STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 1043

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Duke Energy Carolinas, LLC,	)	
for Approval of Rider GS (Green Source	)	ORDER APPROVING RIDER
Rider) Pilot	)	

BY THE COMMISSION: On November 15, 2013, Duke Energy Carolinas, LLC (DEC), filed an application seeking approval of its Rider GS (Green Source Rider) pilot program. In its application, DEC states that based on customer requests and in order to further develop new renewable energy facilities, it is proposing the program to enable certain nonresidential customers to elect to displace all or a portion of the energy supplied for the customer's new load with procurement of power (energy and capacity) from renewable energy resources (hereinafter, renewable energy). Customers who elect Rider GS will purchase the new renewable energy from DEC, and in conjunction with Rider GS, a portion or all of the customer's new energy purchases will be displaced by new renewable energy from specific resources. DEC is not proposing to offer any unbundled transmission service as part of this program.

Eligibility and Application

DEC proposes that, in order to be eligible for Rider GS, customers must receive concurrent service from the Company on Schedule OPT-G, OPT-H, or OPT-I and have added new load of at least 1.0 megawatt (MW) to DEC's system since June 30, 2012. Enrollment would be available for a three-year period following Commission approval, or until the annual aggregate program cap of approximately 1,000,000 annual megawatt-hours (MWh) is reached, whichever occurs first.

To apply for Rider GS, an eligible customer (Customer) must submit an application to DEC requesting that an annual amount of renewable energy and the accompanying renewable energy certificates (RECs) be procured or produced over a specific term. The application includes a nonrefundable application fee of $2,000, which is intended to cover DEC's transaction fees related to the procurement of renewable energy pursuant to the Customer's request.

Upon receipt of an application, DEC will either: (1) enter into a purchased power agreement(s) (PPA) with one or more renewable energy suppliers; or (2) supply the renewable energy directly from one or more DEC renewable energy assets that are dedicated to serving Rider GS customers. In making this determination, DEC will make reasonable efforts to match the supply source, in terms of annual output and contract term, with that requested by the Customer. Any new renewable energy facility in North Carolina that would serve a Rider GS customer would require a certificate of public convenience and necessity (CPCN) based on the same standard as any other CPCN. Prior to participating in Rider GS, the Customer will have an opportunity to review the negotiated price, and the terms and conditions, of a PPA or the price offered from a dedicated Company asset. Upon review of the price, and the terms and conditions in the case of a PPA, the Customer may elect to proceed with or cancel its application. The terms and conditions of a PPA with the renewable energy supplier will be set at DEC's sole discretion.

Billing and Rates

A Customer that elects to participate in Rider GS will continue to purchase energy and capacity under the applicable rate schedule (OPT-G, OPT-H or OPT-I) and, thus, will be charged a Basic Facilities Charge, On-Peak Demand Charge, Economy Demand Charge, On-Peak Energy Charge, Off-Peak Energy Charge, and all applicable riders.

In order to charge the Customer the cost of the renewable energy (including any embedded or explicitly quantified RECs) acquired through Rider GS, DEC will amend the Customer's Electric Service Agreement (ESA). The Customer will be billed for the total cost of the renewable energy (including the cost of the embedded RECs) procured or produced during the previous billing period as a result of the Customer's election.

The Customer will also be billed a Rider GS Administrative Charge of $500 per month and 0.02 cents per kilowatt-hour (¢/kWh) of renewable energy procured or produced during the previous billing period as a result of the Customer's election. DEC indicates in its application that it anticipates this will be sufficient to cover ongoing incremental billing and contract administration costs.

Finally, the participating Customer will also receive a bill credit for renewable energy procured or produced, determined by applying an "all-in" avoided energy and capacity ¢/kWh rate to the actual renewable kWh procured or produced. The total bill credit is intended to be approximately equal to the avoided capacity and energy expense experienced during the term in which the renewable energy supplier delivers renewable energy to DEC or the term in which DEC supplies renewable energy from a dedicated asset. The amount of the bill credit will be determined by DEC consistent with applicable North Carolina and federal law, using the Company's avoided cost model to determine the avoided capacity and energy cost(s) fixed over the term during which the renewable energy supplier delivers to the Company or the Company supplies renewable energy from a dedicated asset. In the event that the credits for avoided capacity and energy, as calculated above, exceed the cost of the renewable energy and RECs procured or produced by DEC, on a ¢/kWh basis, such credits will be limited to a ¢/kWh amount equal to the ¢/kWh cost of the renewable energy and RECs procured or produced by DEC. DEC will allow the Customer to review the proposed bill credit prior to the Customer's election to participate in Rider GS, and similar to the Customer's opportunity to review the negotiated price of a PPA or the price offered from a dedicated DEC asset, upon review of the proposed bill credits, the Customer may elect at that time to proceed with or cancel its application to participate.

