

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION **FILED**  
DOCKET NO. E-7, SUB 1031

JUL 22 2013

Clerk's Office  
N.C. Utilities Commission

In the Matter of: )  
Application of Duke Energy Carolinas, LLC )  
For Approval of Demand-Side Management )  
and Energy Efficiency Cost Recovery Rider 5 )  
Pursuant to N.C. Gen. Stat. § 62-133.9 and )  
Commission Rule R8-69 )

AMENDED  
POST-HEARING BRIEF

NCSEA'S AMENDED POST-HEARING BRIEF

The North Carolina Sustainable Energy Association ("NCSEA") submits this amended<sup>1</sup> post-hearing brief in accordance with the 11 June 2013 *Notice of Due Date for Briefs/Proposed Orders* and subsequent modifying orders issued by the North Carolina Utilities Commission ("Commission") in this docket.

NCSEA does not challenge herein as unreasonable or imprudently incurred any costs Duke Energy Carolinas, LLC ("DEC") seeks to recover. NCSEA does, however, seek to (1) provide a temporal context for DEC's proposed demand-side management ("DSM") and energy efficiency ("EE") rider charges; (2) ensure that any approval of DEC's rider charges is conditioned on the charges being consistent with any final order entered in Commission Docket No. E-7, Sub 1032; (3) have the Commission strongly encourage DEC to study a representative sample of its opt-out customers and, in order to ensure this encouragement prompts action, have the Commission direct DEC to submit a collaborative-reviewed proposal for conducting such a study; and (4) have the Commission direct DEC to submit, within 45 days of a final order, a written explanation as to why DEC should not be ordered to develop and propose a general education and awareness program designed to (a) notify DEC's residential customers of impending

<sup>1</sup> The only substantive change is the inclusion of footnote 6.

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peak demand times and (b) urge DEC's residential customers to refrain from using electricity at these peak times of the day.

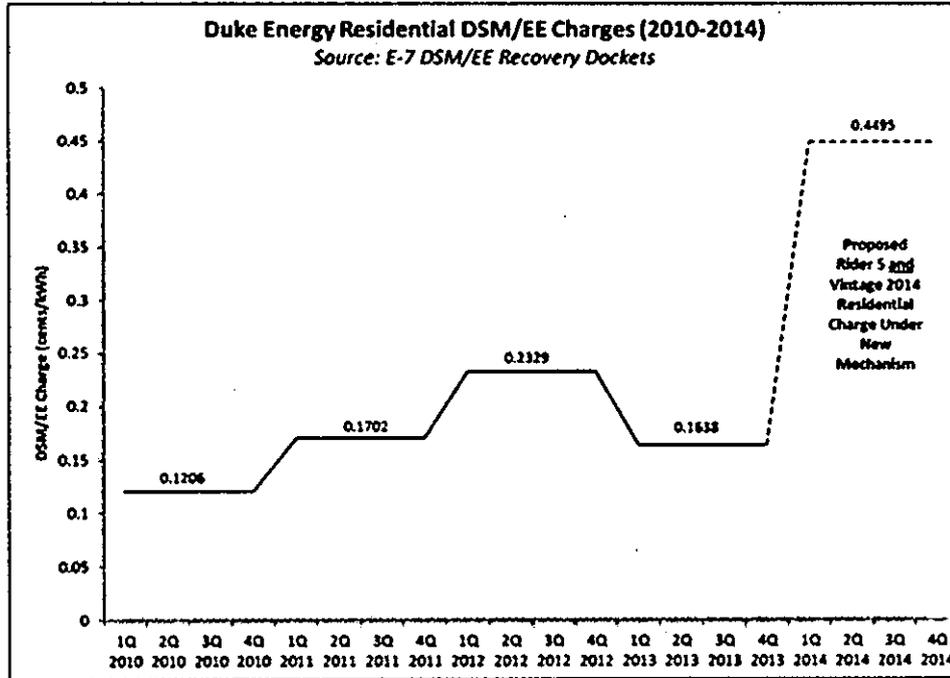
### **DEC'S PROPOSED RIDER 5 CHARGES IN CONTEXT**

Since approval of DEC's Save-a-Watt program in Commission Docket No. E-7, Sub 831, DEC has split its DSM/EE cost recovery over four program "Vintage Years" between two broad customer groups: (1) residential customers and (2) nonresidential customers that have not opted-out (*see infra* for more on opt-out). In this proceeding, DEC seeks approval of its Rider 5, including cost recovery from both broad customer groups for Vintage 2014 charges under the new mechanism being proposed in Commission Docket No. E-7, Sub 1032, as well as various true-ups to be paid by or refunded to participant customers in connection with Vintage Years 1, 2, 3 and 4.

