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July 10, 2014

VIA ELECTRONIC FILING

Mrs. Gail L. Mount, Chief Clerk
North Carolina Utilities Commission
Dobbs Building
430 North Salisbury Street
Raleigh, North Carolina 27603

RE: Docket No. M-100, Sub 138

Dear Mrs. Mount:

Attached for filing in the above-referenced docket is *Dominion North Carolina Power's and Public Service Company of North Carolina, Inc.'s Notice of Appeal, Motion for Reconsideration, and Request to Stay Corporate State Income Tax Rate Adjustment Pending Reconsideration*.

Please do not hesitate to contact me should you have any questions. Thank you for your assistance with this matter.

Very truly yours,

s/Mary Lynne Grigg

MLG:kjg

Attachment

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. M-100, SUB 138

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Implementation of House Bill 998 – An Act to Simplify the North Carolina Tax Structure and to Reduce Individual and Business Tax Rates	))))))))	DOMINION NORTH CAROLINA POWER'S AND PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.'S NOTICE OF APPEAL, MOTION FOR RECONSIDERATION, AND REQUEST TO STAY CORPORATE STATE INCOME TAX RATE ADJUSTMENT PENDING RECONSIDERATION

NOW COMES Virginia Electric and Power Company d/b/a Dominion North Carolina Power (hereinafter "DNCP") and Public Service Company of North Carolina, Inc. ("PSNC" and collectively with DNCP, the "Joint Movants"), and, together, 1) pursuant to N.C. Gen. Stat. § 62-90 and Rule 18 of the North Carolina Rules of Appellate Procedure, give Notice of Appeal to the North Carolina Court of Appeals from the North Carolina Utilities Commission's ("NCUC" or "Commission") May 13, 2014, *Order Addressing the Impacts of HB 998 on North Carolina Public Utilities* (the "Order"), issued in the above-captioned proceeding; and 2) respectfully move the Commission for reconsideration of the Order pursuant to N.C. Gen. Stat. §§ 62-80. Pursuant to N.C. Gen. Stat. § 62-90(a), the Joint Movants set forth below their exceptions and the grounds upon which they consider the Order to be unlawful, unjust, unreasonable and in excess of the

Commission's authority.[1] The Joint Movants have also summarized the specific relief requested through reconsideration.

The Joint Movants further request that the Commission immediately stay any Order[2] to adjust rates to reflect the January 1, 2014, corporate state income tax change and to refund the incremental revenue requirement impact currently being collected provisionally[3] until the Commission decides the Joint Movants' request for reconsideration.

SUMMARY OF THE ISSUE

The Joint Movants agree with the opinion dissenting in part of NCUC Chairman Edward S. Finley, Jr. ("Dissent"), and respectfully move the Commission to reconsider the Order's imposition of a single-item corporate state income tax adjustment to the Joint Movants' rates outside of a general rate case. Otherwise, on appeal, the Joint Movants will show that this aspect of the Order is unlawful and exceeds the Commission's authority.

The General Assembly provided clear and unambiguous direction in Part IV of Session Law 2013-316 for the Commission to adjust the Joint Movants' rates for certain mandated tax changes. This legislative direction was properly accomplished through the instant rulemaking. However, no specific authority was delegated to the Commission to

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[1] The Joint Movants' Notice of Appeal is tolled while reconsideration is pending before the Commission. *State ex rel. Utilities Comm'n v. MCI Telecomms., Corp.*, 132 N.C. App. 625, 630 (1999); *Order Denying Smithfield's Motion for Reconsideration and Petitioners' Motion to Dismiss Appeal* at 2, Docket No. ES-160, Sub 0 (May 2, 2013) (noting that Smithfield was not required to proceed with filing record on appeal while NCUC reconsideration was pending).

