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February 16, 2021

VIA ELECTRONIC FILING

Ms. Kimberley A. Campbell
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

**Re: Duke Energy Carolinas, LLC's Motion for Leave to File Reply
Comments and Reply Comments
Docket No. E-7, Sub 1155**

Dear Ms. Campbell:

Enclosed please find Duke Energy Carolinas, LLC's Motion for Leave to File Reply Comments and Reply Comments for filing in the above-referenced docket.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Kendrick C. Fentress".

Kendrick C. Fentress

Enclosure

cc: Parties of Record

OFFICIAL COPY

Feb 16 2021

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, SUB 1155

In the Matter of)	
Application of Duke Energy Carolinas,)	DUKE ENERGY CAROLINAS,
LLC for Approval of Residential New)	LLC’S MOTION FOR LEAVE TO
Construction Program)	FILE REPLY COMMENTS
)	
)	

NOW COMES Duke Energy Carolinas, LLC (“DEC” or the “Company”) and respectfully moves the North Carolina Utilities Commission (“Commission”), pursuant to Commission Rule R1-7, to grant this Motion for Leave to File Reply Comments. In support of its motion, DEC respectfully shows the following:

1. On September 21, 2017, the Company filed an application for approval of the Residential New Construction (“RNC”) program.
2. On October 23, 2017, the Public Staff – North Carolina Utilities Commission (“Public Staff”) filed comments in support of the RNC program.
3. On June 7, 2019, following numerous discussions with natural gas utilities subject to the Commission’s jurisdiction aimed at resolving their concerns regarding potential unintended consequences of the program design, the Company filed a motion to withdraw the RNC program.
4. On August 7, 2019, the Public Staff filed a letter stating that it had no objection to DEC’s proposal to withdraw the program.
5. On August 8, 2019, Southern Alliance for Clean Energy filed a letter in support of the RNC program and requested that the Commission reject DEC’s motion to withdraw the program.

6. On August 16, 2019, the North Carolina Sustainable Energy Association (“NCSEA”) and the North Carolina Building Performance Association (“NCBPA”) filed letters in support of the RNC program and requested that the Commission reject DEC’s motion to withdraw the program.

7. On November 25, 2019, the Commission issued an *Order Scheduling Hearing and Providing Notice of Topics*, which scheduled a hearing on January 27, 2020 to address why the Company withdrew the RNC program and why a compromise with the gas companies could not be reached.

8. On January 27, 2020, the Commission held a hearing at which DEC representatives responded to Commission questions. At the close of the hearing, the Commission asked parties to file briefs and proposed orders within thirty days, by February 26, 2020.

9. On February 25, 2020, the NCBPA renewed its support of the RNC program and requested again that the Commission reject DEC’s motion to withdraw the program.

10. On February 25, 2020, DEC filed a motion for extension, which the Commission granted on February 26, 2020, making March 5, 2020 the due date for proposed orders.

11. On March 5, 2020, DEC and the Public Staff filed a joint proposed order recommending that DEC be allowed to withdraw the RNC program and be required to re-file, within 90 days, either a new program explaining how it will mitigate the gas companies’ concerns or an explanation of reasons for not re-filing the program.

12. On June 23, 2020, the Commission issued its *Order Holding in Abeyance Decision on Motion to Withdraw Program and Requiring Filing of Proposed Modified*

Program (the “Abeyance Order”) which required DEC to file a modified RNC program within ninety (90) days, followed within 30 days by comments of the Public Staff and the natural gas companies.

13. On September 21, 2020, DEC filed a modified RNC program. Pursuant to the Abeyance Order, comments were due October 21, 2020.

14. The parties subsequently filed four motions for extension of time to file comments, each of which the Commission granted. In its order granting an extension issued December 17, 2020, the Commission established January 19, 2021 as the due date for comments.

15. On January 19, 2021, the Public Staff, NCSEA and the gas companies filed comments concerning DEC’s modified RNC program.