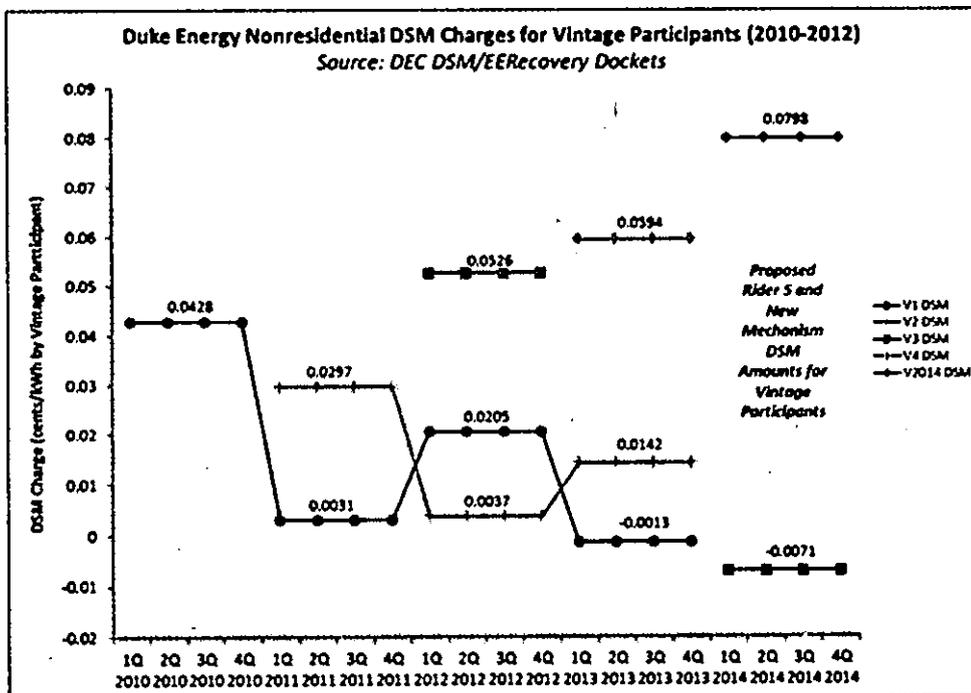
As to residential customers, DEC requests approval of a charge of 0.4495 cents/kWh, a .2857 cents/kWh increment from the current Rider 4. The proposed charge's relationship to past approved charges is depicted in the figure below, which DEC Witness Duff testified "appear[s] to be [an] accurate" graphical representation<sup>2</sup>:

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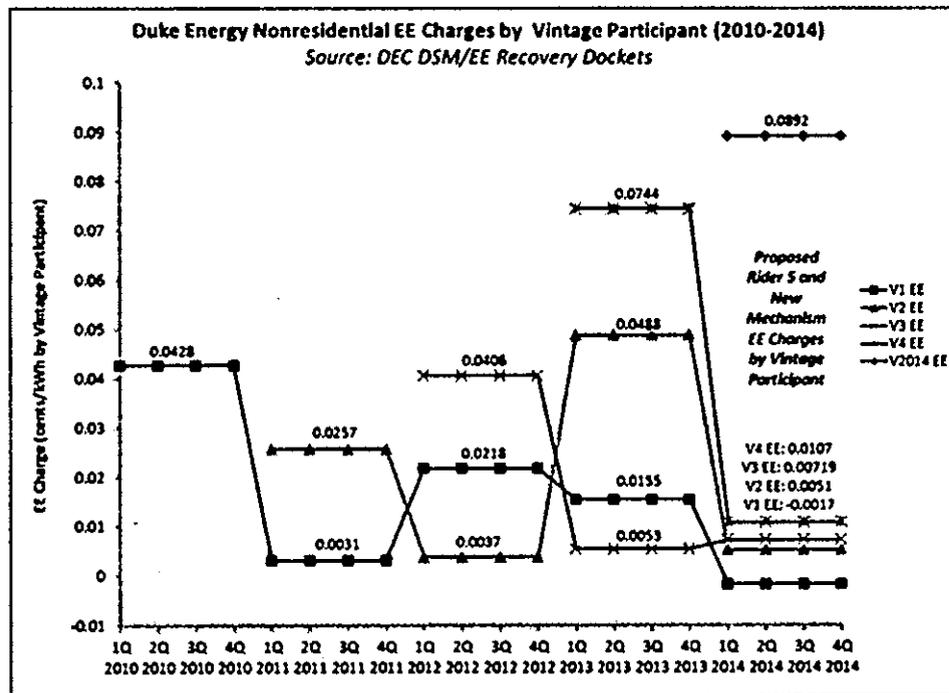
<sup>2</sup> *Transcript of Testimony Heard on 4 June 2013* ("Tr. at p. \_\_\_."), p. 71, Commission Docket No. E-7, Sub 1031 (11 June 2013).