[2] *See Order Approving Proposal and Requiring Filing of Revised Tariffs,* Docket Nos. M-100 Sub 138; G-5, Sub 549 (June 20, 2014) (directing PSNC to implement SIT change effective July 1, 2014). To date, the Commission has not issued an order addressing DNCP's proposed implementation of the corporate state income tax adjustments through proposed Rider SIT.

[3] *See Order Providing for the Provisional Recovery of Certain Incremental Revenue Requirements*, Docket No. M-100, Sub 138 (Dec. 6, 2013) ("Provisional SIT Recovery Order").

adjust the Joint Movants' rates to reflect changes in corporate state income tax rates, and Session Law 2013-316 cannot reasonably be interpreted to authorize such action by the Commission.

In the absence of such express legislative direction, the General Assembly has provided the Commission the authority to adjust rates through a general rate case where all components of the utility's cost of service can be carefully and comprehensively scrutinized. Adjusting rates for changes in a single item of the utility's cost of service outside of a general rate case violates the general prohibition against single issue ratemaking, except in the limited special circumstances prescribed by *State ex rel. Utils. Comm'n v. Nantahala Power & Light Co.*, 326 N.C. 190, 388 S.E.2d 118 (1990) ("Nantahala") where a single-item adjustment to rates through rulemaking was allowed. The "substantial and material" standard required for such special circumstances in *Nantahala* and clearly maintained by the Commission's own precedent ensures that rates remain just and reasonable between general rate cases. This standard cannot be circumvented or discarded, as the Commission has done in the Order. Further, a rate change by rulemaking is only appropriate in unique circumstances, which do not exist for the corporate state income tax change.

JOINT MOVANTS' EXCEPTIONS TO ORDER

EXCEPTION NO. 1:

The Order's direction that the utilities reduce base rates to reflect the reductions to corporate state income tax rates outside of a general rate case violates the general prohibition against single issue ratemaking. The Commission's conclusion that "HB 998 should be viewed in its totality and the corresponding changes in rates should

comprehensively reflect the full intent of the changes effectuated by HB 998, including the changes to the corporate state income tax rate" cannot be reconciled with the clear and unambiguous language of Session Law 2013-316, is unlawful, and exceeds the Commission's delegated statutory authority. Order, at 24-25.

The General Assembly did not grant the Commission authority in Session Law 2013-316 to make a single-item adjustment to corporate state income tax rates. *State ex rel. Utils. Comm'n v. State,* 239 N.C. 333, 343, 80 S.E.2d 133, 140 (1954) (General Assembly must prescribe sufficient rules and standards to guide the legislative agency in exercising the delegated authority). In enacting Session Law 2013-316, the General Assembly provided the NCUC with express and explicit direction in Section 4.2(a) that it "must adjust" rates for electric public utilities to reflect the gross receipts tax ("GRT") repeal, the general franchise tax change, and sales tax increase, and must adjust rates for piped natural gas to reflect the excise tax repeal, and general franchise tax and sales tax changes (the "Mandated Tax Changes"). Session Law 2013-316, §4.2(a). No other legislative direction or authority was granted by the General Assembly for the NCUC to adjust rates in Session Law 2013-316. Therefore, the NCUC's only avenue to adjust public utility rates via rulemaking is to exercise its general rulemaking authority by finding the Session Law 2013-316 corporate state income tax changes are substantial and material, which the Commission failed to do.

Chairman Finley's analysis of the General Assembly's intent in enacting Session Law 2013-316 is well-reasoned and properly applies North Carolina's rules of statutory construction. Dissent, at 4-5. The General Assembly's clear direction to adjust rates for the Mandated Tax Changes in Part IV of Session Law 2013-316 provides no support for

adjusting public utility rates for corporate state income changes enacted in Part II of the legislation. As Chairman Finley notes, "[n]o authority is cited for the proposition that because utility rate changes are required for franchise taxes and [GRT] in one provision of an omnibus tax bill, the longstanding precedent addressing flow through of changes in corporate income tax should be discarded." Dissent, at 5. Further, the Mandated Tax Changes "bear little resemblance to income taxes, other than the fact that they are taxes." Dissent, at 5. In the absence of clear legislative direction to make a single-item adjustment to public utility rates for the corporate state income tax reductions, this separate tax change cannot be "rolled into and lumped together" with the Mandated Tax Changes. Dissent at 5 (explaining that under well-established principles of statutory construction, the Commission's "speculation over [legislative] intent is impermissible").

