER KEMERAIT: And that was my  
15 second question. I wanted you to elaborate a little  
16 bit more about that utility manager that is going to  
17 be providing advice and information. If you can --  
18 I'd like to hear some more details about --

19 MR. KAYLOR: Can I ask Mr. Carol to speak?  
20 He's the manager.

21 Can you elaborate a little more about that,  
22 James?

23 MR. CARROLL: Sure, yes.

24 MR. KAYLOR: This is James Carroll.

1 MR. CARROLL: James Carroll, Engineer with  
2 Plummer Associates. We work with Dominion on many  
3 properties of their portfolio, and we work directly  
4 with the third-party billing company that Dominion  
5 uses on several of their projects for this very  
6 purpose.

7 What happens is, with the master meter --  
8 commercial master meter, this third-party billing  
9 company will receive that one bill, then they have all  
10 the internal data from the submeters that were  
11 installed in each apartment building and will bill  
12 appropriately for the actual usage for each tenant.  
13 So that -- that third-party biller sees both the data  
14 from the utility company master meter and all the  
15 individual tenants, and there's a one-to-one  
16 correlation there. And, as mentioned earlier, none of  
17 the common area usage or site usage gets passed on to  
18 tenants. The tenants are only charged for exactly  
19 what their individual meter says.

20 COMMISSIONER KEMERAIT: And if you notice a  
21 tenant that has higher energy or electricity usage,  
22 what type of information or advice do you -- do you  
23 provide to them? What are you envisioning to help  
24 those tenants reduce their energy usage?

1           MR. CARROLL: Sure. And because the -- it's  
2 basically one building and every unit is nearly  
3 identical in terms of what was installed by the  
4 developer it -- there's -- there's a lot of  
5 possibilities for -- if the party is interested to --  
6 there's some basic energy efficiency things that can  
7 be checked -- just whether it's allowing somebody to  
8 come into their unit and inspect with the owner's --  
9 or the tenant's permission. I know -- there's a lot  
10 of obvious things that can happen. Like people leave  
11 windows open when they shouldn't. And there's a lot  
12 of -- I can't think of any specific things off the top  
13 of my head, but there are -- it's correlations with  
14 how many tenants are actually in the unit, whether  
15 it's one person or a whole family. Maybe there's too  
16 many people in there and there's excessive energy  
17 usage. But having that service is something that is  
18 available, whereas if the utility company provided the  
19 meter, serviced the unit, the -- both the building  
20 owner or the third-party billing energy manager  
21 wouldn't have access to that data and therefore  
22 wouldn't know, wouldn't be able to help in any way.  
23 So it's -- at least provides an insight into what's  
24 happening, and I could come up with some more specific

1 details of what can be recommended to tenants. I'm  
2 drawing a blank at the moment.

3 COMMISSIONER KEMERAIT: And two final  
4 questions: First, of all while we're talking about  
5 that, will this utility manager be proactive in  
6 reaching out to the tenants and not waiting for them,  
7 because I think tenants may not understand services  
8 that would be available. Will they -- will you be  
9 proactive in reaching out?

10 MR. CARROLL: Yes. And this particular  
11 third-party manager deals with -- I don't know the  
12 number, but several properties that Dominion owns and  
13 operates. So they do have -- they do have procedures  
14 in place to -- in other states for example, as well.  
15 That's just part of the services they provide, is --  
16 is both billing and measuring and helping tenants as  
17 needed.

18 COMMISSIONER KEMERAIT: And then, following  
19 up about the submeters that are going to be installed;  
20 will they provide information in addition to just the  
21 actual energy usage? Like for example, are they  
22 sophisticated enough or do they have the technical  
23 ability to determine what appliances are using the  
24 energy? What is the level of technical

1     sophistication?

2                 MR. CARROLL: In general, what typically  
3 happens is, it's just a -- it just replaces the  
4 utility provided meter. So it's just one stream in,  
5 and it doesn't -- it doesn't aggregate down to the  
6 individual circuit level. So it would just be the  
7 apartment as a whole.

8                 There are ways to get more advanced and more  
9 complicated, but just the nature of it being  
10 affordable housing and budgets are already tight as it  
11 is -- it is a great -- good enough step just to have  
12 one single meter for the whole apartment.

13                COMMISSIONER KEMERAIT: Okay. Thank you.

14                CHAIR MITCHELL: All right. Commissioner  
15 Tucker.

16                COMMISSIONER TUCKER: Thank you, Madam  
17 Chair.

18                Couple of questions. Mr. Kaylor, you said  
19 that a one-bedroom would save roughly 13 to \$15 a  
20 month, but the net would be about \$9 a month after  
21 they paid the administration fee; is that correct?

22                MR. KAYLOR: That would be correct, yes.

23                COMMISSIONER TUCKER: All right. Is the  
24 administration fee capped?

1 MR. KAYLOR: Yes.

2 COMMISSIONER TUCKER: So that won't ever go  
3 up?

4 MR. KAYLOR: That will never -- it's capped  
5 by the rules of the Commission, actually. It's a  
6 Commission rule that \$3.75. Okay.