As to nonresidential DSM participant customers, DEC requests approval of a Vintage 2014 charge of 0.0798 cents/kWh. The proposed charge's relationship to other approved and proposed charges is depicted in the figure below, which DEC Witness Duff testified appears "more or less" accurate, Tr. at p. 74:



Finally, as to nonresidential EE participant customers, DEC requests approval of a Vintage 2014 charge of 0.0892 cents/kWh. The proposed charge's relationship to other approved and proposed charges is depicted in the figure below, which DEC Witness Duff testified appears "more or less" accurate, Tr. at p. 74:



## ARGUMENTS

### I. THE COMMISSION SHOULD CONDITION APPROVAL OF DEC'S RIDER CHARGES ON THE CHARGES BEING CONSISTENT WITH ANY FINAL ORDER ENTERED IN COMMISSION DOCKET NO. E-7, SUB 1032.

DEC seeks approval of a DSM/EE cost recovery rider in this proceeding that is based in part on an assumption that the new cost recovery mechanism proposed in Commission Docket No. E-7, Sub 1032 will be approved as proposed. *See, e.g.*, Tr. at p. 34 ("Rider 5 includes an estimate of Vintage 2014 EE program costs plus an earned utility incentive . . . plus year one of net lost revenues. . . . Rider 5 also includes an

estimate of Vintage 2014 DSM program costs plus an incentive[.]” (DEC Witness McGee testimony).

The proposed rider’s charges – particularly the proposed residential charges – contain significant estimated costs for Vintage 2014. At the 4 June 2013 hearing, the following exchange occurred:

Q: The proposed residential charge is roughly .45 cents per kWh. Is that correct?

A: That’s correct.

Q: And if I’m not mistaken, about .30 cents per kWh of that overall [.45 cents] charge is attributable to Vintage 2014 and the new mechanism proposed in E-7, Sub 1032?

A: That is correct. It is the prospective portion of the Rider 5 filing.

Q: So about two-thirds of the proposed residential charge is associated with the mechanism?

A. The new portfolio programs, as well as the new mechanism, yes.

Tr. at pp. 71-72.

Given the magnitude of Vintage 2014’s impact on the proposed rider’s charges, the Commission should condition any approval of the rider on consistency with the final order in Commission Docket No. E-7, Sub 1032. DEC does not appear to object to such a condition being inserted into the final order in this proceeding. In response to an NCSEA data request, DEC made the following statement:

The Commission may determine that it is appropriate to approve all aspects of the rider application for E-7, Sub 1031 on the condition that the 2014 rate based on the new mechanism be adjusted, if necessary, when E-7, Sub 1032 is approved by the Commission. The rider does not become effective until January 2014 so there is adequate time to make all such adjustments if necessary and still begin the rider on the proposed effective date.

*Official Exhibits of Hearing 6-4-13 Raleigh, NCSEA Duff/McGee Cross Exh. No. 1, p. 12, Commission Docket No. E-7, Sub 1031 (2 July 2013) (copy of quoted DEC data response); Tr. at p. 72 (DEC Witness Duff indicated “Duke is willing to have its Vintage*

2014 charges adjusted accordingly” if a new mechanism is approved before the rider goes into effect).

**II. THE COMMISSION SHOULD STRONGLY ENCOURAGE DEC TO STUDY A REPRESENTATIVE SAMPLE OF ITS OPT-OUT CUSTOMERS AND, IN ORDER TO ENSURE THIS ENCOURAGEMENT PROMPTS ACTION, DIRECT DEC TO SUBMIT, AS PART OF DEC’S 2014 DSM/EE RIDER APPLICATION, A COLLABORATIVE-REVIEWED PROPOSAL FOR CONDUCTING SUCH A STUDY.**

Last year, the Commission issued an order that acknowledged DEC’s need to engage more successfully with its opt-out customers to get more of them participating in DEC’s non-residential DSM/EE programs and measures. The Commission’s order contained the following language:

[I]f the Company is unsuccessful in its continued efforts to engage these opt-out customers in its non-residential DSM/EE programs and measures, and the negative effect the opt-out customers are having on the overall non-residential impacts of the Company’s measures continues and/or increases, the Commission would encourage Duke Energy Carolinas or the Public Staff to review a representative sample of the Company’s opt-out customers to verify whether some type of EE measure has been implemented by these opt-out customers.

*Order Approving DSM/EE Rider and Requiring Filing of Proposed Customer Notice*, p. 20, Commission Docket No. E-7, Sub 1001 (7 September 2012).

DEC’s continued efforts to engage its opt-out customers in its programs and measures have not been successful. Two years ago, 38% of DEC’s eligible opt-out load was, in fact, opting out. Tr. at p. 73 (DEC Witness Duff testimony). Last year, 40% of DEC’s eligible opt-out load was, in fact, opting out. Tr. at p. 73 (DEC Witness Duff testimony). This year, the opt-out percentage rose again to 44% of eligible load. Tr. at p. 74 (DEC Witness Duff testimony); *Official Exhibits of Hearing 6-4-13 Raleigh, NCSEA*

*Duff/McGee Cross Exh. No. 1*, p. 9, Commission Docket No. E-7, Sub 1031 (2 July 2013)  
(copy of DEC data response reciting 44% figure).

