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JUL 22 2013

Clerk's Office
N.C. Utilities Commission

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
DOCKET NO. E-100, SUB 137

In the Matter of:)
2012 Biennial Integrated Resource Plans) PROPOSED PARTIAL ORDER
and Related 2012 REPS Compliance)
Plans)

NCSEA'S PROPOSED PARTIAL ORDER

North Carolina Sustainable Energy Association ("NCSEA") submits the following proposed partial order – limited to the access to electricity consumption data issue – in accordance with the North Carolina Utilities Commission's 15 July 2013 *Order Denying Request for Evidentiary Hearing and Allowing Proposed Orders and Briefs*:

FINDINGS OF FACT

X. Commission Rule R8-51, which addresses provision of consumer billing history, was promulgated in 1981 in the pre-digital era. Commission Rule R8-51 does not contemplate provision of data more granular than monthly data; customers accessing their electricity consumption data via the internet; customers authorizing third-parties to access the customers' electricity consumption data; or disclosure of aggregated or de-identified data to entities like research institutions or local governments for research/educational use. Commission Rule R8-51 and the investor-owned electric utilities' Codes of Conduct merit review to determine if the public interest would be advanced by amending the rule and the Codes of Conduct to address such issues.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. X

This finding of fact is partially informational in nature and, as to the informational content, it is not controverted. Commission Rule R8-51 was promulgated in Commission

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Docket E-100, Sub 36 in 1981. In their filings, NCSEA, DEC and PEC acknowledged that the rule was promulgated in a pre-digital era. No other party contended otherwise.

Commission Rule R8-51 currently provides:

Each utility, upon the request of one of its consumers, shall provide the past billing information of such consumer as provided in this rule. The minimum information which shall be provided shall include the following in an easily understood format: the name of the rate schedule under which such consumer is served; a clear specification of the months and years of data supplied (twelve month minimum); and a clear itemization of the demand billing units, basic facilities charge, KWH usage, and dollar amount of bills for each bill rendered during the period to which the data relates. The utility may charge up to \$5.00 for all subsequent requests for a past billing history made by the same consumer for the same service location within a twelve (12) month period.

The language of the rule speaks for itself and evidences that the rule does not contemplate provision of data more granular than monthly data; customers accessing their electricity consumption data via the internet; customers authorizing third-parties to access the customers' electricity consumption data; or disclosure of aggregated or de-identified data to entities like research institutions or local governments for research/educational use.

The finding that Commission Rule R8-51 and the investor-owned electric utilities' Codes of Conduct merit review is based on NCSEA's comments, DEC's/PEC's reply comments, SACE's/Sierra Club's reply comments, and numerous statement of position letters that have been filed with the Commission.

In its 5 February 2013 comments calling for review of Commission Rule R8-51, NCSEA pointed out that a number of other jurisdictions, including but not limited to California, Colorado, and Oklahoma, have rules in place that have been promulgated in the digital era and contemplate provision of data more granular than monthly data (if

available); customers accessing their electricity consumption data via the internet; customers authorizing third-parties to access the customers' electricity consumption data; and disclosure of aggregated or de-identified data to entities like research institutions or local governments for research/educational use. NCSEA also pointed out, in its 5 February 2013 and 25 March 2013 filings, that the National Association of Regulatory Utility Commissioners (NARUC) and the American Council for an Energy-Efficient Economy (ACEEE) have called for promulgation of rules that contemplate such issues.

The Commission last considered access to electricity consumption data in 2009 in Commission Docket No. E-100, Sub 123. At that time, the Commission declined to adopt a federal standard related to smart grid-quality information established by Section 1307 of EISA. At that time, the Commission instead opened Commission Docket No. E-100, Sub 126 to consider amending Commission Rule R8-60. In 2012, the Commission amended Rule R8-60 and promulgated Rule R8-60.1. Rule R8-60.1(c)(8) requires electric utilities to describe transfers of customer-specific information from the utility to third-parties and how customers will authorize that information for release by the utility to third-parties. Rule R8-60.1(c)(8) highlights the need to insure that regulatory infrastructure addressing access to electricity consumption data is being discussed and promulgated in the near-term as appropriate.

Though the Commission declined to amend its rules related to access to electricity consumption data in 2009, it concludes that in the intervening four years circumstances have changed sufficiently to merit review again. Not only has Commission Rule R8-60.1(c)(8) – which contemplates authorized third-party access – been promulgated, but it

also appears that a broad spectrum of customers and third-parties are now calling for “modernization” of the rules related to access to electricity consumption data.