7 COMMISSIONER TUCKER: Okay. So the 3.75 can  
8 never go up. And then, I guess, the rate that the  
9 apartment complex would receive from Duke would be a  
10 commercial rate?

11 MR. KAYLOR: Yes. A general service rate.

12 COMMISSIONER TUCKER: Is that correct?

13 MR. KAYLOR: That's correct.

14 COMMISSIONER TUCKER: That's where the  
15 lesser cost comes in --

16 MR. KAYLOR: That's where the lesser cost  
17 comes --

18 COMMISSIONER TUCKER: -- to give you the  
19 flexibility that's there. Those bills, they are the  
20 rent, and then the electric use is broken out so the  
21 tenant knows about how much they're using in way of  
22 power, right; is that correct?

23 MR. CARROLL: I believe so.

24 MR. KAYLOR: Yes, we think that's correct.



1           COMMISSIONER TUCKER: How would this manager  
2 you say on site is going to help with their  
3 over-energy usage or try to show them ways? How are  
4 they going to help if it's not carved out from their  
5 bill?

6           MR. KAYLOR: The manager knows how much  
7 electricity is being used for each apartment, yes.

8           COMMISSIONER TUCKER: Okay. So -- so let me  
9 ask you this: Who's responsible for the electric bill  
10 when the tenant is unable to pay it?

11          MR. KAYLOR: If the tenant is unable to pay,  
12 it would be process I assume where at some point in  
13 time just like the rent and everything else -- oh.  
14 We'd be responsible.

15          MR. HODGES: The owner would be.

16          MR. KAYLOR: The owner's responsible for  
17 the -- we pay the master to begin with.

18          COMMISSIONER TUCKER: Right.

19          MR. KAYLOR: So Duke is paid upfront. If  
20 the tenant doesn't pay, then that's a loss to the  
21 owner so.

22          COMMISSIONER TUCKER: And, I guess, they'd  
23 be evicted, correct?

24          MR. KAYLOR: Well, they would go through a

1 process --

2 COMMISSIONER TUCKER: Right. Yeah. Process  
3 of eviction.

4 MR. KAYLOR: Yeah.

5 COMMISSIONER TUCKER: Okay. Thank you, sir.

6 MR. KAYLOR: Yes, sir.

7 CHAIR MITCHELL: All right. Commissioner  
8 Hughes has a question, and then I'll come back to  
9 Duffley, and then McKissick.

10 COMMISSIONER HUGHES: Just a quick question.  
11 How will water be metered? Just curious.

12 MR. HODGES: I think -- you can go ahead.

13 MR. CARROLL: I know I believe it's similar  
14 where water submeters will be installed, and this --  
15 basically, this same conversation applies to the water  
16 as well. So third-party billing and individual  
17 measuring of --

18 COMMISSIONER HUGHES: If that's not the  
19 case, could you let us know?

20 MR. HODGES: Yeah. That is the case.

21 MR. CARROLL: It is the case.

22 MR. KAYLOR: It is the case.

23 COMMISSIONER DUFFLEY: So we are talking  
24 about the rules. So hypothetically, if this

1 Commission approved your Application or motion,  
2 you're -- you're suggesting that you follow 62-110 J,  
3 which states that: The Applicant would be subject to  
4 62-110H subdivisions two through eight. And are you  
5 also in agreement that the Commission rules that  
6 correspond with Subsection H, 2 through 8, would apply  
7 to your client?

8 MR. KAYLOR: Yes. Yes, we are.

9 COMMISSIONER DUFFLEY: Okay. And then, you  
10 mentioned this third-party manager, the utility  
11 manager and I heard that it was third-party. So is  
12 this manager is not going to be on-site; is that  
13 correct?

14 MR. HODGES: That's correct. It's --  
15 they're not on site.

16 COMMISSIONER DUFFLEY: Okay. And without  
17 revealing confidential information, is the name of  
18 this third-party manager confidential?

19 MR. HODGES: No, I don't think. It's  
20 Sagiliti.

21 COMMISSIONER DUFFLEY: Sagiliti. How do you  
22 spell that?

23 MR. HODGES: Good question. I think it's --  
24 let me find it quick.

1 MR. CARROLL: S-A-G-I-L-I-T-I.

2 COMMISSIONER DUFFLEY: Okay. And then, with  
3 respect -- thank you for that -- with respect to the  
4 renting of multiple bedrooms like the two-to  
5 three-bedroom apartment, are you -- you're not -- it's  
6 just the submeters to the apartment, so you're not  
7 renting by the bedroom for those two or three?

8 MR. KAYLOR: It's not for separate bedrooms.  
9 It's for one apartment.

10 COMMISSIONER DUFFLEY: Okay. But you're not  
11 renting per bedroom?

12 MR. KAYLOR: No.

13 COMMISSIONER DUFFLEY: Okay. Thank you.

14 COMMISSIONER MCKISSICK: Just a couple  
15 questions: I guess the engineer would be the one I  
16 want to the address. I gather this complex has four  
17 different residential buildings; is that is right?