At the same time, the negative effect the opt-out customers are having on the overall non-residential impacts of DEC's measures is at least continuing and may be increasing. At the 4 June 2013 hearing, the following exchange occurred while DEC Witness Duff was testifying:

Q: Given the opt-out percentages for the last few years, the percentages we've just reviewed . . . would you agree that the negative effect of opt out on Duke's non-residential impacts is continuing and/or increasing?

A: I believe that it is continuing, yes.

...

Q: [Rider 5's proposed] higher charges could – I emphasize could – exacerbate opt out and its negative effects. Is that correct?

A: Yeah, I guess it could. That's correct.

Tr. at pp. 74-75 (DEC Witness Duff testimony). Public Staff Witness Floyd similarly testified that the negative effect of opt-outs was likely to increase or at least continue.

Public Staff Witness Floyd engaged in the following exchange:

Q: And do you expect the trend of opting out load to change dramatically under the new mechanism proposed by Duke?

A: I do not, no.

Tr. at pp. 163-164.

Despite (1) DEC's lack of success in engaging its opt-out customers in its programs and measures and (2) the continuing and/or increasing negative effect the opt-out customers are having on the overall impacts of DEC's measures, DEC has not engaged in any rigorous analysis of a representative sample of its opt-out customers. In responses to NCSEA data requests, DEC made the following statements:

[DEC] has not undertaken any statistical analysis to determine whether or not, as a whole, opted-out customers actually invest in alternative DSM or

EE measures. Additionally, [DEC] has not formally or informally investigated whether these opted-out customers have invested in DSM or EE measures, or have made discrete plans to do so during the Vintage period.

...

[DEC] has not performed analysis with regard to load of opted out customers or trends in their loads.

...

[DEC] has not undertaken, nor partnered with the Public Staff or any other entity to undertake, a systematic study to investigate the cost-effectiveness of targeted marketing and outreach efforts intended to convince opted-out customers to participate in any programs and has no future plans to do so.

*Official Exhibits of Hearing 6-4-13 Raleigh, NCSEA Duff/McGee Cross Exh. No. 1*, pp. 4-6, Commission Docket No. E-7, Sub 1031 (2 July 2013) (DEC responses to NCSEA data requests 1-5, 1-11 and 1-6, respectively).

DEC's decision not to engage in a rigorous analysis would be understandable if it had a clear understanding of what its opt-out customers were doing (because such a clear understanding would obviate the need for such analysis). But DEC does not have a clear understanding of what its opt-out customers are – or are not – doing. Commission Chairman Finley explored the extent of DEC's knowledge in the following exchange:

Q: So are you satisfied that the customers that have the ability and do make the choice to opt out are actually engaging in their own EE and DSM programs and just determined that it's not cost effective to participate in your programs?

A: During the annual process, the customers must attest that they have undergone some sort of energy assessment or analysis, as well as evaluated a plan and actually incorporated measures, in some cases, to show that they are undertaking those efforts.

Tr. at p. 90. DEC Witness Duff's answer does not directly address Commission Chairman Finley's question. On re-cross, DEC Witness Duff did, however, provide the following testimony which more directly answers the Chairman's question and highlights that DEC does not have a clear understanding of what its opt-out customers are doing:

Q: If I'm a large commercial or industrial customer and I want to opt out, I sign a notification<sup>3</sup> and submit that. Is that correct?

A: That's correct.

Q: And the notification is – it's a promise, but there's no date certain by which time I've got to fulfill that promise. Is that correct?

A: That's my read of it, yes.

Q: And those who submit the notice can either implement DSM and energy efficiency measures on their own, outside of a Duke program or not. Is that correct?

A: I guess I'll be faithful and think that I think that when they attest that they're doing it, that they are doing it.

Q: But in response to Chairman Finley's question, are 100 percent of folks doing it, you cannot say 100 percent are implementing energy efficiency measures. Is that correct?

A: That is correct.

Q: Can you say that 70 percent are implementing energy efficiency measures?

A: I can't give you a specific – any sort of a specific percent. . . . I think we have to take our customers at their word that they're doing it[.]