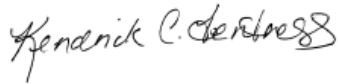
16. The Commission’s Abeyance Order did not provide for DEC filing reply comments on the comments of the Public Staff or gas companies.¹ However, the Company believes that the Commission would benefit from DEC’s additional comments in response to arguments by the gas companies in their initial comments that cited the Legacy Settlement Agreements in support of their position on DEC’s proposed, modified RNC program. Although the Legacy Settlement Agreements were mentioned at the hearing prior to the Abeyance Order, DEC has not had the opportunity to respond to the gas companies’ contentions on their applicability to the proposed, modified RNC program, which is currently pending before the Commission.

17. DEC’s Reply Comments are attached hereto.

¹ See Abeyance Order at 9 (allowing for Public Staff and LDCs comments).

Therefore, in light of the foregoing, DEC respectfully requests that the attached Reply Comments be accepted for filing in this docket and for such further relief as the Commission deems just and proper.

Respectfully submitted, this the 16th day of February, 2021.



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*ATTORNEY FOR DUKE ENERGY
CAROLINAS, LLC*

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, SUB 1155

In the Matter of:)
)
Application of Duke Energy Carolinas,) **REPLY COMMENTS OF DUKE**
LLC for Approval of Residential New) **ENERGY CAROLINAS, LLC**
Construction Program)

NOW COMES Duke Energy Carolinas, LLC (“DEC” or the “Company”) by and through counsel, and pursuant to the *Order Holding In Abeyance Decision on Motion to Withdraw Program and Requiring Filing of Proposed Modified Program* (“Abeyance Order”), issued by the North Carolina Utilities Commission (“NCUC” or “Commission”) on June 23, 2020 in the above-captioned docket and several orders extending the time for the parties to file comments, and hereby respectfully provides reply comments in response to comments filed by Piedmont Natural Gas Company, Incorporated (“Piedmont”), and Public Service Company of North Carolina, Incorporated (“PSNC”, and collectively with Piedmont, the “LDCs”) in this docket on January 19, 2021. Specifically, DEC will reply to comments by the LDCs that assert that DEC is bound by expired settlement agreements and that, even after revisions that are consistent with the Commission’s Rules, the Residential New Construction (“RNC”) energy efficiency (“EE”) program incentivizes fuel switching to the disadvantage of the LDCs.

BACKGROUND

The Company filed an application for approval of the RNC program in the above-captioned docket on September 21, 2017. In its application, DEC indicated that the RNC program met the requirements of Commission Rule R8-68 for a new EE program. DEC

described the RNC program as providing incentives to residential builders to encourage the use of energy efficient building practices and equipment/appliances for new home construction. Eligibility for the incentives would be based on the High Efficiency Residential Option (“HERO”) standard and upon requirements for energy efficient appliances. The application described three types of incentives that would be offered to builders and/or owners of new homes. First, for whole-house measures where the home is built to HERO standards, the RNC program includes incentives for a high energy residential option up to \$750. Second, where the home is built to HERO standards and there are modeled annual kilowatt-hour (“kWh”) savings confirmed by a Home Energy Rating System rater, the builder can receive up to \$0.90 per kWh saved and may also offer the initial homeowner a guarantee on the total annual electric heating, ventilation and air conditioning energy consumption for up to three years, for which the homeowner may receive a qualifying payment at the end of each full year of electric service for the amount of consumption that exceeds the guaranteed consumption. Third, where central air conditioning with a Seasonal Energy Efficiency Ratio (“SEER”) of 15 or higher is installed and/or a similarly rated air source heat pump is installed, the builder can receive equipment incentives up to \$300.

After reviewing the application, the Public Staff of the North Carolina Utilities Commission (“Public Staff”) filed comments recommending approval of the RNC program on October 23, 2017.

On June 7, 2019, DEC filed a motion requesting that the Commission allow DEC to withdraw its application in this docket. As the Commission recounted in its Abeyance Order:

The record reflects that after the proposed RNC program was filed, both gas companies (PSNC and Piedmont) engaged in discussions with DEC regarding their concerns that the RNC Program as proposed in the Application would not merely incent energy efficiency savings or conservation but would also have the effect of driving or incenting fuel choice, i.e., homebuilders would choose to develop new homes enabled for electric heat pumps and hot water heating but not similarly enabled for the use of gas to heat the home and hot water.

Abeyance Order at 2.