The Commission itself also seemingly concedes that the General Assembly did not provide any direction in Session Law 2013-316 for the NCUC to adjust public utilities' rates to reflect changes to corporate state income taxes. The Joint Movants submit that if the Commission believes it "logical that the legislature would not direct the Commission regarding the implementation of a non-utility specific tax change" (Order, at 26), and that the Commission was only "specifically mandated to make [the Mandated Tax Changes] . . . ." (Order, at 28), then the Commission should also find that no legislative direction is present in Session Law 2013-316 to adjust the Joint Movants' rates for the corporate state income tax change.

Because Session Law 2013-316 does not provide any legislative direction for the Commission to adjust rates to implement the enacted corporate state income tax changes, the Order's reliance upon the totality of the tax changes in HB 998 to justify a single-item

corporate state income tax adjustment is unlawful. Therefore, the NCUC's corporate state income tax ratemaking adjustment is also unlawful because it exceeds the specific authority delegated to the Commission in Session Law 2013-316 by the General Assembly.

EXCEPTION NO. 2:

In the absence of clear legislative direction, the Commission's single-item corporate state income tax ratemaking changes are unlawful and exceed the Commission's statutory authority because the NCUC fails to apply the "substantial and material" standard – an established prerequisite to meeting the limited "special circumstances" through which the NCUC has been authorized to adjust rates by rulemaking. *Nantahala*, 326 N.C. at 201, 388 S.E.2d at 124.

The General Assembly has charged the Commission with setting just and reasonable rates for public utilities through Chapter 62's general rate case procedures, where all components of the utility's cost of service can be carefully and comprehensively scrutinized. Dissent at 1; N.C. Gen. Stat. §§ 62-30; 62-130(a); 62-131; 62-133; and 62-137. Adjusting the rates charged for public utility service through this statutorily-mandated rate-setting procedure ensures that the Commission accomplishes the General Assembly's primary purpose of "provid[ing] fair regulation of public utilities in the interest of the public." N.C. Gen. Stat. § 62-2(a)(1). Absent express delegated authority from the General Assembly, it is fundamental under North Carolina's regulatory scheme that public utility expenses should not be reviewed in isolation through single-item ratemaking outside of a general rate case. Dissent, at 1-2 *citing State ex rel. Utils. Comm'n v. Edmisten*, 291 N.C. 327, 230 S.E.2d 651 (1976); *State ex rel. Utils.*

Comm'n v. Edmisten, 291 N.C. 451, 469, 232 S.E.2d 184,194-195 (1970). This is because "[s]ingle-item rate adjustments outside general rate cases throw the base rates out of balance." Dissent, at 1.

Single-issue ratemaking by rulemaking as recognized by *Nantahala* represents a narrowly-proscribed exception to the foregoing regulatory scheme that may be exercised by the Commission only in limited special circumstances. As articulated in Chairman Finley's dissent, "the Commission should only engage in single-issue ratemaking in the context of a rulemaking when a change is clearly substantial and material enough that to not address the change would result in unreasonable rates." Dissent at 11.