Tr. at pp. 99-100 (DEC Witness Duff testimony); Tr. at pp 95-96 (DEC Witness Duff testified that “[o]ther than anecdotal information . . . I don't have any firm facts to

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<sup>3</sup> Before a customer opts-out, it must make one of two representations – an affirmation of past action or a promise to take future action – to its electric power supplier in a nonparticipation notice. The customer must

notif[y] the . . . customer's electric power supplier that, at the . . . customer's own expense, the . . . *customer has implemented at any time in the past or, in accordance with stated, quantified goals for demand-side management and energy efficiency, will implement alternative demand-side management and energy efficiency measures[.]*

N.C. Gen. Stat. § 62-133.9(f) (emphasis added); see Commission Rule R8-69(d)(1). A copy of the notification form a DEC opt-out customer is required to sign was provided to NCSEA during discovery and is attached as **Exhibit A**. See *Official Exhibits of Hearing 6-4-13 Raleigh, NCSEA Duff/McGee Cross Exh. No. 1*, p. 8, Commission Docket No. E-7, Sub 1031 (2 July 2013). In order to opt out, a DEC customer must simply “certify and attest that the establishment for each service identified in this document has gone through an energy audit or analysis, and has implemented (or plans to implement) energy efficiency measures recommended in that audit or analysis.” **Exhibit A**, p. 2. There does not appear to be any requirement that the energy audit or analysis be submitted with the notification or even, for example, a certification that the energy audit or analysis will be kept on file for a certain number of years in the event DEC is ordered to verify the existence of the audit or analysis.

support [my belief that opt-out customers are implementing EE measures]. It's just a general belief.").

Given (1) DEC's lack of success in engaging its opt-out customers in its programs and measures, (2) the continuing and/or increasing negative effect the opt-out customers are having on the overall impacts of DEC's measures, (3) that DEC has not conducted any type of analysis, and (4) that DEC does not have a clear understanding of whether its opt-out customers are investing in DSM or EE measures, NCSEA believes the Commission should encourage DEC to perform an analysis of a representative sample of its opt-out customers to verify whether EE measures have been implemented by these opt-out customers.<sup>4</sup>

The Public Staff appears to concur that the time has come for DEC to engage in some sort of study of its opt-out customers. On cross-examination, Public Staff Witness Floyd testified as follows:

Q: Did you hear [DEC Witness Duff] say that opt out is having a negative effect on the overall nonresidential impacts of Duke's measures?

A: Yes, I did.

Q: Do you believe some kind of quantitative analysis of any negative effect should be explored?

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<sup>4</sup> In the Commission's order last year, in footnote 13, the Commission mentions the possibility of NCSEA conducting an informal review and presenting its findings to the Commission. See *Order Approving DSM/EE Rider and Requiring Filing of Proposed Customer Notice*, p. 20 n. 13, Commission Docket No. E-7, Sub 1001 (7 September 2012). NCSEA sought information during discovery – including opt-out customers' monthly energy usage data and copies of the opt-out customers' notification forms – that might enable NCSEA to conduct such an informal review. DEC was unable to turn over the information, even under a confidentiality agreement, because of its Code of Conduct. See *Official Exhibits of Hearing 6-4-13 Raleigh, NCSEA Duff/McGee Cross Exh. No. 1*, pp. 7-8, Commission Docket No. E-7, Sub 1031 (2 July 2013); see also Tr. at pp. 75-76. Consequently, NCSEA is not in a position to attempt an informal review.

A: I heard Mr. Duff say that none had been done, and there could be the possibility of doing some type of analysis. I'm not sure what character that analysis would take on, but it's possible, yes.

Q: Would the Public Staff like to see Duke take some kind of additional action on the opt-out issue?

A: Within the context of the Company's collaborative arrangement, that's probably the best place for this type of discussion to occur. . . . I believe that the collaborative is probably the best place to look to see how this issue could be studied, particularly with the new mechanism pending.

Q: And if the collaborative were to take up this issue or be ordered to take up this issue, would you suggest any timeline within which the collaborative would report back or talk about its discussions?

A: . . . I would like to see the collaborative make that decision, short of a Commission Order telling us to do it in a particular time. I don't have a good concept of how far or how much time it would take to develop this study. It really depends on the extent to which the study and the objectives of the study have to play out and what the Commission ultimately orders the Company to do.

Q: Do you think it would be fair if this were taken up by the collaborative to have the collaborative report back after two of its quarterly meetings about what, if any, progress it has made in talking about –

A: . . . I wouldn't see any reason why within the next six months, and that would be two collaborative meetings, meeting on a quarterly basis, that we couldn't at least have some idea of what a study might look like, if not actually have undertaken or at least initiated a study by that point. Three to six months, to answer your question.

Tr. at pp. 163-166 (Public Staff Witness Floyd testimony).

In order to ensure that DEC takes action in response to any Commission encouragement to perform an analysis, the Commission should, pursuant to the authority conferred on it in N.C. Gen. Stat. § 62-36, direct DEC to include in its 2014 DSM/EE rider application a proposal for (1) identifying a representative sample of opt-out customers, (2) aggregating DEC data/collecting data from the sample customers, and (3) conducting an analysis of the data to answer research questions such as:

- (a) What percentages of the large commercial customers and industrial customers in the representative sample are in a position to verify that they

have actually implemented energy efficiency measures recommended in a pre-existing energy audit or analysis?