DEC will make commercially reasonable efforts to guard against the event of a participant's failure to pay for the renewable energy and RECs it has requested through Rider GS. DEC proposes to require the Customer to provide it with a guaranty, surety bond, letter of credit, or other form of security that is acceptable to DEC. The security for payment of all obligations to DEC under the Rider will be in an amount sufficient to cover DEC's full costs and other obligations, including a termination or default of the Customer's obligations under Rider GS during its term. In the event that the Customer requests an amendment to or termination of the service agreement (except in the case of the pre-review of PPAs and proposed bill credits described above), or defaults on the service agreement before the expiration of the term of the agreement, the Customer will pay an early termination charge equal to the net present value of remaining costs under the PPA(s).

REC Tracking and Retirement

Rather than transferring the RECs to a Rider GS Customer, DEC proposes to retire annually those RECs procured or produced as a result of the Customer's election. DEC proposes to utilize the North Carolina Renewable Energy Tracking System (NC-RETS) for tracking and retiring these RECs.

DEC states that no costs associated with the program will be recovered through the Renewable Energy and Energy Efficiency Portfolio Standard (REPS) Rider. The Rider GS Administrative Charge will be utilized by DEC to cover the costs associated with utilizing NC-RETS and DEC's EMA account for Rider GS purposes and to cover costs associated with the retirement of RECs procured or produced as a result of Rider GS.

DEC will neither apply the RECs associated with Rider GS to its REPS compliance obligation under G.S. 62-133.8, nor will it use energy or RECs acquired for the REPS for Rider GS. DEC's annual retail sales will not be reduced by Rider GS, so the Company's renewable obligation under REPS will not be affected by Rider GS.

DEC further states that it will make reasonable efforts to separate the procurement processes for REPS compliance and for Rider GS, account for the costs of procurement or production as a result of Rider GS, and ensure that these costs are borne by the Rider GS customer. DEC states that it recognizes its continuing obligation to comply with the REPS in the most cost effective manner on behalf of all of its North Carolina retail ratepayers, and that it will ensure that its activities on behalf of Rider GS participants are not in conflict with the fulfillment of this obligation.

Impacts to the Fuel Rider

DEC states that it will fairly allocate its actual fuel and fuel-related costs among its customers so that Rider GS will have no impact, either positive or negative, on the fuel and fuel-related costs paid by non-Rider GS participants. The PPAs for renewable energy and RECs will displace energy from generation and purchased power supply resources that would otherwise be used to supply customer load, resulting in lower aggregate fuel and fuel-related costs from those sources. The lower fuel and fuel-related costs will be reflected in the Company's aggregate system fuel and fuel-related cost calculations. However, DEC proposes to allocate the actual fuel and fuel-related costs incurred among jurisdictions and customer classes such that the North Carolina retail customer classes are equitably assigned the fuel and fuel-related costs and benefits of Rider GS, and, as described above, non-GS rate schedules will be kept neutral as to Rider GS impacts. In order to achieve such neutrality, DEC requests that, for purposes of allocating its actual fuel and fuel-related costs among jurisdictions and customer classes, a cost allocation adjustment be permitted that increases the allocation of actual costs to rate jurisdictions and non-GS rate schedules by the amount of the normally allocated avoided fuel and fuel-related cost benefit of Rider GS, while decreasing the allocation of costs to Rider GS by an equal and offsetting amount (i.e., a zero sum adjustment). The avoided fuel and fuel-related cost benefit used would be the fuel-related component of the avoided energy credit received by the Rider GS customers, as referenced in the "Billing and Rates" section above. Except as noted below, this method of cost allocation would produce fuel and fuel-related cost factors for non-Rider GS rate schedules as if Rider GS-related renewable energy purchases or renewable generation did not exist and DEC otherwise served its North Carolina retail load from generation and purchased power supply resources according to its normal practices. Congruently, the fuel and fuel-related cost factors for Rider GS customers would reflect the avoided fuel and fuel-related cost benefit resulting from the renewable PPAs, since these customers bear the full cost of the renewable PPAs and have been provided associated avoided cost credits. Using this approach, the total amount collected by the Company from all customers will equal the Company's actual fuel and fuel-related costs incurred as defined in G.S. 62-133.2. DEC states that it believes this approach fairly assigns fuel and fuel-related costs among its North Carolina retail customer classes and is allowable under North Carolina law. The Company specifically requests that the Commission approve this cost allocation approach as part of its request for approval of Rider GS in order to avoid uncertainty with respect to cost recovery.