18 MR. HODGES: That's right.

19 COMMISSIONER MCKISSICK: And about how many  
20 units are in each building?

21 MR. HODGES: About 40.

22 COMMISSIONER MCKISSICK: About 40 units per  
23 building?

24 MR. HODGES: Yeah.

1 COMMISSIONER MCKISSICK: And it's  
2 anticipated they're all going to go under construction  
3 at the same time, or how do you --

4 MR. HODGES: Yeah. There -- it's currently  
5 under construction right now.

6 COMMISSIONER MCKISSICK: It's under  
7 construction right now. Now let me ask you this: In  
8 terms of the heating, air conditioning I guess that's  
9 provided by a heated pump-type system?

10 MR. HODGES: I believe that's correct, yes.

11 COMMISSIONER MCKISSICK: Are there any  
12 attributes to that heat pump system that would qualify  
13 it as being energy efficient?

14 MR. HODGES: I'd have to defer that.

15 COMMISSIONER MCKISSICK: I don't mean, like,  
16 the sphere level or anything that would make it -- or  
17 qualify it as being energy efficient. All right.

18 MR. CARROLL: I do not recall the specs of  
19 the specific models being installed.

20 COMMISSIONER MCKISSICK: Okay. And I guess  
21 I would ask the same for, like, hot water heater; is  
22 that electric or?

23 MR. CARROLL: That would be electric as  
24 well.

1           COMMISSIONER MCKISSICK: And do we know  
2 about are there anything there that would qualify it  
3 as being energy efficient?

4           MR. HODGES: I can just chime in. We --  
5 this is under the North Carolina Housing Finance  
6 Agency is the financing. And under -- under their  
7 rules, we have to follow the energy star multifamily.  
8 So if that helps you with your answers.

9           MR. CARROLL: And the building is energy  
10 star certified.

11          MR. HODGES: Right. Yeah.

12          MR. CARROLL: So the building being energy  
13 star certified, it's a rigorous process to assure --  
14 whether it's specific appliances and everything are  
15 energy star standards as well as there's some other  
16 building characteristics that would apply to come  
17 areas as well, but the building itself being energy  
18 star certified is -- that -- that's a high bar in  
19 terms of energy efficiency, and so achieving that is  
20 beneficial for everybody.

21          COMMISSIONER MCKISSICK: And, I guess,  
22 Mr. Kaylor, I raise this question; was there any  
23 consideration to try to submit this particular  
24 Application or petition under the provisions of the

1 statute which deal with energy efficiency?

2 MR. KAYLOR: I'd look into that and see if  
3 we could modify. I wasn't aware of -- that there's a  
4 statute that's different than what we're under right  
5 now.

6 COMMISSIONER MCKISSICK: Well, I mean, the  
7 one here, you know, they have some language dealing  
8 with energy efficiency within it. I'm trying to  
9 remember which section I saw here.

10 MR. KAYLOR: Oh. You mean, in the --

11 COMMISSIONER MCKISSICK: Yeah. 151.42. If  
12 you go down under Subsection A.

13 MR. KAYLOR: Yeah. I viewed that as being,  
14 you know, a central system rather than individual  
15 systems. So that's the reason --

16 COMMISSIONER MCKISSICK: So it would not  
17 qualify under any --

18 MR. KAYLOR: We don't have a central system.  
19 Right.

20 COMMISSIONER MCKISSICK: Okay. I was trying  
21 to see if there was any leg there. Doesn't appear to  
22 be.

23 MR. KAYLOR: Thank you.

24 COMMISSIONER MCKISSICK: Thank you.

1           COMMISSIONER TUCKER: Madam Chair, can I  
2 have one question?

3           CHAIR MITCHELL: You may, go ahead,  
4 Commission Tucker.

5           COMMISSIONER TUCKER: I'm just -- from a  
6 business standpoint, I'm sorry, I just have to ask  
7 this question. Why would you go to all this trouble  
8 to go to this effort to have an individual check  
9 people's bills, follow energy, do all the things that  
10 you have to do with the submeters rather than having  
11 Duke do to? What's money-wise to the developer? Is  
12 there some subsidy or something from the feds or  
13 whatever that -- what's advantageous to you guys? I  
14 mean, it seems like a lot of trouble. I understand  
15 you're trying to reduce the bill for low-income folks,  
16 and that's admirable, but just for me, there's got to  
17 be something else to it. Could you share that with  
18 me? And maybe there's not.

19           MR. HODGES: Yeah. I think there's two  
20 things. One, we already -- we already purchased those  
21 submeters; and, two would be that, with how the  
22 program works, is that you have -- you have a max rent  
23 and then there's the utilities are reduced from that  
24 rent. So kind of the direct benefit is that the rate



1 is lower on the general service meters.

