

APR 29 2013

Clerk's Office
N.C. Utilities Commission

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:)
Application of Progress Energy Carolinas, Inc.,)
for Adjustment of Rates and Charges)
Applicable to Electric Service in North Carolina)

POST-HEARING BRIEF

FILED

APR 29 2013

Clerk's Office
N.C. Utilities Commission

NCSEA'S POST-HEARING BRIEF

In accordance with the 2 April 2013 *Notice of Due Date for Proposed Orders* issued by the North Carolina Utilities Commission ("Commission"), the North Carolina Sustainable Energy Association ("NCSEA") submits this post-hearing brief in the matter of the *Application of Progress Energy Carolinas, Inc. ("PEC") for Adjustment of Rates and Charges Applicable to Electric Service in North Carolina* ("Application" or "PEC's Application"). NCSEA believes the Commission, in any final order on PEC's Application, should:

- Set the Rider SS generation reservation charge at \$0.89/kW on an interim basis but, upon issuance of a final order in Commission Docket No. E-100, Sub 136, require PEC to file an updated Rider SS in which the generation reservation charge reflects PEC's Commission-approved 2012 avoided costs and, thereafter, require PEC to file an updated Rider SS biennially to reflect PEC's changing Commission-approved avoided costs;¹

¹ The relief being requested here is very similar, if not identical, to relief being sought in this proceeding by the Commercial Group. *See, e.g.,* Tr. Vol. 5 at p. 104.

AG
7Comm
Watson
Green
Conrad
Duffley
Hoover
Sessions
Kite
Ericson
Jones
Hodge
PS Exec Dir
PS Legal-3
PS Arct-3
PS Ec/Res-2
PS Elec-3

- Convene a working group comprised of North Carolina League of Municipalities (“NCLM”) members, the Public Staff, and PEC decision-makers to foster greater collaboration between PEC and its municipal retail customers;² and, finally,
- Require PEC, within two years of a final order in this proceeding, to submit a report detailing both its efforts to market its new proposed R-TOU tariff and the impact of these marketing efforts on PEC’s goal of achieving an eventual 5-10% participation rate among PEC’s residential customers.

These requests for relief are explained in more detail below.

I. UPON ENTRY OF A FINAL ORDER IN COMMISSION DOCKET NO. E-100, SUB 136, THE COMMISSION SHOULD REQUIRE PEC TO FILE AN UPDATED RIDER SS IN WHICH THE GENERATION RESERVATION CHARGE REFLECTS PEC’S FINAL 2012 AVOIDED COSTS.

In PEC’s Application, PEC “request[ed] . . . a new tariff for customers desiring firm standby service[.]” Application at p. 9. The proposed new tariff is a retail rider for Supplementary and Firm Standby Service (“Rider SS”). See Application Exhibit B at pp. 1, 84-86 of 120.

A. Rider SS’s Generation Reservation Charge is Cost-Based.

In his direct testimony, PEC Witness O’Sheasy provided an overview of Rider SS’s generation reservation charge:

² The relief being requested here is very similar, if not identical, to relief being sought in this proceeding by the North Carolina League of Municipalities.

New Rider SS includes a monthly Generation Reservation Charge of \$0.98 per kW of standby service This equivalent reservation charge is calculated by applying PEC's 15% generation planning reserve margin to *PEC's marginal generation cost* that was calculated pursuant to the methodology approved in the Commission's order for Progress Energy in the most recent avoided cost proceeding, Docket No. E-100, Sub 127 [("PEC's 2010 Avoided Costs")].

Tr. Vol. 2 at p. 287 (emphasis added). On rebuttal, Witness O'Sheasy reiterated that Rider SS is intended to be based on PEC's costs. Specifically, he stated that "Rider SS . . . requires a *cost-based* reservation charge for PEC guaranteeing resources needed to serve [a customer-generator's] load at any time." Tr. Vol. 7 at p 65 (emphasis added); Tr. Vol. 7 at p. 71 ("*Rider SS . . . is well aligned with cost causation*") (emphasis added). In response to the question, "What costs is the reservation charge intended to recover?"

Witness O'Sheasy testified:

The Rider SS Reservation Charge is priced to recover 15% of *the Company's estimated marginal generation cost*.

Tr. Vol. 7 at p. 68 (emphasis added).

In other words, PEC is proposing to recover a percentage of its avoided costs in the Rider SS reservation generation charge. PEC's avoided costs will change over time. Despite this, PEC has not proposed any mechanism by which the "cost-based" rider will track PEC's changing costs over time.

