

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
DOCKET NO. E-100, SUB 158**

In the Matter of:)	
Biennial Determination of Avoided Cost)	NCSEA’S RESPONSE TO THE
Rates for Electric Utility Purchases from)	PUBLIC STAFF’S MOTION
Qualifying Facilities – 2018)	FOR EXTENSION AND
)	REVISED PROCEDURAL
)	SCHEDULE AND NCSEA’S
)	MOTION FOR MODIFIED
)	PROCEDURAL ORDER ON
)	TESTIMONY

**NCSEA’S RESPONSE TO THE PUBLIC STAFF’S MOTION FOR EXTENSION
AND REVISED PROCEDURAL SCHEDULE AND NCSEA’S MOTION FOR
MODIFIED TESTIMONY PROCEDURAL ORDER**

NOW COMES North Carolina Sustainable Energy Association (“NCSEA”), by and through the undersigned counsel, and responds to the Public Staff – North Carolina Utilities Commission’s (“Public Staff”) Motion for Extension and Revised Procedural Schedule filed in the above-captioned docket with the North Carolina Utilities Commission (“Commission”) on December 31, 2018 (“Public Staff Motion”) and also submits NCSEA’s Motion for Modified Procedural Order on Testimony (“Testimony Motion”), which seeks an evidentiary hearing on all issues in this docket and also seeks the opportunity for all parties to this proceeding to file initial, responsive, and rebuttal testimony; or, in the alternative, for the opportunity for all parties to this proceeding be allowed to file initial, responsive, and rebuttal testimony under the bifurcated proposal parameters set forth in the Public Staff Motion.

I. NCSEA’S RESPONSE TO THE PUBLIC STAFF MOTION.

On December 21, 2018, counsel for the Public Staff contacted the parties involved in this docket via email correspondence and requested feedback on three proposals for

modifying the procedural schedule in this docket. The three proposals each provided two common elements: the addition of an evidentiary hearing and filing of testimony and, also, the extension of time for filing comments and/or testimony. NCSEA fundamentally agrees with these basic elements to the Public Staff Motion.

Two of the Public Staff's proposed alternative proposals were very similar, calling for a bifurcated proceeding. In the proposals, the "new" issues would be limited to testimony and evidentiary hearing while the remaining issues were subject to filed comments. Essentially, the parties could file testimony regarding rate design and the proposed integration charge, and there would be an evidentiary hearing limited to those two topics. Meanwhile, the remaining subject matter in the avoided cost proposals from Duke Energy Carolinas, LLC ("DEC"), Duke Energy Progress, LLC ("DEP") (DEC and DEP, collectively, "Duke"), and Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina ("Dominion") (Duke and Dominion, collectively, the "Utilities") would be limited to comments from the parties. The only difference between the two bifurcated proposals was the timeframe.

In addition to these two alternatives, the Public Staff also floated a third alternative: a full evidentiary hearing on all issues presented by the Utilities with an appropriately modified scheduling order allowing for initial testimony, responsive testimony, an evidentiary hearing, and proposed orders from the parties involved.¹ NCSEA did not object to the bifurcated proceeding and extension of time but, for reasons set forth more fully below, NCSEA believes that the full evidentiary hearing alternative is preferable. Accordingly, NCSEA told the Public Staff that it supported a full evidentiary hearing on

¹ None of the three alternatives modified the Public Witness Hearing to be held in February. NCSEA does not propose any changes to the Public Witness Hearing.

all issues, but alternatively would support a bifurcated docket with only rate design and the proposed integration charge being subject to testimony and evidentiary hearing.

However, NCSEA also informed the Public Staff prior to the filing of the Public Staff Motion and informed the remaining parties on the date of the filing by the Public Staff, of NCSEA's belief that all parties, including both Utilities and intervenors, should be allowed equal opportunities to provide testimony. All three of the Public Staff's proposed alternatives allowed for initial testimony by the Utilities, responsive testimony by the intervenors, and rebuttal testimony by the Utilities. This would mean that, in addition to the Utilities' initial filings, the Utilities would have two opportunities to file testimony to the intervenors' one opportunity. NCSEA instead prefers that all parties be given the opportunity to file initial, responsive, and rebuttal testimony should they deem it appropriate. NCSEA informed the Public Staff (prior to filing) and the other parties (on the date of filing) that it would like the opportunity to file an additional motion requesting only this procedural change and will do so below.

As stated above, NCSEA supports the two basic elements of the Public Staff Motion: the need to include testimony and an evidentiary hearing in this avoided cost docket and also the need for an extension of deadlines. As set forth below, NCSEA's position goes further in that it seeks that the Commission grant all the parties equal opportunities to present testimony in a full evidentiary hearing, or, in the alternative, that the Commission grant all parties equal opportunities to present testimony within the parameters of the bifurcated proposal set forth in the Public Staff Motion.

II. NCSEA'S MOTION FOR A MODIFIED PROCEDURAL ORDER.

- a. NCSEA REQUESTS THE COMMISSION ORDER A FULL EVIDENTIARY HEARING WITH THE OPPORTUNITY FOR ALL PARTIES TO THE PROCEEDING TO FILE INITIAL, RESPONSIVE, AND REBUTTAL TESTIMONY.