2 COMMISSIONER TUCKER: Okay. Thank you.  
3 Thank you, Madam Chair.

4 CHAIR MITCHELL: Okay. Commissioner,  
5 Brawley.

6 COMMISSIONER BRAWLEY: Thank you. I'm --  
7 you know, you use the term low-income apartments, and  
8 I'm thinking affordable housing, and would you  
9 describe the program under which you're operating?

10 MR. KAYLOR: Yes. The Affordable Housing --

11 MR. HODGES: Yeah. Section 42.

12 COMMISSIONER TUCKER: Okay. So for the  
13 benefit of the Commission, will you just hit the high  
14 points?

15 MR. HODGES: Yes. So this is going to be  
16 the rent and income on all these units are restricted  
17 at 60 percent of the area median income. So what that  
18 range would be for one person, the max rent -- the max  
19 income you could have for one person in 2023 is  
20 \$41,000. And then a one-bedroom rent in 2023 is  
21 \$1,100 -- \$1,122 is a one-bedroom rent. And this  
22 complex will have both ones, twos, and three bedrooms.

23 COMMISSIONER TUCKER: Okay. Now, this is  
24 generally what's known as income-targeted housing?

1 MR. HODGES: Right.

2 COMMISSIONER BRAWLEY: And you must maintain  
3 this status of income targeting for -- what is it, 30  
4 years?

5 MR. HODGES: Yeah. Yep. It's 15-year  
6 compliance period and then a 15-year extended use  
7 period.

8 COMMISSIONER TUCKER: Okay. And you're  
9 getting some of your financing through tax credits  
10 that you resell.

11 MR. HODGES: Exactly. Yeah.

12 COMMISSIONER BRAWLEY: Okay. And the  
13 difference between your -- this is income-targeted,  
14 and you believe that it will also bring in a fairly  
15 substantial number of above 55?

16 MR. HODGES: That's correct. It could,  
17 yeah.

18 COMMISSIONER BRAWLEY: To be qualified as an  
19 income -- as an age-targeted facility as well, what  
20 percentage of rentals at 55 or older would you have to  
21 have? And I believe that's just one person of 55 or  
22 older per unit.

23 MR. HODGES: Yeah. So under the housing for  
24 older persons, you would need 80 percent.

1 COMMISSIONER BRAWLEY: 80?

2 MR. HODGES: Yeah.

3 COMMISSIONER BRAWLEY: Okay. Are these  
4 exterior entrances, or are they entrances off of a  
5 central hall?

6 MR. HODGES: Exterior entrances.

7 COMMISSIONER BRAWLEY: Okay. Thank you,  
8 Madam Chair.

9 CHAIR MITCHELL: All right. Any additional  
10 questions for the Applicant?

11 MR. KAYLOR: Madam Chair, that concludes our  
12 case.

13 CHAIR MITCHELL: Thank you, Mr. Kaylor. All  
14 right. Mr. Creech.

15 MR. CREECH: May it please the Commission,  
16 Chair Mitchell, William Creech again with the Public  
17 Staff. I'll try to make this brief if I can. I  
18 thought I had about five minutes. Maybe I can do it  
19 in a shorter period of time.

20 Let me just say from the outset that the  
21 Public Staff, of course, does believe this is a  
22 laudable endeavor by the Applicant. We've try to work  
23 fairly closely with them. The public Staff would not  
24 object to the Applicant's seeking the statutory change

1 if necessary here to make this happen.

2 I will say that we believe that there are a  
3 couple of avenues already available to Applicant  
4 should it want to go. And we kind of touched on  
5 those. One is the traditional resell scenario, which  
6 is different from this where there are Duke-owned  
7 meters at the unit or tenant level. And that's -- and  
8 here it would be landlord-owned meters at the tenant  
9 level. In the traditional sense, there are -- the  
10 bill remains with the landlord, however, for  
11 convenience et cetera. A lot of these are student  
12 housing, and so for the students, for the landlord,  
13 for the parents, there's not a lot of back and forth  
14 on who's name the bill is in.

15 The second thing is, that -- and we'll touch  
16 on it here in a moment in the master meter statute --  
17 there is the ability to bake the -- so-called bake the  
18 electric bill into the lease provided, so gross lease.  
19 So, for example, if you think it's going to be \$925  
20 for -- per month for rent and approximately \$75 per  
21 month for electricity, you can do a gross --  
22 non-changeable -- but gross one a \$1,000 a month and  
23 say, "Hey. Here's your piece. Here's your -- here's  
24 what you got to pay every month."

1           So those are avenues available. Again, the  
2 Public Staff would support -- certainly would not  
3 object to a change in the statute if necessary, but we  
4 do not yet see how this is possible under the existing  
5 regulatory framework. And when I say that, I mean the  
6 statutes, the regulations, and potentially even the  
7 LGS the general services tariff that DEC has.

8           Now, I will note a couple other things if I  
9 can, please. That as to that tariff, the LGS Tariff,  
10 DEC Tariff -- and I've got a copy of it here and I'll  
11 show to you -- it does prohibit selling, generally.  
12 So I'll show you that here shortly.