B. The Avoided Costs That Drive Rider SS's Generation Reservation Charge Change Over Time.

As the Commission is well aware, avoided costs are calculated using a number of inputs and assumptions. These inputs and assumptions change over time. Thus, for example, in chronological order, PEC used one set of inputs and assumptions in 2010, in Commission Docket No. E-100, Sub 127, to calculate avoided costs ("PEC's 2010

Avoided Costs”); PEC used a second set of inputs and assumptions in its 2012 IRP, in Commission Docket No. E-100, Sub 137, that can be and have been used to calculate avoided costs (“PEC’s 2012 IRP-Based Avoided Costs”); and, most recently, PEC used a third set of inputs and assumptions in late 2012, in Commission Docket No. E-100, Sub 136, to calculate proposed avoided costs (“PEC’s Proposed 2012 Avoided Costs”).

The changing nature of PEC’s avoided costs has already been recognized by PEC in this proceeding. In PEC’s Application, Rider SS was originally proposed to recover costs based on PEC’s 2010 Avoided Costs. Tr. Vol. 2 at p. 287 (O’Sheasy testimony). However, as recounted by Witness O’Sheasy,

[t]he Company and Public Staff recognized that current marginal capacity cost . . . is lower than [PEC’s 2010 Avoided Costs]. The Settlement Agreement between the Public Staff and Company agreed to use an avoided cost rate of \$5.90/kW for the new Large Load Curtailable Rider. Since the same cost basis is used in pricing the Rider SS reservation charge, the requested Rider SS reservation charge should be reduced from \$0.98/kW to \$0.89/kW to be consistent with the Settlement Agreement.³

Tr. Vol. 7 at pp. 68-69. Public Staff Witness Floyd clarified that PEC revised the generation reservation charge from \$0.98/kW to \$0.89/kW to reflect the change between PEC’s 2010 Avoided Costs and PEC’s 2012 IRP-Based Avoided Costs:

In the course of [the Public Staff’s] investigation of this proceeding we – we looked at this entire issue and we – because we had gone through in our peak proceeding recently – the Public Staff had numbers from the 2012 IRP that it felt comfortable with advocating in the avoided cost proceeding. . . . And so we – we inquired of the Company with respect to the Rider LLC about this, and as a result of this in the Settlement Agreement, the Company agreed to a credit that is reflective of the 2012 IRP inputs. . . . My understanding is that 89 cents is calculated on the same 2012 IRP inputs.³

³ To be clear, per Public Staff Witness Floyd, the \$0.89/kW charge agreed to by PEC “is not a condition of the settlement[.]” Tr. Vol. 6 at p. 145.

Tr. Vol. 6 at pp. 146-147. As the foregoing excerpts from Witnesses O'Sheasy's and Floyd's testimony illustrate, if Rider SS's generation reservation charge is to "provide a more cost-based rate[,]" Tr. Vol. 2 at p. 315 (O'Sheasy testimony), it must include some mechanism for tracking changing avoided costs over time.

C. The Use of a Static Avoided Cost for "Cost-Based" Rider SS's Generation Reservation Charge Would Be Inappropriate.

NCSEA believes it would be inappropriate to incorporate a static "snapshot" avoided cost rate into a permanent⁴ rider designed to recover costs that inherently change over time. However, PEC and/or the Public Staff may choose to argue that, even though Rider SS's generation reservation charge is based on a cost that varies over time, the "cost-based" rider approved by this Commission must be based on a snapshot of cost that will not change over time. *See, e.g.*, Tr. Vol. 6 at p. 146 (Public Staff Witness Floyd testimony). NCSEA believes any final order that bases Rider SS's generation reservation charge on a permanent "set-it-and-forget-it" snapshot avoided cost number (1) will lead to customer-generators being "overcharged" under Rider SS in the near-term,⁵ (2) could lead to under-recovery by PEC in the longer-term and, therefore, (3) will fail to achieve the integrated regulation Chapter 62 was designed to achieve.

⁴ Public Staff Witness Floyd confirmed during his testimony that, as proposed, Rider SS is not time-limited; instead, the rider is a permanent "standard tariff of the Company." Tr. Vol. 6 at p. 146.