(b) What percentages of the large commercial customers and industrial customers in the representative sample have spent the same amount of money or more money implementing energy efficiency measures as similarly situated opted-in customers? (Similarly, are opt-out customers who are spending less than opted-in customers achieving equivalent energy savings at less cost?<sup>5</sup>)

(c) What specific measures identified in the opt-out customers' energy audits and analyses would yield significant energy savings if implemented *but* are consistently *not* being implemented, and what features could be incorporated into a program or measure to incentivize opt-in and implementation of these measures?

The Commission should also direct DEC to work with and seek input from the collaborative in designing the study proposal.

The question of cost recovery should not stymie the development of a study proposal. Though DEC Witness Duff testified that he did not think the cost of a study could be recovered through DEC's DSM/EE rider, Tr. at p. 88, Public Staff Witness Lucas testified in the 4 June 2013 DEC REPS rider hearing – in response to a question about whether opt-out research costs could be recovered in the REPS rider – “I believe

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<sup>5</sup> Answering this question will yield insight into whether the measures, if any, being taken by opt-out customers “are substantially equivalent to those offered by the electric power supplier[s,]” something DEC itself requested evidence of not too long ago. *Order Adopting Final Rules*, pp. 128-129, Commission Docket No. E-100, Sub 113 (29 February 2008).

that can be covered under the million dollar per year allowed research allotment in G.S. 62-133.8.” *Transcript of Testimony Heard on 4 June 2013*, p. 165, Commission Docket No. E-7, Sub 1034 (12 June 2013).

**III. THE COMMISSION SHOULD DIRECT DEC TO SUBMIT, WITHIN 45 DAYS OF A FINAL ORDER, AN EXPLANATION AS TO WHY DEC SHOULD NOT BE ORDERED TO DEVELOP AND PROPOSE A GENERAL EDUCATION AND AWARENESS PROGRAM DESIGNED TO (A) NOTIFY DEC’S RESIDENTIAL CUSTOMERS OF ANTICIPATED PERIODS OF PEAK DEMAND AND (B) URGE DEC’S RESIDENTIAL CUSTOMERS TO REFRAIN FROM USING ELECTRICITY AT THESE PEAK TIMES OF THE DAY.**

In 1975, the North Carolina General Assembly enacted N.C. Gen. Stat. § 62-155, entitled “Electric power rates to promote conservation.” The statute provides in pertinent part:

- (b) If the Utilities Commission after study determines that conservation of electricity and economy of operation for the public utility will be furthered thereby, it shall direct each electric public utility to notify its customers by the most economical means available of the anticipated periods in the near future when its generating capacity is likely to be near peak demand and urge its customers to refrain from using electricity at these peak times of the day. . . .
- (c) The Commission itself shall inform the general public as to the necessity for controlling demands for electricity at peak periods and shall require the several electric public utilities to carry out its program of information and education in any reasonable manner.

N.C. Gen. Stat. § 62-155(b) & (c).

Thirty-three years later, in 2008, the Commission after analysis “recommend[ed] that utilities aggressively pursue opportunities for increased demand response” and concluded that “[d]emand response programs have a tremendous potential to impact peak demand and should be fully utilized by utilities.” *Report of the Commission to the Governor of North Carolina et al. Regarding an Analysis of Rate Structures, Policies,*

*and Measures to Promote Renewable Energy Generation and Demand Reduction in North Carolina*, p. 48, Commission Docket No. E-100, Sub 116 (2 September 2008).

In 2012, the Commission “strongly encourage[d] utilities to take reasonable measures to inform all customers of the forecasted summer peak to allow all customers to engage in voluntary demand response and peak shaving.” *Order Denying Rulemaking Petition*, pp. 10-11, Commission Docket No. E-100, Sub 133 (30 October 2012).

Despite the Commission’s 2008 recommendation and its 2012 strong encouragement, DEC does not appear to have taken clear and discernable steps to inform its residential customers of the forecasted summer peak so that they can engage in voluntary demand response and peak shaving.<sup>6</sup> During the 4 June 2013 hearing in this matter, the following exchange occurred:

Q: As we enter into summer, can you share what, if any, measures you’re aware of that Duke is taking to inform all of its customers,

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<sup>6</sup> In response to the 5 February 2013 Comments filed by the Public Staff in Commission Docket No. E-100, Sub 137, DEC discussed its plans to inform all customers of the system summer peaks so that they might engage in voluntary demand response and peak shaving. *Duke Energy Carolinas and Progress Energy Carolinas’ Reply Comments*, pp. 7-8, Commission Docket No. E-100, Sub 137 (5 March 2013). DEC stated in pertinent part that it “proactively provide[s] voluntary programs for customers to participate in managing peak demand[.]” and “[i]n addition, during those periods when peak customer usage and/or system conditions may forecast the need for customers to take additional conservation measures, DEC and PEC have communication plans that include notifying appropriate state government agencies through existing emergency communication channels, the general public through the news media and other means, as well as notifying Company facilities and employees to conserve electricity.” DEC’s reply comments are not responsive to the core issue. When the issue is notification of customers about forecasted summer peaks, it is inapposite that DEC provides programs for customers to participate in managing peak demand, unless one of those programs is a program that *notifies* the customers of impending summer peaks. Similarly, when the issue is notification so that customers can engage in *voluntary* demand response and peak shaving, DEC notifications limited to when DEC has a “need for customers to take additional conservation measures” does not provide residential customers the full opportunity to *voluntarily* peak shave at those times when DEC does not “need” them to.

particularly its residential customers, of impending peaks so that they can engage in voluntary demand response and peak shaving?