As noted above, the objective of the Company's proposed fuel rider treatment is to allocate fuel and fuel-related costs such that non-Rider GS customers will be kept neutral as to Rider GS impacts. However, the fuel and fuel-related costs listed in G.S. 62-133.2(a1)(4), (5), and (6) must be allocated as prescribed in G.S. 62-133.2(a2)(1) and (2). Therefore, in certain cases, a portion of the fuel and fuel-related costs subject to the make-neutral calculations may not be allowed in annual fuel rider proceedings until they are approved in a future Company general rate case. Therefore, to the extent necessary, DEC plans to request deferral of the impact of any make-neutral allocation not currently allowed pursuant to those provisions on the Company's books as a regulatory asset or liability until the reasonableness of allocation, as applied to the specified portions of fuel and fuel-related costs, can be addressed in the Company's next general rate case.

Impacts to Cost of Service and Base Rates

DEC states that it intends for Rider GS to be a standalone program and for North Carolina retail ratepayers to be held harmless from the costs of the program. The costs associated with implementing and administering the program will be deemed to be recovered by the application fee and the Rider GS Administrative Charge. All other costs of serving a Rider GS participant will be recovered through base rates under the applicable rate schedule and riders. Costs will be initially allocated based on factors resulting from the Company's most recently completed cost of service study utilizing the allocation methodology approved by the Commission in the Company's most recent general rate proceeding, and will include each Rider GS participant's entire load and energy consumed, including that supplied through Rider GS, subject to the following conditions: First, all costs incurred by DEC under the PPA, or incurred in the provision of renewable energy from a dedicated DEC asset, will be directly assigned to Rider GS customers. Second, DEC will assign or allocate costs and benefits as necessary to place the customers on non-Rider GS rate schedules in the same position they would have been if Rider GS transactions had not occurred. These adjustments will also be applied to the Company's quarterly ES-1 filings, as applicable.

Reporting on Pilot Program

DEC states that it will track key metrics and make annual updates to the Commission, as well as provide a final comprehensive report within 90 days of the conclusion of the three-year enrollment period.

Procedural History

On December 3, 2013, the North Carolina Waste Awareness Reduction Network (NC WARN) filed a petition to intervene, which petition was granted by the Commission by Order issued December 4, 2013. In its petition, NC WARN further requested that the Commission hold an evidentiary hearing in this docket. NC WARN stated that it had questions and concerns about the impact of proposed Rider GS, including its availability to only certain nonresidential customers on only certain rate schedules and that the pilot has the potential to rely solely on existing and/or out-of-state renewable sources. NC WARN further stated that proposed Rider GS "has the potential of providing incentives for new high load industries to locate in the DEC service area, pushing those costs of meeting the generation needed to meet that new load onto other residential ratepayers and small businesses."

On December 4, 2013, DEC filed a response in opposition to NC WARN's request for an evidentiary hearing. DEC stated that proposed Rider GS is a pilot program that is voluntary and will be paid for by those customers who elect to participate. DEC further stated that NC WARN raises no credible reason why an evidentiary hearing is necessary for the pilot program "that promotes new renewable generation for the benefit of North Carolina and will be paid for only by participating customers."

On December 11, 2013, the North Carolina Sustainable Energy Association (NCSEA) filed a petition to intervene, which petition was granted by the Commission by Order issued December 13, 2013. In its petition, NCSEA further requested that consideration of the proposed pilot rider be delayed until the Commission's January 13, 2014 Staff Conference and that interested parties be permitted to file comments on the proposed pilot rider by January 10, 2014. NCSEA stated that it and a number of its members had discussed the proposed rider with DEC to gain a better understanding of the proposal, but that questions still remain and additional time to communicate with DEC, the Public Staff and each other would help NCSEA's members better formulate a reasoned response to the filing of the proposed pilot rider.

On December 12, 2013, DEC filed a response in opposition to NCSEA's request for comment period. DEC stated that it had met with numerous interested stakeholders, including NCSEA, in advance of and since the filing of its application in this docket and had responded to all questions and requests from all interested parties, including holding conference calls and/or meetings and providing written responses, sample bill calculations and other responsive data. DEC stated that it is seeking to be able to offer this program to its customers as soon as possible and does not believe any further delay is necessary for a voluntary, pilot program that promotes new renewable generation for the benefit of its customers and North Carolina, which will be paid for only by participating customers. Therefore, argued DEC, its application can and should be fully and appropriately considered by the Commission without the unnecessary delay of an additional comment period, and NCSEA's request for the same should be denied.