⁵ Commercial Group Witness Chriss testified that the members of the Commercial Group have "concerns regarding . . . the pricing of [Rider SS's] Generation Reservation Charge." Tr. Vol. 5 at p. 97; *see* Tr. Vol. 5 at p. 98. Specifically, Witness Chriss identified the use of PEC's 2010 Avoided Costs as a concern because,

if the Commission approves the Company's avoided costs as proposed in Docket E-100, Sub 136, customers taking standby service [under Rider SS at PEC's old, higher 2010 Avoided Costs] will be overcharged via the Generation Reservation Charge. On November 1st, 2012, PEC filed an

In 1974, the North Carolina Supreme Court held that “Chapter 62 provides for the granting of a monopoly and for the regulation of its service and its charges by the Utilities Commission. *The entire chapter is a single, integrated plan.* Its several provisions must be construed together[.]” *State ex rel. Utilities Com. v. General Tel. Co.*, 285 N.C. 671, 680, 208 S.E.2d 681, 687 (1974) (emphasis added). On 12 April 2013, the Supreme Court reaffirmed in an electricity-related case that the Commission regulates utilities such as PEC to advance the “single, integrated plan” of Chapter 62. *State ex rel. Utils. Comm’n v. Cooper*, 2013 N.C. LEXIS 343, at *22 (N.C. Apr. 12, 2013). The Supreme Court’s holdings strongly suggest that the Commission should embrace the dynamic interplay between this proceeding and the biennial avoided cost dockets by incorporating a cost-tracking mechanism into Rider SS.

If the Commission opts not to include a cost tracking mechanism, NCSEA believes it would be ignoring the following salient points and would be failing to administer Chapter 62 as a single, integrated plan:

- Aspects of PEC’s rate case are already contingent upon the final outcome in Commission Docket No. E-100, Sub 136 and subsequent biennial avoided cost dockets. For example, in its Application, PEC has proposed “North Carolina Terms and Conditions for the Purchase of Electricity.” Application Exhibit B at pp. 112-120. These very same “North Carolina Terms and Conditions for the Purchase of Electricity” were attached to PEC’s initial filing in Commission Docket No. E-100, Sub 136 and are at issue in that docket. *PEC Initial Statement and Exhibits*, Attachment 4, Commission Docket No. E-100, Sub 136 (1 November 2012); *see, e.g.*,

application in Docket E-100, Sub 136 to update their avoided cost rates and termed [PEC’s 2010 Avoided Costs] as “obsolete.” The Company also states that [PEC’s Proposed 2012 Avoided Costs] are lower than the existing rates because of declining cost projections.

Tr. Vol. 5 at pp. 101-102.

Initial Statement of the Public Staff, p. 30, Commission Docket No. E-100, Sub 136 (7 February 2013) (challenging section 6 of the terms and conditions). Consequently, any order issued in this proceeding that approves PEC's Application is necessarily contingent upon and subject to revision by final resolution of the avoided cost proceeding pending in Commission Docket No. E-100, Sub 136 (and, barring an intervening rate case, final orders in subsequent biennial avoided cost proceedings as well).

- A tracking mechanism will make Rider SS more like other PEC riders that are "cost-based." PEC has a number of riders – including its fuel and fuel-related cost recovery rider, its REPS cost recovery rider, and its DSM/EE cost recovery rider – that track changing costs over time and do not require "extraordinary circumstances"⁶ to do so.

NCSEA believes the Supreme Court's "single, integrated plan" mandate requires the Commission to take the foregoing points into account. NCSEA further believes the Commission can best achieve the single, integrated plan goal on this issue by incorporating a cost-tracking mechanism into Rider SS.

D. The Relief NCSEA Seeks If Rider SS Incorporates a Cost-Tracking Mechanism . . .

If the Commission determines (1) that a mechanism for tracking changing avoided costs should be incorporated into Rider SS and (2) that the mechanism will be keyed to final orders in the Commission's biennial avoided cost proceedings, including Commission Docket No. E-100, Sub 136, then NCSEA does not object to the immediate inclusion in Rider SS of the \$0.89/kW charge based on PEC's 2012 IRP-Based Avoided Costs. *See* Tr. Vol. 7 at pp. 68-69; *see also* O'Sheasy Rebuttal Exhibit No. 2 (noting charge has been "[u]pdated to \$0.89").

⁶ Public Staff Witness Floyd testified that it was his understanding that, outside of a rate case, Rider SS could only be updated to reflect changing avoided costs "[u]nder extraordinary circumstances." Tr. Vol. 6 at p. 148.

E. *The Relief NCSEA Seeks If Rider SS Does Not Incorporate a Cost-Tracking Mechanism . . .*

If, on the other hand, the Commission determines that Rider SS's generation reservation charge must be tied to a static "set-it-and-forget-it" avoided cost number, the Commission should base the generation reservation charge on PEC's Proposed 2012 Avoided Costs **and not** on PEC's 2012 IRP-Based Avoided Costs for at least two reasons:

First, in the biennial avoided cost proceeding in Commission Docket No. E-100, Sub 136, NCSEA and other parties have submitted written comments arguing, in essence, that PEC's 2012 IRP-Based Avoided Costs should serve as its 2012 avoided costs. *See, e.g., NCSEA's Comments*, p. 17, Commission Docket No. E-100, Sub 136 (7 February 2013). In response, PEC is arguing that the key 2012 IRP inputs and assumptions – the same inputs and assumptions PEC is using to justify the \$0.89/kW charge in this docket – are "outdated and inaccurate" information. Specifically, PEC asserts in the 2012 avoided cost docket that

[i]n effect, [NCSEA, the Public Staff and the Renewable Energy Group] are arguing that [PEC] should have ignored the best and most current cost data available to them in favor of outdated and inaccurate information that would overstate the Utilities' avoided costs. . . . *PEC always strive[s] to use the best possible information in their filings before the Commission.*

Duke Energy Carolinas and Progress Energy Carolinas Joint Reply Comments, p. 2, Commission Docket No. E-100, Sub 136 (28 March 2013) (emphasis added). The Commission should not allow PEC to have it both ways – either PEC's Proposed 2012 Avoided Costs are the "best possible information" from PEC's perspective and should be

used here also or they are not the best possible information from PEC's perspective and should not be used in either docket.

Second, to the extent the Commission has any qualms about basing a cost recovery rider on *proposed, not-yet-final* avoided costs, it should consider that PEC's twin, Duke Energy Carolinas, LLC ("DEC"), is seeking to incorporate its 2012 *proposed* avoided costs into its 2012 DSM/EE cost recovery rider. *See Application of DEC for Approval of Rider 5*, pp. 5-6, Commission Docket No. E-7, Sub 1031 (6 March 2013) ("Though the Company filed its application and supporting testimony and exhibits for the new cost recovery mechanism and portfolio of programs in a separate Docket (E-7, Sub 1032) to avoid confusion with the expiring save-a-watt pilot, . . . the Company is seeking to include the rates associated with Vintage 2014⁷ of the proposed portfolio and new mechanism in Rider 5.").

For these two reasons, at a minimum, NCSEA believes the generation reservation charge in any Rider SS that does not incorporate a cost-tracking mechanism should be based on PEC's Proposed 2012 Avoided Costs.

⁷ The "rates associated with Vintage 2014" are DEC's 2012 proposed avoided costs. As DEC Witness McManeus states in her pre-filed testimony:

Avoided energy costs and avoided capacity costs have been established at the onset of the new portfolio of programs using the avoided costs as filed in the Company's most recent Avoided Cost proceeding in Docket No. E-100, Sub 136 ("2012 rates"). The Company proposes that the 2012 rates should remain fixed unless total avoided capacity and energy costs as approved by the Commission change by 20% or more.

Application of DEC for Approval of New Cost Recovery Mechanism and Portfolio of Demand-Side Management and Energy Efficiency Programs, Direct Testimony of Jane L. McManeus for DEC, pp. 12-13, Commission Docket No. E-7, Sub 1032 (6 March 2013).

II. THE COMMISSION SHOULD CONVENE A WORKING GROUP COMPRISED OF NCLM MEMBERS, THE PUBLIC STAFF, AND PEC DECISION-MAKERS TO FOSTER GREATER COLLABORATION BETWEEN PEC AND ITS MUNICIPAL RETAIL CUSTOMERS.

NCLM Witness Howe indicated that one of his primary purposes in testifying was

to point out areas and opportunities for collaboration, over the long term, among electric utilities, municipalities, and authorities, given the increasing energy efficiency tools and load management capabilities of municipalities.

Tr. Vol. 5 at p. 36. More specifically, Witness Howe indicated that a formal working group comprised of NCLM members, the Public Staff, and PEC decision-makers, was an imminently seizable opportunity for collaboration:

[I]n an effort to maximize the potential for municipalities to manage electric consumption and to maximize cost savings, [NCLM] requests that the Commission convene a working group of [NCLM] members, Progress and the Public Staff to discuss characteristics of municipal loads and the innovative technologies that are now available to municipalities to manage consumption and to peak shave on a system-wide basis. During this process, the working group should be allowed to propose amendments to [PEC's] service regulations and rate schedules and to ensure the ability to implement such technological capabilities.

Tr. Vol. 5 at pp. 64-65.

A number of issues – *e.g.*, the design of PEC's LED street lighting tariffs,⁸ PEC's metering of LEC traffic signals,⁹ curtailment under the Demand Response Automation Rider,¹⁰ and PEC's emergency back-up generation practices¹¹ – were raised in this proceeding which, if not remedied directly by the Commission in its final order, could be taken up by a working group.

⁸ See, *e.g.*, Tr. Vol. 5 at pp. 40-43 (Howe testimony).

⁹ See, *e.g.*, Tr. Vol. 5 at pp. 43-44 (Howe testimony).