A: I can't speak to general campaigns or programs that we do outside of our approved energy efficiency portfolio. That's really what my expertise was in this proceeding.

Q: So you are not aware of anything that Duke is doing?

A: No. I know we communicate to customers that participate in our demand response program regarding peaks, and we communicate the day before a peak event is called, but with respect to this general – this general reasonable measure to inform all customers of forecasted summer peaks, I'm not aware. It's outside of our company's portfolio programs.

Q: So when you say there is a program that delivers this type of alert to customers participating in a certain program or measure, you're not aware that that type of alert has been extended to Duke residential customers?

A: No. I only know about our portfolio programs.

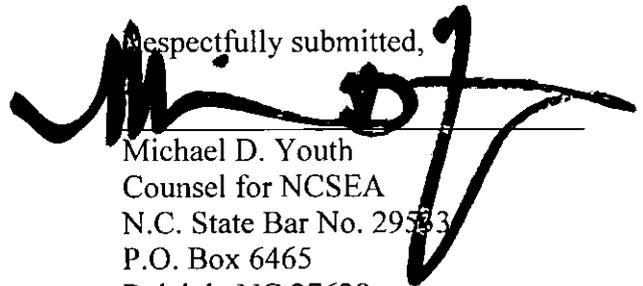
Tr. at pp. 83-84 (DEC Witness Duff testimony).

Pursuant to the Commission's statutory authority set out in N.C. Gen. Stat. § 62-155(b) & (c) and the Commission's mandate to inform the general public as to the necessity for controlling demands for electricity at peak periods set out in N.C. Gen. Stat. § 62-155(c), the Commission should direct DEC to submit, within 45 days of the issuance of a final order on DEC's application, a written explanation as to why DEC should not be ordered to develop and propose a general education and awareness program designed to (1) notify its residential customers by the most economical means available of the anticipated periods in the near future when DEC's generating capacity is likely to be near peak demand and (2) urge its residential customers to refrain from using electricity at these peak times of the day. The Commission should reserve the right to direct DEC to develop and propose a program in the event the Commission is not satisfied with DEC's explanation.

## CONCLUSION

As set out above, NCSEA does not challenge herein as unreasonable or imprudently incurred any costs DEC seeks to recover. NCSEA does, however, pray the Commission (1) ensure that any approval of DEC's rider charges is conditioned on the charges being consistent with any final order entered in Commission Docket No. E-7, Sub 1032; (2) strongly encourage DEC to study a representative sample of its opt-out customers and, in order to ensure this encouragement prompts action, direct DEC to submit, as part of DEC's 2014 DSM/EE rider application, a collaborative-reviewed proposal for conducting such a study; and (3) direct DEC to submit a written explanation, within 45 days of a final order in this docket, as to why DEC should not be ordered to develop and propose a general education and awareness program designed to (a) notify DEC's residential customers by the most economical means available of the anticipated periods in the near future when DEC's generating capacity is likely to be near peak demand and (b) urge DEC's residential customers to refrain from using electricity at these peak times of the day.

Respectfully submitted,

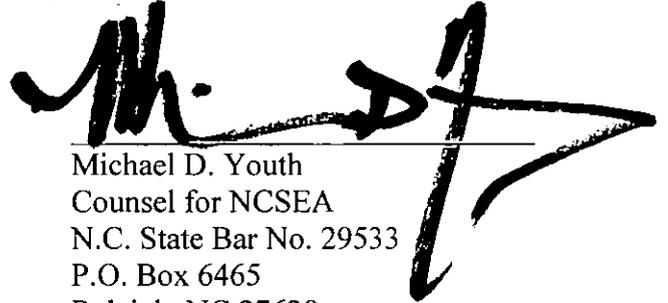


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**CERTIFICATE OF SERVICE**

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing Amended Post-Hearing Brief 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 22<sup>nd</sup> day of July, 2013.

A large, bold, handwritten signature in black ink, appearing to read 'M. Youth', is written over a horizontal line. The signature is stylized and extends to the right of the line.

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North Carolina Opt-in

# Energy Efficiency and Demand-Side Management Decision Form

## Instructions

Complete each step of this form to notify Duke Energy, pursuant to N.C.G.S. 62-133.9(f) and North Carolina Utilities Commission Rule R8-69(d), whether or not your account(s) will participate in the cost recovery rider for Duke Energy's energy efficiency (EE) and/or demand-side management (DSM) programs.