13           There's a -- I do want to mention another  
14 consideration has to do with the \$42 monthly  
15 assistance program that I believe that there's been in  
16 DEP, there may be in DEC here, and how that interplays  
17 with this type of scenario. So that's maybe a  
18 consideration to take into account.

19           I did -- we did hand out, prior to the  
20 hearing, a packet of information, so I was just going  
21 to quickly highlight some things for you there, if I  
22 may. There are four items in that, I think,  
23 understandably, that you can appreciate. The first  
24 one is the master meter statute, 143-151.42. That's

1 for a prohibition of master meters for electric and  
2 natural gas service. We've been talking a lot about A  
3 today. Some exemptions in there for elderly. And  
4 then, under B, we talked a little bit about that too.  
5 B2 is the so-called baked-in to the lease scenario.  
6 And B1 is the H through J, you know, it says that this  
7 prohibition of master meters shall not apply if the  
8 Commission has approved an Application under H through  
9 J of the CPCN statute.

10 And so that's where we'll turn next, which  
11 the CPCN statute. That's the second document in  
12 what's been provided to you. And we start on Page 8  
13 of that, which is H, Subsection H. And there --  
14 again, that's Page 8, Subsection H of the 62-110  
15 Certificate for Convenience of Necessity -- there it  
16 speaks in the introductory paragraph about allowing  
17 the lessor of any lease premises that has individually  
18 metered units for electric service in the lessor's  
19 name to charge for the actual cost of providing  
20 electric service to each lessee. And then under 1, it  
21 speaks to the individual electric service for a unit.  
22 That is through -- as we understand it, that's through  
23 traditional electric resellers scenario where there  
24 are Duke-owned meters at the unit or tenant level.

1           So just wanted to highlight that for you.  
2   The third document I provided to you is -- are the  
3   rules. The Chapter 22 rules as promulgated by the  
4   Commission, and that is the third document. It says  
5   Chapter 22 Provision of Electrical Service for  
6   Lessors.

7           The first Application -- the first provision  
8   there, R22-1 Application, kind of resites H, speaks to  
9   individually metered units for electric service in the  
10   lessors name where the lessor charges the actual cost  
11   for providing electric service to each lessee.

12           Then if you turn over, please, to R22-3 --  
13   that's the third rule in that packet there -- it says  
14   Utility Status Certificate, under R22-3 B1. At the  
15   end of B1, it speaks to the provision of residential  
16   electric service. And it's kind of the confluence of  
17   these items where the Public Staff has understood this  
18   to be charging residential customers at residential  
19   rates. Residential customers at residential rates.  
20   The Public Staff is -- is not aware of the scenario  
21   where residents are charged something other than  
22   residential rates.

23           So and then, finally, the final document  
24   there is the -- is the Duke LGS Tariff. Large general

1 service tariff. That's a three-page document. On the  
2 first page, the third paragraph of the first page it  
3 says: This schedule is not available to individual  
4 customers who qualifies for a residential or  
5 industrial schedule, et cetera. And then the second  
6 sentence says: Power delivered under this schedule  
7 shall not to be used for resell or exchange and  
8 parallel with other electric power, et cetera.

9 This is the existing DEC tariff. And so,  
10 you know, overall, the Public Staff, again, we support  
11 in concept, of course. What the Applicant wants to do  
12 is a laudable scenario. We're not yet -- do not yet  
13 see how this can be done in the -- what the Applicant  
14 is specifically trying to do within the existing  
15 statutory framework. And we would be pleased to -- we  
16 would not object -- we want to see it -- but we would  
17 not object to any reasonable change to the statute to  
18 allow for it.

19 Thank you.

20 CHAIR MITCHELL: Mr. Creech, just a few  
21 questions for you. I think you -- you covered this in  
22 your remarks, but I want to be sure I heard you  
23 correctly. Is the Public Staff aware of any other  
24 arrangement like the one requested by the Applicant



1 where residential customers would be served under a  
2 nonresidential rate schedule?

3 MR. CREECH: We've talked about that  
4 internally, and I'm not -- I am not aware of that.  
5 And we do -- I did not say at the outset, and I would  
6 like to say now, if I may, Chair Mitchell, I'm joined  
7 today by James McLawhorn who is the lead engineer in  
8 the Energy Division; as well as David Williamson and  
9 Tommy Williamson, all engineers; as well as our  
10 colleague and the Manager of the Legal Division --  
11 Electric Division, Robert Josey.

12 CHAIR MITCHELL: All right. The -- looking  
13 back at Schedule LGS that you provided for us, Mr.  
14 Creech, that paragraph that you drew our attention to,  
15 if you keep going, so that sentence that begins,  
16 "power delivered under the schedule," if you keep  
17 going reading that sentence, you get to "except at the  
18 option of the Company," what does that mean?