¹⁰ See, *e.g.*, Tr. Vol. 5 at pp. 44-46 (Howe testimony).

¹¹ See, *e.g.*, Tr. Vol. 5 at p. 46 (Howe testimony).

The desire of North Carolina's municipalities to collaborate more closely with post-merger PEC is not new. In an August 2012 merger-related Commission filing, NCSEA and the City of Raleigh indicated that this desire existed more than eight months ago. At that time, NCSEA encouraged the Commission to create a working group and Raleigh Mayor Nancy McFarlane wrote:

I wish to express the desire of the City of Raleigh to work collaboratively with Duke Energy Corporation and its subsidiaries Duke Energy Carolinas, LLC and [PEC] as the companies work to integrate their programs and practices, particularly with regard to tree protection, undergrounding of service lines, renewable energy and energy efficiency.

NCSEA's Response to Motion for Reconsideration, p. 6 and Exhibit A, Commission Docket Nos. E-2, Sub 998 and E-7, Sub 986 (8 August 2012).

NCLM's renewed call for a working group in this proceeding highlights the ongoing need for a more structured venue in which PEC and its municipal retail customers must dialogue in an effort to arrive at creative joint proposals to advance their interests (or at least mutual understanding).¹²

Commission creation of a working group will help foster greater communication between NCLM's members and PEC and, at the same time, promote the advancement of the State's "policy . . . to conserve energy through efficient utilization of all resources." N.C. Gen. Stat. § 62-155(a). NCSEA supports NCLM's request that the Commission

¹² The testimony at hearing also serves to support the need for a more structured venue like a working group within which this dialogue can occur. For example, PEC Witness O'Shealy indicated on one LED-related issue that "if the City of Raleigh wanted Progress to help them out with that or to make that comparison to make sure the City of Raleigh had done their math right . . . Progress would, I feel comfortable, would probably help them." Tr. Vol. 7 at p. 91. If a working group had existed prior to the hearing, it is highly likely the "math" would have been discussed prior to hearing.

convene a working group comprised of NCLM members, the Public Staff, and PEC decision-makers.

III. THE COMMISSION SHOULD REQUIRE PEC, WITHIN TWO YEARS OF A FINAL ORDER IN THIS PROCEEDING, TO SUBMIT A REPORT DETAILING BOTH (1) ITS EFFORTS TO MARKET ITS NEW PROPOSED R-TOU TARIFF AND (2) THE IMPACT OF THESE MARKETING EFFORTS ON PEC'S GOAL OF ACHIEVING AN EVENTUAL 5-10% PARTICIPATION RATE AMONG PEC'S RESIDENTIAL CUSTOMERS.

PEC "is proposing new time-of-use ("TOU") rate designs for residential . . . customers." PEC Application at pp. 8-9; *see* Application Exhibit B at pp. 1, 4-12 of 120 (PEC's proposed TOU tariffs). PEC Witness O'Sheasy described the modifications being made to PEC's "current" TOU tariffs – *i.e.*, R-TOUD and R-TOUE – and described a new R-TOU tariff as well. *See* Tr. Vol. 2 at pp. 253-264. If the new residential TOU tariff – R-TOU – is approved, PEC will (at least temporarily) have three residential TOU tariffs: R-TOUD, R-TOUE, and R-TOU.¹³

NCSEA believes customer use of TOU tariffs can help control demand for electricity at peak periods and therefore supports the changes PEC proposes for its residential TOU program. At the same time, NCSEA believes that PEC's new R-TOU tariff can help control demand for electricity at peak periods only if it attracts customer-subscribers. As PEC is no doubt aware, if it is to achieve its aspirational goal of "an eventual 5-10% participation" rate among residential customers, Tr. Vol. 2 at p. 259

¹³ It should be noted that (1) "existing R-TOUE customers [will] need to migrate to the new rate design as their metering is updated to reflect the new R-TOU rate structure or they can select Schedule RES[.]" Tr. Vol. 2 at p. 255, and (2) under the Stipulated Settlement agreement, the Public Staff and PEC have "agree[d] that the Company shall close Schedule R-TOUD to new customers, except for those who will be served under Rider NM, Net Metering." *Agreement and Stipulation of Settlement* ("Stipulated Settlement"), p. 11, Commission Docket No. E-2, Sub 1023 (28 February 2013).