Under both *Nantahala* and subsequent Commission precedent, the Commission must find that the single-item increase or decrease to public utility rates is substantial and material to justify single-item ratemaking through rulemaking. Dissent, at 3. Throughout *Nantahala*, the Court emphasized that the Tax Reform Act of 1986's ("TRA 1986") federal corporate income tax reduction from 46% to 34% represented a "dramatic decrease" in federal corporate income tax, which "uniformly and substantially" affected the tax rates paid by public utilities and would have resulted in "significant overcollections by a public utility" absent an adjustment to rates once the TRA 1986 change to utility expenses became effective. *Nantahala*, 326 N.C. at 198, 202, 388 S.E.2d at 123, 125. *Nantahala* – the only prior instance of Commission ratemaking through rulemaking – clearly met the substantial and material standard. Consistent with *Nantahala*, the Commission itself has long required a single-item increase or decrease to the cost of service to be "clearly substantial and material" in order to justify a single-item adjustment to rates by rulemaking outside of a general rate case. *Order Denying*

Application for Rate Adjustment and/or Institution of a Rulemaking Investigation, Docket No. M-100, Sub 122 (Oct. 23, 1991) ("1991 Nantahala Order Denying Rulemaking"); *see also Order Denying Application for Deferred Account Adjustment*, M-100, Sub 122 (Jan. 23, 1992).

Even assuming *arguendo* that a rulemaking could be determined appropriate, the Joint Movants agree with Chairman Finley that this substantial and material requirement cannot be discarded or circumvented, as it is critical to establishing the limited special circumstances where a single-item rate adjustment is necessary to maintain the justness and reasonableness of utility rates. Dissent, at 1; N.C. Gen. Stat. § 62-130(a); *Cf. Southwestern Pub. Serv. Co. v. FERC*, 952 F.2d 555, 560 (D.C. Cir. 1992) (holding that a single-issue or "spot" adjustment to rates previously established by the Federal Energy Regulatory Commission is only appropriate where the change in expenses is "so substantial that they would render the rate unreasonable").

The Order's determination that a substantial and material analysis of the corporate state income tax reductions is "not appropriate," Order, at 28, is unlawful and exceeds the Commission's statutory authority because this conclusion does not meet the limited special circumstances through which the NCUC has been authorized to adjust rates by rulemaking.

EXCEPTION NO. 3:

The Order's failure to apply the *Nantahala* standard for evaluating the appropriateness of ratemaking adjustment by rulemaking on grounds that "the issue in this matter is whether to include or exclude certain tax changes from a rulemaking that

has already been initiated to adjust rates for tax changes" is similarly unlawful and exceeds the Commission's statutory authority. Order, at 29.

In the absence of express direction from the General Assembly to adjust rates, both *Nantahala* and the NCUC's prior precedent hold that a ratemaking adjustment by rulemaking is appropriate only where the increase or decrease to public utility rates are substantial and material and the NCUC finds that: "(1) the tax reduction affects all utilities uniformly; (2) a large number of utilities are affected, making individual hearings for all inappropriate; (3) no adjudicative-type facts are in dispute as to require a trial-type hearing for each individual utility." *Nantahala*, 326 N.C. at 203, 388 S.E.2d at 126; *1991 Nantahala Order Denying Rulemaking* at 3. It is undisputed that the General Assembly did not direct the Commission to adjust the Joint Movants' rates for the corporate state income tax rate change. Therefore, the foregoing analysis must be applied in determining whether an adjustment to rates by rulemaking for the corporate state income tax rate changes is appropriate.

The Commission effectively found the foregoing analyses inapplicable because "a rulemaking has already been initiated, and rates must already be adjusted." Order, at 29. This conclusion, however, is based on faulty logic and is unsupported by any prior precedent of either the Commission or North Carolina's appellate courts. The logic is faulty because the authority to adjust rates through rulemaking for the Mandated Tax Changes was provided explicitly in Session Law 2013-316, while no express authority exists to adjust rates for the corporate state income tax change at all. Contrary to the Order's finding that Session Law 2013-316 "makes no mention of rulemaking," Order, at 26, Section 4.2(a) of Session Law 2013-316 provides explicit direction that the NCUC

must take action to adjust such rates "[p]ursuant to G.S. 62-31 and G.S. 62-32." Session Law 2013-316 § 4.2(a). N.C. Gen. Stat. § 62-31 grants the NCUC general rulemaking authority, while N.C. Gen. Stat. § 62-32 provides the NCUC's general ratemaking authority. Thus, the General Assembly provided the Commission authority to adjust rates *for the Mandated Tax Changes* by rulemaking or through the NCUC's normal ratemaking procedures.

