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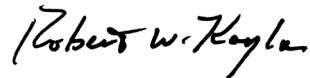
Ms. A. Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

RE: Docket No. ER-144, Sub 0

Dear Ms. Dunston:

Enclosed for filing is Charlotte Leased Housing Associates II, LLLP Proposed Order.

Sincerely,



Robert W. Kaylor, P.A.

cc: William E. H. Creech, Staff Attorney
Public Staff, North Carolina Utilities Commission

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. ER-144, SUB 0

In the Matter of)	
)	
Charlotte Leased Housing Associates II, LLLP)	PROPOSED ORDER OF
Application for Authority to Resell Electric)	CHARLOTTE LEASED
Service Pursuant to N.C.G.S. § 62-110 (h) at)	HOUSING ASSOCIATES II,
7800 Creekridge Road, Charlotte, North)	LLLP
Carolina 28212)	
)	

BY THE COMMISSION: On March 3, Charlotte Leased Housing II, LLLP (Applicant) filed with the Commission applications in Docket No. ER-144-Sub 0,1,2,3 and 4 certificates of authority to resell electric at Creekridge on the Park, 7800 Creekridge Road, Charlotte, North Carolina, in accordance with N.C. Gen. Stat. §62-110.(h) and Commission Rule R22.

On May 1, 2023, the Public Staff filed in each docket its correspondence to Applicant outlining deficiencies in the application.

On May 2, 2023, the Commission issued an Order Finding Application Incomplete and Request for Additional information in each docket.

On July 11, 2023, Applicant filed, in the Sub 0 docket only, an Application for Waiver requesting that the Commission grant it approval to use master metering for a planned affordable housing multifamily residential property consisting of 150 residential apartments at Creekridge on the Park. On September 14, Applicant filed, in each

separate docket, a Request to Consolidate Dockets requesting that the originally filed Docket No. ER-144, Subs 0,1,2,3, and 4 all be placed into Docket No. ER-144, Sub 0.

On September 20, 2023, Applicant filed in Docket No. ER-144, Sub 0 responses to the Public Staff's deficiency letter of May 1, 2023.

On November 17, 2023, the Public Staff filed a Second Deficiency Letter seeking further information and clarifications.

On November 27, 2023, Applicant filed a Motion for Oral Argument requesting that the Commission issue and order scheduling an oral argument to permit Applicant and opportunity to seek Commission approval to use master metering at Creekridge on she Park.

The Commission granted Applicant's Motion to Consolidate Dockets, and on November 28, 2023 granted Applicant's Motion for Oral Argument regarding Applicant's Application for Waiver of the Master Metering Prohibition of N.C.G.S. § 143-151.42(a). The oral argument was scheduled and heard by the Commission on December 11, 2023.

On December 15, 2023 Applicant filed responses to the Public Staff's Second Deficiency Letter.

On January 16, 2024 the Public Staff filed its Proposed Order without having responded to Applicant's responses to the Second Deficiency Letter. The Proposed Order recommends that the Commission deny Applicant's application for a certificate to resell electric service at Creekridge on the Park, 7800 Creekridge Road, Charlotte, North Carolina

The Company filed its Proposed Order on January 18, 2024

Based upon Applicant's Application to resell electric service in accordance with N.C.G.S. § 61-110(h), representations made by Applicant at the oral argument on December 11, 2023, and the Applicant's Proposed Order responding to the Public Staff's Proposed Order and the entire record, the Commission makes the following:

FINDINGS OF FACT

1. Applicant seeks to construct a planned affordable housing multifamily residential property consisting of 150 residential apartment units ('the Apartments') located at Creekridge of the Park, 7800 Creekridge Road, Charlotte, North Carolina.
2. Applicant has filed with the Commission for a certificate to resell electric service at The Apartments and the Commission has jurisdiction over the Application. Pursuant to N.C. Gen. Stat. § 62-110.(h)1 and Commission Rule R22, a public utility must receive a certificate prior to the resell of electric service.
3. The Application has satisfied all of the requirements of N.C. Gen. Stat. § 62-110.(h) and Commission Rule R22.
4. In addition to seeking a certificate of authority to resell electric service to The Apartments, Applicant seeks a waiver or an exemption from the prohibition of master meters for electric service as set forth in N.C.G.S. § 143-151.42(a). If permitted, Applicant would contract with Duke Energy Carolinas, LLC ("DEC") for the installation of master meters to serve the four building that comprise The Apartments and to install property-owned

submeters for each apartment and pass through the DEC commercial rate to the low-income tenant in each apartment.

- .5. Applicant will pay for all electricity provided by DEC through the master meters and seeks to bill the individual apartments via Applicant's submeters as an authorized electric reseller in accordance with N.C.G.S. § 62-110(h). By using DEC's commercial rate Applicant will be able to pass along savings to each apartment per month in a range from \$23 for a 1-bedroom apartment to \$30 for a 3-bedroom apartment compared to DEC's rate for residential service at \$44.77 for a 1-bedroom apartment to \$76.05 for a 3-bedroom apartment.
6. Gross rents for affordable housing are set by the United States Department of Housing and Urban Development ("HUD") and are calculated by considering the estimated utility costs plus net rent, therefore, the lower the utility costs to the tenant lowers the tenants gross rent and makes the apartment more affordable to low-income tenants.
7. Permitting Applicant to use DEC's master meters and submeter individual apartments using DEC's commercial rate rather than a DEC residential rate will allow Applicant to pass on lower electric energy costs to low-income tenants in affordable housing apartments and allow Applicant to monitor electric energy use and to offer assistance to low-income tenants with higher than normal consumption and help achieve greater efficiency of their electric energy usage.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NOS. 1-3

These findings are informational, procedural, and jurisdictional in nature and are uncontroverted.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NOS. 4-7

These findings are supported by the Application and filings by Applicant and the Public Staff in this docket and the oral argument presented by Applicant and the Public Staff as well as by responses to questions by Commissioners by Applicant and the Public Staff at the Commission scheduled oral argument on December 11, 2023.