(O'Sheasy testimony), R-TOU must be effectively marketed. To ensure PEC advances toward its goal, the Commission should require PEC to submit a report in two years so that the Commission can monitor PEC's marketing and ensure that (1) it is being done and (2) it is being done in a "reasonable manner."¹⁴

A. The Benefits of Time-of-Use Tariffs

In 2008, "PEC . . . reviewed its time-of-use programs and [concluded] that residential time-of-use schedules are effective in causing participants to shift the use of certain appliances to off-peak periods." *Comments of PEC*, p. 5, Commission Docket No. E-100, Sub 116 (20 June 2008). Based in part on PEC's review, this Commission declared:

TOU rates provide appropriate price signals to consumers and can result in changes of energy use patterns from higher cost on-peak periods to lower cost off-peak periods. Exposing customers to prices that more closely reflect a utility's marginal costs provides an incentive for more efficient use of resources. TOU rates, therefore, are beneficial in reducing peak load and encouraging reduced usage when it would be most valuable. Changes by consumers are likely to be greater in the long-term as they learn to adapt their behavior in response to the pricing structure, purchase timers or other equipment that will help them to shift energy usage, and purchase more efficient appliances.

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 ("2008 Report"), p. 19, Commission Docket No. E-100, Sub 116 (2 September 2008).

¹⁴ "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(c).

Now, five years after the PEC review cited above, PEC is once again stating that it “believes the . . . [TOU tariffs] will encourage shifting of consumption – which can lower a customer’s bill while reducing the Company’s cost to serve – which is beneficial to all ratepayers.”¹⁵ PEC Application at pp. 8-9.

B. The Low Participation in PEC’s Residential TOU Tariffs From 2006 To 2013

In 2006, Dr. Julius A. Wright indicated that “[c]urrently, Progress has approximately 27,000 residential customers, 22,000 commercial customers, and 351 industrial accounts on time-of-use rates.” *Direct Testimony of Julius A. Wright, Ph.D.*, p. 28, Commission Docket No. E-100, Sub 108 (9 November 2006). A year later, in 2007,

Progress served 26,615 residential customers, 17,786 commercial customers, and 1,188 industrial customers on TOU rate schedules. This represents more than 2.5% of Progress’s residential customers, nearly 10% of its commercial customers, and more than 33% of its industrial customers.

2008 Report, p. 20, Commission Docket No. E-100, Sub 116 (2 September 2008). As of 31 March 2012, “there were over 26,000 residential customers participating in one of PEC’s two residential TOU tariffs.” Tr. Vol. 2 at p. 255 (O’Sheasy testimony). Currently, “roughly 25,000 or 26,000” of PEC’s “[a]pproximately 1.3 million” residential customers are participating in one of PEC’s two existing residential TOU rates. Tr. Vol.

¹⁵ TOU tariffs contribute to a lower cost to serve in the following manner:

TOU rate designs encourage a reduction in usage during system peak hours which will contribute to a lower peak demand and a reduced need for the installation of new generation to serve the peak hour which reduces the need for general rate cases to recover increased rate base expenditures.

Exhibit A attached hereto (PEC response to NCSEA data request 1-10).

3 at pp. 150-151 (O'Sheasy testimony). Doing the math, this means “[p]articipation in PEC’s current residential time-of-use program represents less than 3% of the overall residential population[.]” **Exhibit B** attached hereto (PEC response to NCSEA data request 1-9). In sum, over the last 7 years, there has been virtually no change in the number of residential customers opting to participate in PEC’s TOU tariffs.

C. *The Importance of Marketing to Securing Participation in PEC’s TOU Tariffs*

In late 2006,

[Elster] Witness Allan testified that North Carolina was one of the leaders in making time-based rates available to customers, but that only a small percentage of customers have taken advantage of these rates. She stated that one reason for this is that *many customers remain unaware of the availability of time-based rates*. Another reason for this low participation is that TOU rates and advanced meter technology are more costly when only a few customers use them than when they are more widespread.

Order Declining to Adopt Standards, p. 19, Commission Docket No. E-100, Sub 108 (8 August 2007) (emphasis added). Testimony of this sort in Commission Docket Nos. E-100, Sub 108 and E-100, Sub 116, ultimately led the Commission, in 2008, to recommend

that utilities make efforts to increase promotion and utilization of time-differentiated rates by all customers. For example, utilities are encouraged to inform new customers about the TOU rate option when they apply for electric service. As demonstrated by the utility data submitted in this docket, the level of participation in TOU rates among residential customers, in particular, continues to be quite low. . . . [T]he Commission encourages utilities to investigate opportunities to better educate their customers[.]

2008 Report, pp. 46-47, Commission Docket No. E-100, Sub 116 (2 September 2008).

The low participation in PEC’s current residential TOU program over the last 7 years is likely attributable to, *inter alia*, the fact that – despite the Commission’s 2008

recommendation – PEC’s “current TOU program has never been marketed[.]” **Exhibit B** attached hereto (PEC response to NCSEA data request 1-9).