**THIS COMPLETED FORM MUST BE RETURNED TO DUKE ENERGY BY NO LATER THAN DEC. 31 2012 FOR THE UPCOMING CALENDAR YEAR. THE ANNUAL ENROLLMENT WINDOW IS NOV. 1 THROUGH DEC. 31 OF EACH YEAR. FOR MORE INFORMATION ABOUT THESE PROGRAMS VISIT OUR WEBSITE WWW.DUKE-ENERGY.COM**

**STEP ONE - OPT IN**

*(If opting out of these programs skip to step 2)*

Enjoy the benefits of participating in our energy efficiency and demand-side management programs designed to help save energy and lower your costs. By opting in, the applicable cost recovery factor(s) of Rider EE will be charged for each qualifying service.

- List the Duke Energy account(s) that you wish to opt into the cost recovery rider for Duke Energy's energy efficiency and/or demand-side management programs.

*If needed, use a separate document to list additional accounts, and include it when you submit this form to Duke Energy.*

Provide account information <i>exactly</i> as it appears on your Duke Energy bill. Check all boxes that apply		ENERGY EFFICIENCY	DEMAND-SIDE MANAGEMENT
Company Name (as it appears on your bill): _____			
Account/Agreement Number(s)	Facility Address (Street, city, state, zip)	Opt-in	Opt-in
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
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\* In order to opt in to DSM, you must accept the following statement. Simply check the box to acknowledge and accept the statement.

I understand that if I elect to participate in a demand-side management program by committing load at my facility for interruption, as a part of the program, that I am obligated to fulfill my required contract term(s) before opting out.



# North Carolina Opt-out

## STEP TWO - OPT-OUT

*(Skip this step if you are not opting out of these programs.)*

By opting out, the applicable cost recovery factor(s) of Rider EE will not be charged for each qualifying service. You will not be eligible to participate in our energy efficiency and/or demand-side management programs. The undersigned hereby certifies that, at your own expense, you have already implemented, or will be implementing, alternative energy efficiency measures, in accordance with stated, quantifiable goals.

List the Duke Energy account(s) that you wish to opt out of the cost recovery rider for Duke Energy's energy efficiency and/or demand-side management programs.

Only services for commercial accounts using 11 million kilowatt-hours or more annually and all industrial accounts are eligible to opt out. If multiple services are on a single account, each service must meet the opt-out criteria.

You may opt out of either or both parts of the cost recovery rider by checking the "Opt-Out" box under "Energy Efficiency" and/or "Demand-Side Management" headings.

*If needed, use a separate document to list additional accounts, and include it when you submit this form to Duke Energy.*

Provide account information <u>exactly</u> as it appears on your Duke Energy bill. Check all boxes that apply.		ENERGY EFFICIENCY	PREVIOUSLY RECEIVED INCENTIVE	DEMAND-SIDE MANAGEMENT
Company Name (as it appears on your bill): _____				
Account/Agreement Number(s)	Facility Address (Street, city, state, zip)	Opt-out	(If known)	Opt-out
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

\* In order to opt out of EE, you must accept the following three statements. If opting out of DSM, accept only the bottom two statements. Simply check each box, as appropriate, to acknowledge and accept the statements.

- I hereby certify and attest that the establishment for each service identified in this document has gone through an energy audit or analysis, and has implemented (or plans to implement) energy efficiency measures recommended in that audit or analysis.
- I understand that Duke Energy may be required to inform the NCUC of our decision to opt out, and that our election decision could become public record.
- I understand that our decision not to participate in the energy efficiency and demand-side management programs may be changed on an annual basis.

# North Carolina Authorization

**STEP THREE**

Complete this section with information about the person at your company who is authorized to make decisions concerning this form and your Duke Energy account. In addition, provide your company information as it appears on your Duke Energy bill.

First and Last Name (please print)	Title
Company Name (as it appears on your bill):	Phone No.
Mailing Address 1	Fax No.
Mailing Address 2	Email Address
City, State, Zip	
Signature	Date

**STEP FOUR**

For more information visit our website [www.duke-energy.com/EEProgramsNC](http://www.duke-energy.com/EEProgramsNC)

Complete and return this form to Duke Energy's Business Service Center using one of the following:

- Mail: Duke Energy, Mail Code EC2ZA, 1526 South Church Street, Charlotte, NC 28202
- Fax: 1-800-373-7397
- Email: [BusinessServiceCenter@duke-energy.com](mailto:BusinessServiceCenter@duke-energy.com)

This completed form must be returned to Duke Energy by no later than Dec. 31. The annual enrollment window is Nov. 1 through Dec. 31 of each year. Forms postmarked and/or time stamped after Dec. 31 will not be accepted and you must wait until the next annual election window (Nov. 1 to Dec. 31) to submit your request.

We will send you a confirmation email once we process your request.

*New accounts eligible to opt-out of the cost recovery rider may do so within 60 days of meter installation.*