The Mandated Tax Changes are being implemented though this rulemaking pursuant to the General Assembly's express direction, while the corporate state income tax change must be reviewed under the *Nantahala* standard. Put another way, the General Assembly's clear grant of authority to accomplish the Mandated Tax Changes followed by the Commission's initiation of a rulemaking proceeding does not open the door to the NCUC ordering any and all single-item adjustments through the initiated rulemaking simply because it has been initiated. Dissent, at 7, 10 ("fact that there is an open rulemaking is irrelevant to whether the Commission should make an exception to the general rule against single-issue ratemaking"). Chairman Finley also makes clear that this outcome was inconsistent with his intent as the Chairman in initiating the rulemaking. Dissent, at 7. The same standards applied in *Nantahala* and the NCUC's prior precedent for determining whether the limited special circumstances justifying a rate change by rulemaking must also be applied to the corporate state income tax adjustment here.

If the Commission's Order were to properly apply the *Nantahala* rulemaking standard, the Joint Movants agree with Chairman Finley's analysis that "[b]esides failing the material and substantial test, the majority order fails others as well." Dissent, at 6-7.

As the Chairman notes, not all utilities are similarly situated, as"[e]xceptions are made for Toccoa, Frontier, Pineville, CWS NC, Aqua, Piedmont, and Ellerbe, and all water and sewer utilities." Dissent, at 6. Both Joint Movants also asserted in comments filed in this proceeding that all utilities are not similarly situated. For example, tax changes in Session Law 2013-316 impact utility industries differently and some utilities are adjusting rates through general rate cases. Therefore, the Joint Movants have consistently argued that a "one-size-fits-all" rulemaking approach is not well-suited to impose a single-issue corporate state income tax rate adjustment outside of a general rate case. Order, at 10-11, 17-20.

The corporate state income tax change is also more complex than simply directing the GRT and general franchise tax changes mandated by HB 998, Subsection 4.2. DNCP has maintained in both its January 15, 2014, responsive Reply Comments and its June 2, 2014, Compliance Proposal that disagreements may exist between the Company and the Public Staff regarding how the corporate state income tax change affects that utility's rate base, specifically related to the timing of required adjustments to the accumulated deferred income tax ("ADIT") component of rate base. The Public Staff's June 23, 2014, Response filing to DNCP's Compliance Proposal confirmed this dispute does in fact exist and will need to be adjudicated and resolved by the NCUC.[4] As Chairman Finley's dissent concludes, "adjudicative-type facts are clearly in dispute in this proceeding and

[4] The Joint Movants recognize the Commission's efforts through its Issue 2 holding in the Order to alleviate some of the complexity related to the excess accumulated deferred income tax ("EDIT") implications of the corporate state income tax adjustments by deferring consideration of this issue until each utility's next general rate case. Order, at 29. However, the continuing disagreement between DNCP and the Public Staff shows that this holding does not resolve the ongoing ADIT dispute between them and further adjudication, presumably including establishing a record of evidence as to the differing accounting conventions recommended by DNCP and the Public Staff to support Commission findings and conclusions is required. *State ex rel. Utils. Comm'n v. Public Staff*, 322 N.C. 689, 703, 370 S.E.2d 567, 576 (1988) (Court must determine whether there is substantial evidence, in view of the entire record, to support the Commission's findings, which, in turn, must support its conclusion).

such dispute may necessitate a trial-type hearing for one or more individual public utilities." Dissent at 7.