DISCUSSION

The Commission has reviewed the Application and supplemental filings of Applicant, the Public Staff's Proposed Order recommending that the Commission deny the Application, and the entire record in this proceeding and finds the Application to be complete and compliant with the requirements of N.C.G.S § 62-110(h) and Commission Rule 22. Further, the Commission notes that on April 12, 2023 an Order was issued in Docket No. WR-4245, Sub 0 granting Applicant a Certificate of Authority to Charge for Water and Sewer Service in Creekridge on the Park Apartments.

The Public Staff in its Proposed Order contends that Applicant has not satisfied the requirements of Commission Rule 22. The Public Staff contends that Rule 22-1 and 22-2 requires that "an electric reseller must determine the usage of its tenants through

individual meters in the lessor's name owned and read by the electric utility.” (Public Staff Proposed Order at p. 5). However, a careful reading of Rule R-22-1 and R22-2 does not support this assertion by the Public Staff. In fact, Applicant is in full accord with Rule R22-1 since Applicant is a lessor of a multiunit apartment complex that will have individually metered units for electric service in the lessor's name and Applicant has committed to charge each apartment the actual cost for the electric service to the apartment. There is no requirement in Rule22-1 that the individual electric meters be owned and read by the electric public utility (Duke Energy Carolinas, LLC or DEC). Rule R22-1 does not require that the submeters for the Apartments be DEC-owned submeters.

Applicant meets the requirements of Rule R22-2(a),(b),(c) and (g) and has committed to adhere to the requirements of all subsections of Rule R22. If Applicant's Application is granted, Applicant will comply with and be subject to all applicable provisions of the Public Utilities Act as set forth in Rule R22-3.

The Public Staff next contends that Applicant cannot serve its residential tenants by charging each on a DEC non-residential rate. The Public Staff has been advised by Counsel for Applicant that DEC has no objection to providing Applicant master meters for the Apartments and had no objection to Applicant billing each apartment on DEC's Schedules LGS or SGS. Accordingly, the Commission concludes that Applicant has met all conditions required to be granted a certificate of authority to resell electric service under N.C.G.S. § 62-110(h).

With regard to Applicant's motion for a waiver of the master meter prohibition of N.C.G.S. § 143-151.42(a), the Commission understands Applicant's request to be permitted to contact with DEC for the installation of master meters at The Apartments and

for authority to use its own submeters to measure the amount of electricity used by each apartment and to bill the apartments at DEC's commercial rate. The Commission understands that usage of the master meters and the commercial electric rate will reduce the monthly electric bill for these low-income affordable apartments; however, the Commission has concern that the master meter prohibition statute does not have an exception for affordable housing. The Commission has reviewed the master meter prohibition statute in detail in an effort to find a way to provide Applicant a waiver of the prohibition but at this time cannot find a way to issue such a waiver. The Commission is aware that a waiver would not prejudice any party and would be beneficial to the developers on affordable housing projects. But until there is a statutory change to N.C.G.S. §143-151.42(a), the Commission cannot grant the waiver relief request herein by Applicant.

The Commission is aware from statements by counsel for Applicant and counsel by the Public Staff that there would be a good possibility that the statute could be amended to add an affordable housing exception to the master meter prohibition when the General Assembly convenes in 2024. The Commission is aware that Applicant has made purchases of equipment and has plans to have The Apartments ready for occupancy in early 2025. That being the case, it appears that Applicant could move forward at this time with installing its submeters as the apartments are being constructed and to have DEC install the master meters would not be in use until early 2025. In the interim, if the General Assembly were to amend the statute to add an affordable housing exception then Applicant would have the submeters in place as well as the master meters. Accordingly, the Commission would have no objection at this time for Applicant moving forward with installing

submeters and having DEC install master meters but would emphasize that if the General Assembly does not amend the master meter prohibition statute to add an affordable housing exception Applicant would be in violation of the statute if, in fact, it did activate the master meters and submeter and bill tenants for their electrical usage. Applicant is therefore on notice that they are assuming the risk of not being able to bill tenants via Applicant's submeters for electricity usage if the General Assembly does not amend the master meter prohibition statute to provide an affordable housing exception prior to tenants occupying the apartments in early 2025.

IT IS, THEREFORE, ORDERED as follows:

1. That Charlotte Leased Housing Associates II, LLLP is granted a certificate of authority to resell electric service at CreekrIDGE on the Park, 7800 CreekrIDGE Road, Charlotte, North Carolina.; and
2. That Applicant will not at this time be granted a waiver from the master metering prohibition as set forth in N.C.G.S. § 143-151.42(a).

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of _____, 2024.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

CERTIFICATE OF SERVICE

I certify that a copy of Charlotte Leased Housing's Proposed Order in Docket No. ER-144, Sub 0, has been served by electronic mail, hand delivery or by depositing a copy in the United States Mail, first class postage prepaid, properly addressed to:

William E.H. Creech
Staff Attorney
4326 Mail Service Center
Raleigh, NC 27699-4300

This the 19th day of January, 2024.

Robert W. Kaylor
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