19 MR. CREECH: I --

20 CHAIR MITCHELL: And if the answer is, I  
21 don't know, that's perfectly --

22 MR. CREECH: The answer is, I don't know. I  
23 don't know.

24 CHAIR MITCHELL: Okay. Did you hear --

1 MR. CREECH: We've got other colleagues who  
2 may. We'd be pleased to --

3 MR. CREECH: Well, if one of your colleagues  
4 knows, I'd ask that he please come up with let us  
5 know, but if not, we don't need to belabor the point  
6 at the moment. I'm not seeing anybody. Okay.

7 Did you hear Mr. Kaylor's remarks about Duke  
8 Energy, that Duke Energy did not object to what his  
9 client is proposing here?

10 MR. CREECH: We have.

11 CHAIR MITCHELL: Did the Public Staff-- has  
12 the Public -- I'm sorry. I spoke over you. I'm  
13 sorry. For the Court Reporter's benefit, would you  
14 say that again?

15 MR. CREECH: We are -- we are aware of that,  
16 and I suppose if this was -- if we had a lot of  
17 motions and other things, we might could have brought  
18 them into this as well.

19 CHAIR MITCHELL: Understood. And I  
20 understand why they are not here today. And I  
21 understand that the Public Staff's time is very  
22 limited to -- to address -- just is limited.

23 So did you all have a chance to discuss this  
24 arrangement with the electric utility?

1 MR. CREECH: To my knowledge, we have not  
2 discussed this.

3 CHAIR MITCHELL: Okay. Okay. All right.  
4 Mr. Kaylor do you have -- well, let me say this -- let  
5 me see -- I want to see if there are any additional  
6 questions for Mr. Creech, and then, to the extent that  
7 you want to be heard again, we will allow it, but let  
8 me turn to my colleagues.

9 Commissioner Duffley.

10 COMMISSIONER DUFFLEY: Yes. If you could  
11 turn to 62-110, Subsection J. And can you explain to  
12 me the -- the Public Staff's interpretation of this  
13 language in J, that -- what does it mean to obtained  
14 the approval of the Commission for the use of master  
15 meter pursuant to GS § 143-151.42.

16 MR. CREECH: So thank you, Commissioner. My  
17 understanding is that this generally applies to its  
18 central system scenario. And that, that is not what  
19 is being contemplated here.

20 COMMISSIONER DUFFLEY: Okay. Thank you.

21 MR. CREECH: Thank you.

22 COMMISSIONER BRAWLEY: May I ask a follow-up  
23 to that?

24 CHAIR MITCHELL: Sure. Go ahead.

1           COMMISSIONER BRAWLEY: All right. Because  
2 that specific language is metering each unit for a  
3 central system. And if the central system is one  
4 specific piece of machinery, a measurement at the unit  
5 level would be meaningless; wouldn't it? It's almost  
6 as if their central system they may be referring to is  
7 the distribution of the power, not the equipment that  
8 uses it; is that a possible interpretation?

9           MR. CREECH: I'm not certain if I completely  
10 understand the question, Commissioner. In this  
11 instance -- and I'm also not an engineer, but I do --  
12 obviously I have looked at the statute. My  
13 understanding here is that this is not a central  
14 system where -- where that would serve the entire  
15 community. There are going to be -- there will be  
16 units in each of the tenant's premises there, is my  
17 understanding.

18           COMMISSIONER BRAWLEY: May I?

19           CHAIR MITCHELL: You may.

20           COMMISSIONER BRAWLEY: I think what I'm  
21 saying is, my interpretation of central system is not  
22 the appliances that are using the electricity. The  
23 central system in this case is the system of metering  
24 and wiring that is distributing electricity so that

1 each unit would measure the amount of the electricity  
2 throwing -- flowing through the distribution system  
3 used by that individual apartment, which is something  
4 that I believe would be meaningfully measured at the  
5 apartment level. If we had a master heating system,  
6 how would you measure how much heat you're taking?  
7 And that's the question I'm trying to understand.

8 MR. CREECH: Commissioner, thanks for your  
9 question. I do have my colleague, William Freeman and  
10 then the Lead Engineer in our Energy Division, James  
11 McLawhorn, who may be able to respond to your  
12 question.

13 MR. FREEMAN: Commissioner, thank you. Two  
14 things: I think that the Application was not made  
15 under J; but the second point, J is talking about when  
16 you have that central system, how do you allocate --  
17 you can imagine these new places where you have 20  
18 restaurants and one kind of shared place to eat. How  
19 are you going to split the bill up for the shared  
20 place to eat? And this J is saying, hey. You can  
21 split it up based on each tenant's measured share of  
22 electricity or natural gas. And so what we have here  
23 is, this Application is saying, we're not going to  
24 charge those general rates to tenants at all. We're

1 going to just make tenants pay for what they use in  
2 their apartment. They're not going to pay any share  
3 of -- like, if there's a clubhouse, they're not going  
4 to pay any share of that in their monthly bill.