D. The Filing of a Report About PEC’s Marketing of its New R-TOU Tariff Would Enable the Commission to Monitor Whether PEC is Informing and Educating Its Customers in a Reasonable Manner.

With its proposed TOU program, PEC “hopes”¹⁶ to leave the low 2-3% residential participation rate of the last 7 years behind and achieve “an eventual 5-10% participation” rate. Tr. Vol. 2 at p. 259 (O’Sheasy testimony). PEC’s “hope” – and the systemic benefits of a robust TOU program – will only be realized if PEC’s TOU program is effectively marketed.

As PEC Witness O’Sheasy testified, “‘product awareness’ based upon the customer being aware and understanding of the new option” is a “factor[] which affect[s] the likelihood that a customer’s perceived benefits are sufficient to switch to TOU[.]” Tr. Vol. 2 at p. 261.¹⁷ PEC has developed a marketing strategy to raise TOU product awareness. See Tr. Vol. 2 at p. 259 (“PEC’s *marketing plan* indicates an expectation of

¹⁶ See Tr. Vol. 3 at p. 152 (“It is hoped [by PEC] that [the new residential TOU tariff] will increase opportunities for customers to shift usage away from on-peak periods and control their costs for electricity.”) (O’Sheasy testimony); see also Tr. Vol. 8 at pp. 28-29 (“Now, we hope that, in general, we do find a lot of customers that will move load from on peak to shoulder to off peak, to the benefit of all[.]”) (O’Sheasy testimony).

¹⁷ On cross, Witness O’Sheasy engaged in the following exchange that highlights the importance of product awareness:

Youth: Would you agree that a customer isn’t likely to sign up for a tariff the customer isn’t aware of?

O’Sheasy: Yes, I would agree with that.

Youth: Would you also agree that a customer is not likely to sign up for a tariff that the customer doesn’t understand?

O’Sheasy: It is less likely that a customer would sign up for a tariff that they don’t understand. Now, they might misunderstand it and sign up for it.

Tr. Vol. 3 at p. 152.

an eventual 5-10% participation in the new rate design.”) (emphasis added); Tr. Vol. 2 at p. 262 (“PEC’s marketing estimates”); Tr. Vol. 2 at p. 264 (“PEC believes that TOU goals can best be achieved by *marketing* a single TOU energy only rate design, except for marketing to NM customers who will be able to also choose R-TOUD.”). However, it is not clear to NCSEA that this marketing plan will be implemented in a reasonable manner,¹⁸ particularly given the lack of past marketing. The Commission can help ensure that PEC’s residential TOU program is marketed in a reasonable manner by requiring PEC to file a report regarding its marketing efforts so that the Commission can monitor these efforts.

Pursuant to the Stipulated Settlement, PEC will “complete a study of its TOU hours for all customer classes . . . the results of which will be reflected in the Company’s next general rate case or within two years from the date of the Approval Order, whichever comes first.” Stipulated Settlement, p. 11, Commission Docket No. E-2, Sub 1023 (28 February 2013). However, PEC is not currently required to study or otherwise report on its TOU marketing efforts.

¹⁸ The following exchange highlights NCSEA’s concern. PEC Witness O’Sheasy backs off his initial statement indicating PEC plans on marketing the TOU program:

Youth: So is it fair for the Commission to expect Progress to market this – well, all of its residential time of use rates and educate customers about these tariffs?

O’Sheasy: I – I’m not – I don’t want to address the word “fair,” but let’s just say that Progress Energy does plan on marketing these time of use tariffs to their customers. That is – they do have a plan to do so[.]

Youth: And is the goal of the plan to increase the number of customers from 26,000—

O’Sheasy: I don’t think the goal of the plan is to necessarily increase it.

N.C. Gen. Stat. § 62-36 authorizes the Commission to “require any public utility to file . . . special reports concerning any matter about which the Commission is authorized to inquire or to keep informed, or which it is required to enforce.” N.C. Gen. Stat. § 62-155(c) provides that “[t]he 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.”

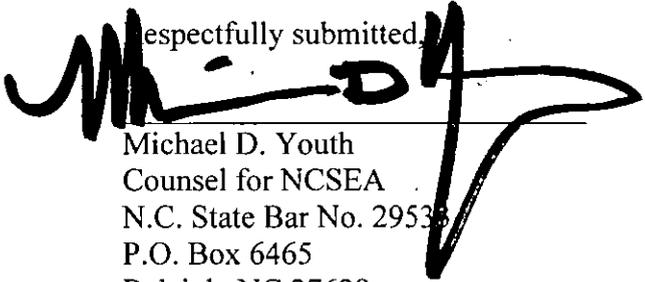
Pursuant to its authority under N.C. Gen. Stat. §§ 62-36 & 62-155, the Commission should require PEC to submit a special report regarding its efforts to market its TOU program and the impact of these efforts on participation. This special report should be made due for filing with the Commission in PEC’s next general rate case or within two years from the date of any final order in this docket, whichever is earlier (*i.e.*, at the same time TOU hours study results, if required, are filed).