Finally, the Joint Movants continue to believe that strong policy reasons cut against the lawfulness of a single-issue corporate state income tax rate adjustment here. Because adjusting the corporate state income tax recovered through rates is not simply a ministerial adjustment and requires adjudication of the associated rate base impact, the State's policy goal promoting fair regulation of public utilities dictates that a utility should be permitted to recognize post-test period changes in other cost of service components affecting the justness and reasonableness of rates beyond the single-issue adjustment. Even absent the need for adjudication, a logical and fair result would be to either consider only substantial and material post-test period changes to the cost of service or to evaluate all post-test period changes to assess whether one non-substantial and material change may be offset by another. This latter approach, however, would soon rise to a "mini-rate case" for each impacted public utility and the precise rationale for ministerial ratemaking adjustment by rulemaking falls apart. It is also notable that whatever threshold is set for tax decreases triggering a rate adjustment by rulemaking would presumably also apply to tax increases. *Nantahala*, 326 N.C. at 198, 388 S.E.2d at 123 (recognizing that should "corporate tax rates be increased so that they uniformly and substantially increase taxes for utilities in the same manner as taxes were decreased by the TRA-86, the Commission could . . . determine in a rulemaking proceeding whether and to what extent rates should be increased to offset the increase in taxes"). Thus, from a policy perspective, the Commission should rely upon the rate-setting procedures enacted by the General Assembly and abstain from rulemaking action except in the

limited special circumstances of substantial and material changes to the cost of service, as prescribed in *Nantahala* and the NCUC's own precedent.

In sum, upon applying the three-factor analysis from *Nantahala*, the only reasonable conclusion is that sufficient complexity exists in adjusting rates for Session Law 2013-316's corporate state income tax reductions that rulemaking in the first instance is not appropriate, that such action exceeds the Commission's limited single-issue ratemaking authority, and would be contrary to North Carolina energy policy and the sound regulatory practices previously adhered to by this Commission.

EXCEPTION NO. 4:

The Commission's finding that the staggered corporate state income tax changes are "not insignificant" and can be reconciled with NCUC precedent applying the "substantial and material" standard is unjust, unlawful and also arbitrary and capricious.

Under *Nantahala*, the limited special circumstances where a rate adjustment was directed by rulemaking resulted from a 12% reduction in the Federal corporate income tax rate, "a rate many multiples higher than the state corporate income tax rate." Dissent at 2. The Joint Movants also agree with Chairman Finley's assessment of the NCUC's relevant precedent, that

> [t]he percentage point change of 1.9% in state corporate income taxes in the present case, when measured by its impact on consumer bills, is far more analogous to the .75% increase that the Commission found not material in Docket No. M-100, Sub 122, the .85% decrease in the state corporate income tax rate in 1996 which the Commission did not find significant enough to order rate reductions, and the 2 percentage points reduction in the federal corporate income tax rate in 1978 where again the Commission took no action versus the significant and large federal rate reduction of 12 percentage points in TRA-86 that met the clearly substantial and material test.

Dissent at 9. Further, the Joint Movants provided comments in this proceeding that the impact of the aggregate 1.9% corporate state income tax reductions equate to a 0.1% change to DNCP's cost of service and an approximately 0.12% change to PSNC's test year revenues. Similar information was provided by other affected public utilities. As Chairman Finley points out, these changes were less than the 0.53% change in Nantahala Power and Light's test year revenues resulting from the 1991 0.75% corporate state income tax change, which the NCUC found insignificant in Docket No. M-100, Sub 122. Dissent at 10, *citing Nantahala Order Denying Rulemaking* at 8-9. Notably, neither the Public Staff nor the Attorney General argued that that the current corporate state income tax changes meet the substantial or material standard. No reasonable basis exists to support the Order's finding that the instant corporate state income tax changes to the utilities' rates can be reconciled with the *Nantahala* standard and the NCUC's precedent in this area. Therefore, the Order's findings and conclusions on this issue are unjust, unlawful, and also arbitrary and capricious.