5 Under J, that's how you would be able to  
6 judge charge them for that sort of central space, but  
7 that's not what they're -- the tenants -- the  
8 landlord's not trying to use J here because they're  
9 not trying to split any of the landlord's electric  
10 cost among the tenants. And I've got Mr. McLawhorn  
11 here who's far more knowledgeable than me.

12 MR. MCLAWHORN: James McLawhorn, Director of  
13 Public Staff Energy Division. I am not an attorney,  
14 but -- so if I misread the statute, I'm sure Mr.  
15 Kaylor will correct me. But I do have some experience  
16 with master metering applications over the years.

17 And, Commissioner Brawley, my understanding  
18 is that by central system, and that has been a part of  
19 the master meter statute prohibition for as long as I  
20 have worked at the Public Staff, it's referring to  
21 central heat, central water heating systems where you  
22 could -- it's more efficient to have, in some cases,  
23 one system for the entire complex that provides heat  
24 or air conditioning or water heating and its piped to

1 the individual units than it is to, in some cases, to  
2 have individual hot water heaters at each unit or  
3 individual heat pumps at each unit. And there has to  
4 be some way to charge the individual apartments for  
5 the electricity that -- or natural gas as the case may  
6 be according to the statute, for what is used or  
7 consumed by those central facilities. I've -- my --  
8 and my understanding is that is what J is referring to  
9 back to -- because J was added in the not too distant  
10 past. And it was referring that to that portion of  
11 the master metering statute.

12 COMMISSIONER BRAWLEY: Okay. Thank you,  
13 gentlemen. And I do want to compliment, Commissioner  
14 Duffley on that catch on J. That was --

15 COMMISSIONER DUFFLEY: Thank you. Thank  
16 you.

17 CHAIR MITCHELL: Let's see. Let's go  
18 with -- Commissioner Hughes has a question, and then  
19 we'll go to McKissick.

20 COMMISSIONER HUGHES: Yes. You mentioned  
21 early on a potential issue with the -- the Consumer  
22 Affordability Program. Could you elaborate a little  
23 bit more specifically?

24 MR. CREECH: Commissioner, I'm aware that

1 they're -- we've not explored the interplay between  
2 the affordability -- that program that may be afforded  
3 to low-income tenants and how that may -- residents or  
4 customers -- excuse me -- how that may interplay with  
5 this scenario and whether they would be eligible for  
6 that type of program if they were in this type of  
7 facility. And so, you know, one of the considerations  
8 is whether, if you're going to get \$42 savings under  
9 one or \$30 on another, your net -- you know, you're  
10 down 12. And so we don't know the interplay between  
11 that, but that we just thought that was important to  
12 mention because that is something we have not fully  
13 explored in this, kind of, one-off ER 144 Docket.

14 COMMISSIONER HUGHES: I was looking for more  
15 details on that interplay.

16 MR. CREECH: Yes, sir.

17 COMMISSIONER HUGHES: So I agree with your  
18 assessment.

19 MR. CREECH: And may be -- that may be -- I  
20 don't know if that's something the Applicant has  
21 looked at as well including as part of their  
22 discussions with the utility. I don't know.

23 CHAIR MITCHELL: All right. Commissioner  
24 McKissick.



1           COMMISSIONER MCKISSICK: Mr. Creech, I guess  
2 I want to go back to the tariff, the Large General  
3 Services Tariff. There's a prohibition there on  
4 reselling electricity; is that correct?

5           MR. CREECH: That is the way the Public  
6 Staff has read that third paragraph; yes, sir.

7           COMMISSIONER MCKISSICK: All right. And  
8 that would be reselling it to any entity; it wouldn't  
9 necessarily have to be residential; it was any resell  
10 whatsoever; is that correct?

11          MR. CREECH: Commissioner, I think the way  
12 that we had -- we read it was, that it could not be  
13 used for resell, period.

14          COMMISSIONER MCKISSICK: Okay.

15          MR. CREECH: But I'm not aware if there may  
16 be instances where that -- there's any --

17          MR. MCLAWHORN: Commissioner McKissick,  
18 there's a general prohibition against resell of any of  
19 the retail tariffs that the Commission has approved  
20 for the utilities. So that is, generally, not  
21 allowed. I believe there -- the Duke's service  
22 regulations state as such as well is it's included in  
23 the tariff.

24          COMMISSIONER MCKISSICK: And, Mr. McLawhorn,

1 what would be the penalty if one were to go out and  
2 resell? I mean, if you -- if there was a violation of  
3 the provision of a tariff.

4 MR. MCLAWHORN: I think there would --  
5 someone would file -- and I might get the legal  
6 terminology wrong, but would file a requesting a show  
7 cause Order. The Commission would -- if a discovered  
8 that that, in fact, was happening -- they would issue  
9 a cease and assist Order for the entity that was  
10 reselling in violation of the tariffs and service  
11 regulations.