On December 13, 2013, Wal-Mart Stores East, LP, and Sam's East, Inc. (collectively, Wal-Mart), filed a petition to intervene, which petition was granted by the Commission by Order issued December 13, 2013. In its petition, Wal-Mart stated that it supports the requests by NC WARN and NCSEA and specifically requested that the Commission establish a procedural schedule that, at a minimum, provides parties to the proceeding a reasonable opportunity to evaluate and comment on DEC's proposal, and that further investigation and hearings be scheduled, as warranted.

On December 13, 2013, the Southern Environmental Law Center (SELC) filed comments on DEC's proposed pilot rider. While commending DEC for proposing a new program that will provide its large customers with additional options for investing in renewable resources to meet their energy needs, SELC expressed concerns about the limited eligibility under Rider GS and the proposed method for charging customers should DEC or the Commission in the future adopt a more comprehensive methodology for the valuation of renewable resources. Lastly, SELC stated that it does not feel that there has been sufficient time to ensure that the terms of Rider GS will provide fair treatment of renewable energy suppliers and customers and concurs with the NCSEA's request for interested parties to be allowed until January 10, 2014, to submit comments.

Also on December 13, 2013, the Sierra Club filed comments on DEC's proposed Rider GS. The Sierra Club stated that it strongly supports Rider GS because it promises to increase in-state renewable energy generation at no expense, and great benefit, to non-participating North Carolina ratepayers, but urged the Commission to not limit Rider GS participation as requested by DEC as it believes the restrictions are not in the best interest of ratepayers. Lastly, the Sierra Club stated that it supports the NCSEA's request that the Commission defer consideration of the proposed rider until January 13, 2014.

On December 14, 2013, the Mid-Atlantic Renewable Energy Coalition (MAREC) filed a statement of position supporting NCSEA's call for an additional comment period. MAREC argued that the length of time between the filing of the proposed rider and the Commission's consideration of it during the Staff Conference on December 16, 2013, is an insufficient time frame for a careful consideration of this important new offering from DEC. MAREC believes that further time for evaluation and the preparation of comments will provide an important assessment of the proposed Rider GS and, if necessary, suggestions for improvement geared to making this a successful program for all stakeholders.

The Public Staff presented this matter to the Commission at its Regular Staff Conference on December 16, 2013. The Public Staff indicated that it had worked with DEC prior to the submission of the application to ensure that any potential impacts of the pilot program on non-participating ratepayers are minimized and that Rider GS is implemented in a manner consistent with the DEC's existing programs and obligations. The Public Staff agrees with DEC that the cost allocation approach laid out in the application is designed to fairly assign costs among its North Carolina retail customer classes in a manner consistent with State law.

The Public Staff further indicated that it had reviewed the filing and believes that the proposed pilot program will provide certain nonresidential customers an opportunity to displace all or a portion of the energy supplied for the customer's new load with renewable energy, and, at the same time, provide both DEC and the Commission with useful information on voluntary renewable energy tariffs while ensuring that potential impacts on non-participating customers are minimized.

Counsel for NC WARN, Wal-Mart, and NCSEA appeared at the Staff Conference. NC WARN and Wal-Mart reiterated their call for delay and a possible evidentiary hearing. NCSEA stated that, based on further discussions with DEC, it now supports approval of the proposed rider at this time.

Based on the foregoing, the Public Staff's recommendation, and the comments and statements filed by the various parties and others in this docket, the Commission is of the opinion that Rider GS, as detailed in DEC's application and tariff, should be approved. The Commission notes that this is a voluntary program, that it is being implemented as a pilot, and that non-participating North Carolina retail ratepayers will be held harmless from the costs of the program. DEC appeared at Staff Conference and reasonably responded to concerns raised regarding the eligibility restrictions of the pilot program and the need for further delay in the Commission's consideration of this matter. The Commission is not persuaded that additional delay for either comments or hearings are warranted prior to approval of the pilot program.

IT IS, THEREFORE, ORDERED as follows:

1. That Rider GS as filed by DEC is approved.

2. That DEC shall file with the Commission, within 10 days following the date of this order, a revised Rider GS showing the effective date of the tariff.

3. That on or before January 31, 2015, and January 31, 2016, DEC shall file with the Commission a report on implementation of the pilot program over the previous year, and shall also file a final report within 90 days of the conclusion of the three-year enrollment period.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of December, 2013.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Chief Clerk