Under the current scheduling and procedural order, the Commission has requested for the Utilities and intervenors to file initial comments and reply comments. No evidentiary hearing has been scheduled. In its initial filings, Duke proposed changes to rate design and a new solar integration charge. Due to the complexity of these new issues, Duke requested that the Commission hold evidentiary hearing on these two discrete issues.² As set forth above, this request and the communications between the parties in this docket led to the filing of the Public Staff Motion seeking a bifurcated docket with some issues being dealt with via comments filed by the parties and other issues being dealt with via testimony filed by the parties.

While NCSEA does not object to a bifurcated docket including rounds of testimony on discrete issues, it believes that a full evidentiary hearing would be more appropriate. A full evidentiary hearing on all issues would lend itself to better judicial economy than a bifurcated docket. The filing of both comments and testimony is unnecessarily complicated. Instead, NCSEA proposes the Commission adopt a procedural schedule similar to the 2014 Avoided Cost proceeding (Commission Docket No. E-100, Sub 140) wherein the parties were each provided an opportunity to file initial testimony, responsive testimony, and rebuttal testimony prior to an evidentiary hearing. This procedure would

² Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Joint Initial Statement and Exhibits, p. 2, Docket No. E-100, Sub 158 (November 1, 2018).

eliminate the parallel track of initial comments and reply comments being filed on other issues with the Commission.

Further, the process of bifurcating issues is not a clean or bright-line process and will likely cause further complications. The parties will have to agree what positions are related to the two discrete issues of rate design and the proposed integration charge, or, if the parties do not agree, the Commission may be forced to review motion(s) to strike (or other motions) due to the arbitrary and general limitations establishing the issues for which testimony is appropriate. Further, it is difficult to cleanly separate rate design and a new integration charge from the remaining topics at issue in the Utilities' avoided cost proposals. Rate design is a very broad issue, and, while the proposed solar integration charge seems limited, it raises numerous broad and important policy issues which lend themselves to both broad responsive testimony and policy positions made in filed comments.

Finally, NCSEA believes that all parties should be granted the opportunity to file initial, responsive, and rebuttal testimony in a manner consistent with that used in Docket No. E-100, Sub 140. NCSEA believes that failing to allow all parties to file initial, responsive, and rebuttal testimony unnecessarily discriminates against the intervenors. The Utilities have already filed their avoided cost proposals, supported by exhibits, and, under the Public Staff's proposal, would now be allowed to file two rounds of testimony to the intervenors one round. This disparity is not supported and, given specifically the new proposals made by Duke, puts the intervenors at a distinct disadvantage to present their positions on these issues initially and then respond and rebut as necessary. As proposed in the Public Staff Motion, intervenors who oppose the integration charge and have

counterproposals on rate design are forced to respond to initial filings and also initial testimony in their responsive testimony and cannot rebut any other parties' responsive testimony thereafter.

For all these reasons, NCSEA requests that the Commission issue an order establishing a procedural schedule including an evidentiary hearing on all issues in this proceeding and allowing all parties the opportunity to file initial testimony, responsive testimony, and rebuttal testimony deadlines consistent with those deadlines set forth in the Public Staff Motion.

b. ALTERNATIVELY, IF THE COMMISSION ADOPTS A BIFURCATED DOCKET, NCSEA REQUESTS THE COMMISSION ALLOW FOR ALL PARTIES TO FILE INITIAL, RESPONSIVE, AND REBUTTAL TESTIMONY.

Should the Commission elect to order that the issues in this docket be bifurcated in a manner consistent with the Public Staff Motion, NCSEA requests, for the reasons set forth above, that the Commission allow all parties the opportunity to file initial, responsive, and rebuttal testimony. NCSEA in the alternative requests that the Public Staff Motion be granted in part, with the deadlines and all other material changes staying the same, but to allow for all parties to file testimony during the three testimony stages presented in the Public Staff Motion.

III. CONCLUSION.

Prior to making this filing, NCSEA contacted the parties in this docket and requested any feedback they may have on NCSEA's motion. Counsel for the North Carolina Clean Energy Business Alliance and the Hydro Group have authorized NCSEA to represent that they support NCSEA's motion. Counsel for the Southern Alliance for Clean Energy have authorized NCSEA to represent that they do not oppose NCSEA's

motion. Possibly due to the condensed timeline between when NCSEA reached out for feedback and when this filing was made, NCSEA has not received any further feedback from the remaining parties in this docket.

In sum, NCSEA requests that the Commission modify the scheduling order to allow for a full evidentiary hearing and for all parties be allowed to submit initial, responsive, and rebuttal testimony. In the alternative, NCSEA requests that the Commission adopt the bifurcated proposal outlined in the Public Staff Motion but modify it to allow all parties to file initial, responsive, and rebuttal testimony.

Respectfully submitted this the 4th day of January, 2019.

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CERTIFICATE OF SERVICE

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

This the 4th day of January, 2019.

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