12 COMMISSIONER MCKISSICK: Okay. And let me  
13 switch gears quickly. I heard the Applicant also  
14 indicated they plan to put in meters for water and  
15 that water would also be something that -- that  
16 individual apartments would pay for separately,  
17 independently. Now, have they come to the Commission  
18 to seek authority to do that?

19 MR. CREECH: Commissioner McKissick, I'm not  
20 aware of that of -- of that filing, and I don't know  
21 that they -- it sounded like to me they may not have  
22 yet made that. I'm not aware of that, however.

23 COMMISSIONER MCKISSICK: Okay. So that's  
24 not been pursued at this time?

1 MR. CREECH: Not that I'm aware of.

2 COMMISSIONER MCKISSICK: But that be  
3 necessary; is that --

4 MR. CREECH: Yes, sir. If they were going  
5 to be a -- a reseller or seeking some sort of  
6 statutory exemption or otherwise, they would need to  
7 file is my understanding.

8 COMMISSIONER MCKISSICK: Mine as well.  
9 Thank you.

10 MR. CREECH: Yes, sir.

11 CHAIR MITCHELL: Commissioner Kemerait.

12 COMMISSIONER KEMERAIT: Mr. Creech,  
13 following up on Schedule LGS. This is a follow-up  
14 from Chair Mitchell's questions, and, obviously,  
15 meanings and definitions of words matter. It states  
16 on the second sentence on the third paragraph, "power  
17 delivered under this schedule shall not be used for  
18 resale," and I think that Mr. Kaylor's -- I believe  
19 his argument is, that this is not resale; it's simply  
20 a passthrough. I'm going to ask him the same question  
21 about why what he's proposing doesn't violate the  
22 statute, but do you -- what is your position about the  
23 definition of resale and whether what he's proposing  
24 is a passthrough and not violate resale?

1 MR. CREECH: My understanding, Commissioner  
2 Kemeraït, is that there is, of course, a general  
3 prohibition on the master meter, master metering, and  
4 then there are statutory exemptions to that within a  
5 -- and really other paths in B there, too. As for the  
6 resell, that is -- that traditional resell scenario is  
7 set out in the statute in the rules, and those are  
8 Duke-owned meters at the tenant or unit level in the  
9 landlord's name. And so in the context of these, we  
10 do not yet -- we do not see how exactly what the  
11 Applicant is wanting to do fits within the existing  
12 statutory framework.

13 We do believe, again, that we support in  
14 concept, of course, what they're hope to do, and we  
15 think that there are a couple of avenues available to  
16 them. One is traditional reseller. And then the  
17 other is to bake it into their rent, so to speak. But  
18 we do not see how they can do what they are wanting to  
19 do within the existing framework.

20 COMMISSIONER KEMERAÏT: Thank you,  
21 Mr. Creech, and I hope that if Mr. Kaylor on rebuttal  
22 will address that as well.

23 CHAIR MITCHELL: All right. Let's see. Any  
24 additional questions before we get back to Mr. Kaylor?

1 (No response.)

2 CHAIR MITCHELL: All right. Mr. Kaylor.

3 MR. KAYLOR: Thank you, Madam Chair.

4 First of all, I have discussed with Duke  
5 Energy the concept of using the master meter, and they  
6 are not opposed to it. I take the position, and I  
7 don't know how Duke would react. I can't speak for  
8 Duke, that we are not reselling this electricity.  
9 It's a straight passthrough from the master meter,  
10 through the submeter, to the apartment.

11 So it's our position it's not a resell; it's  
12 a passthrough of the same rate. And it's the rate --  
13 we're charging the same rate that Duke would charge  
14 for that electricity going through the master meter.

15 So that's our position, and I do know that I  
16 have consulted with Duke. They have no objection to  
17 using a master meter at facilities such as this.

18 And I would say in closing, I told my wife I  
19 was happy that this was a civil matter because if it  
20 was a criminal matter, I'd be throwing myself at the  
21 mercy of the court.

22 CHAIR MITCHELL: All right. Well, let's see  
23 if there are any last questions before we conclude for  
24 the morning.

1 (No response.)

2 CHAIR MITCHELL: Anything else anyone needs  
3 to say?

4 MR. CREECH: Thank you.

5 CHAIR MITCHELL: Okay. All right. We would  
6 like post-argument filings, as I previously discussed  
7 with counsel. We typically give you all 30 days from  
8 the transcript. I'm hoping that I can -- we can get  
9 the transcript out fairly quickly so that you all can  
10 turn around post-hearing filings very quickly as well.  
11 I'll go ahead and say 30 days, but I'd like to get  
12 them as soon as possible.

13 And with that, unless there was anything  
14 else, we will go off the record.

15 Thank you very much.

16 (The proceedings were adjourned.)

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C E R T I F I C A T E

I, KAYLENE M. CLAYTON, do hereby certify that  
the Proceedings in the above-captioned matter were  
taken before me, that I did report in stenographic  
shorthand the Proceedings set forth herein, and the  
foregoing pages are a true and correct transcription to  
the best of my ability.

*Kaylene Clayton*  
Kaylene M. Clayton