REQUEST FOR RELIEF ON RECONSIDERATION

The Joint Movants respectfully request the Commission reconsider the Order pursuant to N.C. Gen. Stat. §§ 62-80, in light of the issues raised by the exceptions set forth above. Specifically, the Joint Movants request that the Commission reconsider whether, absent express legislative direction to adjust rates (as exists for the Mandated Tax Changes), a change in a single item of a public utility's cost of service must have a substantial and material impact on the justness and reasonableness of previously-established rates to be allowed. North Carolina law and the Commission's own precedent support strict adherence to this standard.

Applying the substantial and material standard, Chairman Finley's dissent concludes that because the staggered corporate state income tax changes do not meet the test to allow for a single-issue ratemaking adjustment to rates in a rulemaking proceeding, the more appropriate proceeding to consider this change is a future general rate case where all components of cost of service are comprehensively considered pursuant to N.C. Gen. Stat. § 62-133. Dissent, at 10-11. Both DNCP and PSNC have advocated throughout this proceeding that the course proposed by the Chairman is appropriate and a single-issue adjustment to rates for the corporate state income tax changes is unsupported by law.

The Joint Movants continue to believe that the purpose of this proceeding should be to ensure that the benefits of any tax rate changes impacting the cost of service are effectively passed on to customers through mechanisms that ensure the Joint Movants' rates remain just and reasonable. *State ex rel. Utils. Comm'n v. Edmisten*, 291 N.C. 327, 344 (1976) ("ultimate duty of the Commission is to fix rate schedules which are 'just and reasonable') *citing* N.C. Gen. Stat. § 62-130. This is fundamental to North Carolina's ratemaking scheme, which recognizes the ultimate goal of maintaining just and reasonable rates over time even as offsetting changes in the cost of service may occur between rate cases. *State ex rel. Utils. Comm'n v. Morgan*, 278 N.C. 235, 239 (1971) ("It is impossible to fix rates which will give the utility each day a fair return, and no more, upon its plant in service on that day. The best that can be done, both from the standpoint of the company and from the standpoint of the persons served, is to fix rates on the basis of a substantial period of time. Otherwise, rate hearings and adjustments would be a perpetual process"). The Joint Movants respectfully request that the Commission

reconsider DNCP's proposal on pages 10-14 of the Company's Initial Comments to review the impacts of the corporate state income tax change in the Company's next general rate case. The Order did not specifically address this proposal, and the Joint Movants continue to believe there is substantial merit in this approach. Specifically, it would allow the Public Staff and the Commission to ensure that the benefits of the corporate state income tax changes impacting the Joint Movants' respective cost of service are effectively passed on to customers, while fairly and justly adhering to the general ratemaking procedures clearly established by the General Assembly.

CONCLUSION

For the reasons set forth above, the Joint Movants respectfully request that the Commission reconsider its findings and conclusions directing the Joint Movants to adjust their rates for the corporate state income tax changes enacted in Session Law 2013-316, as the Order's conclusions on these issues are affected by errors of law, are in excess of the Commission's statutory power and jurisdiction, are unsupported by any competent, material and substantial evidence, and are arbitrary and capricious. The Joint Movants further request that the Commission stay any Order to adjust rates to reflect the January 1, 2014, corporate state income tax change and to refund the incremental revenue requirement impact currently being collected provisionally pursuant to the Commission's *Provisional SIT Recovery Order* until the Commission addresses the Joint Movants' request for reconsideration.

Respectfully submitted, this the 10th day of July, 2014.

By: s/Mary Lynne Grigg
Counsel

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing *Dominion North Carolina Power's and Public Service Company of North Carolina, Inc.'s Notice of Appeal, Motion for Reconsideration, and Request to Stay Corporate State Income Tax Rate Adjustment Pending Reconsideration*, as filed in Docket No. M-100, Sub 138, was served electronically or via U.S. mail, first-class, postage prepaid, upon all parties of record.

This, the 10th day of July, 2014.

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