The Commission received letters supporting NCSEA’s call for review from the following organizations/businesses/individuals:

Abundant Power

Advanced Energy Economy (AEE)

Apartment Association of North Carolina (AANC)

Appalachian State University

Cameron Brooks (President of Tolerable Planet Enterprises; former VP of Policy for Tendril Inc.)

Christine E. Boyle (CEO of Blue Horizon Insight; Affiliate Scholar at the UNC School of Government)

City of Asheville

City of Durham

City of Raleigh

Clean Energy Durham

Clean Energy Finance Center

Clean Energy Solutions

CNT Energy

Dan Fogel (faculty member at Wake Forest University; Owner of SP3)

dhic

Environmental Defense Fund (EDF)

FREEDM Systems Center at NC State University

Institute for Market Transformation (IMT)

John Richardson (Sustainability Officer at Town of Chapel Hill)

Lawrence Steffann (former VP of Product Development for Consert, Inc.)

Melissa McHale (assistant professor at NC State University)

Natural Resources Defense Council (NRDC)

NORESCO

North Carolina Energy Office

North Carolina Solar Center

plotwatt

Sheercom

SimpleEnergy

Southeast Energy Efficiency Alliance (SEEA)

TechNet

Town of Carrboro

Town of Cary

U.S. Green Building Council (USGBC), North Carolina Chapter

In their reply comments, SACE/Sierra Club also support NCSEA's call for review.

DNCP asserts that Commission Rule R8-51 sets minimum requirements and does not preclude an electric utility from offering greater access to electricity consumption data, subject to conformance with the utility's Code of Conduct. DNCP concludes that a rulemaking is not necessary at this time and if a rulemaking is opened it should be handled with extreme care to guard the privacy of customer information.

DEC/DEP believe that private customer data should be appropriately protected and have concerns that the potential costs and authorization processes associated with disclosure of customer data could be significant, but conclude that they would not object to a separate rulemaking proceeding to explore customer data access if the Commission deems it advisable.

As stated above, circumstances have changed sufficiently since the Commission last examined access to electricity consumption data. While DNCP may be correct in asserting that Commission Rule R8-51 sets minimum standards and does not preclude electric utilities from offering greater access, the Commission nonetheless deems it advisable to review the current rule (and, if necessary, the investor-owned electric utilities' Code of Conducts) in a separate docket and consider whether the standards set out in the rule should be amended to advance the public interest.

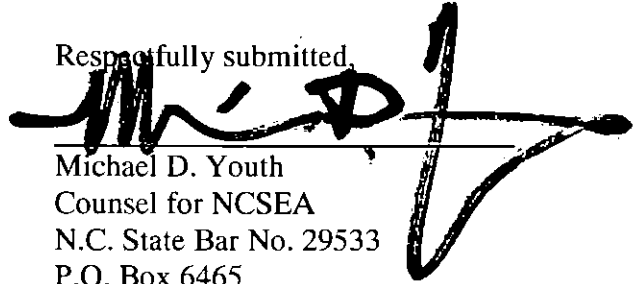
The Commission further deems it advisable for NCSEA to draft and file a "strawman" proposed amended rule for review in the docket that the Commission will open. NCSEA should use the laws of California, Colorado and Oklahoma that it cited in its 5 February 2013 filing as a foundation for the "strawman" proposed amended rule. The Commission will conduct an initial review of NCSEA's submission and either (a) call for comments on NCSEA's proposal or (b) issue a Commission proposal and call for comments on the Commission proposal.

IT IS, THEREFORE, ORDERED as follows:

Y. That the Commission shall open a separate docket in which it shall consider amending Commission Rule R8-51 and the investor-owned electric utilities' Codes of Conduct regarding customer and third-party access to electricity consumption data.

Within 30 days of issuance of this order, NCSEA – using California, Colorado and Oklahoma law as a foundation – shall file in the separate docket a proposed amendment to Commission Rule R8-51 and, if necessary, the electric utilities' Codes of Conduct.

Respectfully submitted,

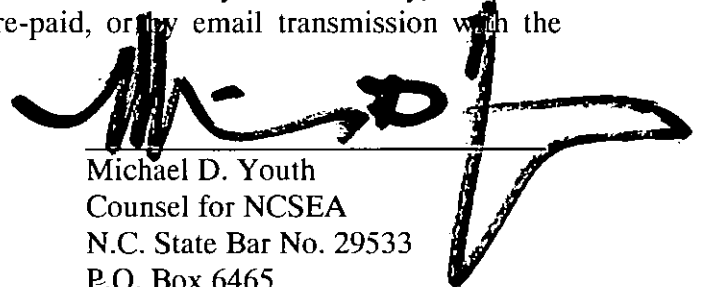


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CERTIFICATE OF SERVICE

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing Proposed Partial Order 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 22nd day of July, 2013.



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