CONCLUSION

For the reasons set out *supra* in this post-hearing brief, NCSEA prays the Commission require PEC to:

- Set the Rider SS generation reservation charge at \$0.89/kW on an interim basis but, upon issuance of a final order in Commission Docket No. E-100, Sub 136, require PEC to file an updated Rider SS in which the generation reservation charge reflects PEC’s Commission-approved 2012 avoided costs and, thereafter, require PEC to file an updated Rider SS biennially to reflect PEC’s changing Commission-approved avoided costs;

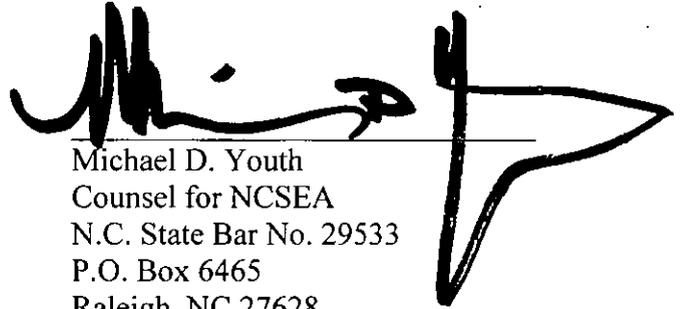
- Convene a working group comprised of NCLM members, the Public Staff, and PEC decision-makers to foster greater collaboration between PEC and its municipal retail customers; and, finally,
- Require PEC, within two years of a final order in this proceeding, to submit a report detailing both its efforts to market its new proposed R-TOU tariff and the impact of these marketing efforts on PEC's goal of achieving an eventual 5-10% participation rate among PEC's residential customers.

respectfully submitted,
Michael D. Youth
Counsel for NCSEA
N.C. State Bar No. 29535
P.O. Box 6465
Raleigh, NC 27628
(919) 832-7601 Ext. 118
michael@energync.org

CERTIFICATE OF SERVICE

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing Motion to Intervene 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 29th day of April, 2013.

A handwritten signature in black ink, appearing to read 'Michael D. Youth', written over a horizontal line.

Michael D. Youth
Counsel for NCSEA
N.C. State Bar No. 29533
P.O. Box 6465
Raleigh, NC 27628
(919) 832-7601 Ext. 118
michael@energync.org

EXHIBIT A

PROGRESS ENERGY CAROLINAS, INC.

Request:

On page 32 of his testimony, Progress Witness Yates states that "the Company believes that the new (time of use) designs will encourage shifting of consumption- which can lower a customer's bill while reducing the cost to serve." Please (1) provide any information outlining any overall average energy use reductions per customer in the residential and small general service customer classes attributable to attainment of the 5%-10% participating goal and (2) explain how a shifting of consumption can result in a reduced cost to serve.

Response:

PEC has no specific analyses that indicate the extent to which customers will shift load under the proposed TOU rate design. It is hoped that by providing shortened on-peak hours with distinct pricing signals that customers will be encouraged to defer the use of major appliances from being used during on-peak hours to shoulder or off-peak periods. If customers do not shift usage, the rate design is intended to be revenue neutral with the standard residential tariff. TOU rate designs encourage a reduction in usage during system peak hours which will contribute to a lower peak demand and a reduced need for the installation of new generation to serve the peak hour which reduces the need for general rate cases to recover increased rate base expenditures.

EXHIBIT B

PROGRESS ENERGY CAROLINAS, INC.

Request:

On page 21 of his testimony, Progress Witness O'Sheasy states that "PEC's marketing plan indicates an expectation of an eventual 5%-10% participation in the new (time of use) rate design." Please explain (1) how PEC arrived at this figure as a feasible estimate of participation and (2) whether or not capacity or energy savings associated with the new time of use rate designs (both residential and non-residential) will qualify for cost recovery under Progress's DSM/EE cost recovery umbrella.

Response:

PEC has no specific analyses that indicate that a 5 to 10% penetration is achievable, but this is a reasonable expectation for a mature time-of-use program. Participation in PEC's current residential time-of-use program represents less than 3% of the overall residential population, but the current TOU program has never been marketed and higher participation rates are achieved with general service customers. TOU tariffs are considered in general rate case proceedings only and not considered in the annual DSM/EE cost recovery proceeding.