Prior to the Commission issuing an order on the Company's Motion to Withdraw, numerous parties expressed support for the RNC program. More than 50 consumer statements of position generally expressing support for the RNC program or a similar measure were filed in this docket. In August 8, 2019, the Southern Alliance for Clean Energy ("SACE") filed a letter in support of the RNC program and requested that the Commission reject DEC's motion to withdraw the application. On August 16, 2019, the North Carolina Sustainable Energy Association and the North Carolina Building Performance Association ("NCBPA") filed letters similar to that of SACE. On November 19, 2019, NCBPA filed additional support for DEC's RNC program.

On November 25, 2019, the Commission issued an order scheduling a hearing for January 27, 2020 to have DEC answer questions about its motion to withdraw. After the hearing, the Commission concluded that it supported the implementation of a RNC program if it did not result in an unfair competitive advantage for DEC over the LDCs during the phase of construction when homebuilders determine whether a new premises will be both gas and electric-ready and will rely on gas or electric heating and hot water appliances. Therefore, in the Abeyance Order, the Commission directed DEC and the LDCs to continue to work together to find common ground in promoting fair and profitable

competition between electric and natural gas utilities. The Commission further directed that, within 90 days of the date of their Order, DEC should file a modified RNC program that was appropriate for achieving EE savings and addressing the LDCs' fuel choice concerns.

After discussions with the LDCs did not result in consensus with DEC, DEC revised the RNC program to address the LDCs' stated concerns and filed an application for its approval on September 21, 2020 ("Sept. 21 Application"). The LDCs have acknowledged that the revised RNC program was "an improvement" over what was initially proposed, but the LDCs still have concerns.¹ After the filing of the modified RNC program, the LDCs, the Public Staff, and DEC continued their discussions, but they have been unable to agree on any additional modifications to the RNC program that would fully address the LDCs' concerns. The LDCs and the Public Staff each filed Comments on January 19, 2021. In their Comments, the LDCs recommend that the Commission require DEC to abide by settlements reached with the LDCs in 2008 ("Legacy Settlement Agreements") and to modify DEC's proposed RNC program and, additionally, although it is beyond the scope of this docket, a similar EE program Duke Energy Progress, LLC offers, to prevent unfair and destructive competition between electric and natural gas utilities.

REPLY COMMENTS

- A. Although the Legacy Settlement Agreements are No Longer in Effect, DEC has complied with their intent.

¹ Joint Comments of Piedmont Natural Gas Company, Incorporated, and Public Service Company of North Carolina, Incorporated ("LDCs' Comments"), Docket No. E-7, Sub 1155 at 6.

The LDCs rely upon the Legacy Settlement Agreements to support their contention that the Commission should require DEC to comply with them to prevent unfair competition between LDCs and DEC. These Legacy Settlement Agreements, however, were entered into in 2008 by DEC and PSNC, and DEC and Piedmont, respectively, in Docket No. E-7, Sub 831, where the Commission considered DEC's proposed Save-A-Watt EE portfolio and cost-recovery mechanism. The Commission approved the Company's proposed EE portfolio and the Legacy Settlement Agreements in its *Order Resolving Certain Issues, Requesting Information on Unsettled Matters, and Allowing Proposed Rider to Become Effective Subject to Refund*, Docket No. E-7, Sub 831, issued Feb. 26, 2009. The Commission then approved the cost-recovery mechanism in its February 9, 2010 *Order Approving Agreement and Joint Stipulation Of Settlement Subject To Certain Commission-Required Modifications And Decisions On Contested Issues* in that same docket as a pilot program with a four-year term.² After expiration of the four-year pilot, the Company and other stakeholders worked to develop a new EE portfolio and cost recovery mechanism to replace the modified Save-A-Watt model. The Commission then approved the new EE portfolio and cost recovery mechanism to go into effect after expiration of the modified Save-A-Watt model in Docket No. E-7, Sub 1032. That docket does not include the Legacy Settlements from the Save-A-Watt docket, and their applicability ended with the modified Save-A-Watt pilot.

Although the Legacy Settlement Agreements are no longer in effect, DEC was aware of them, and its proposed RNC program still meets the general intent of those agreements and does not result in destructive competition between DEC and the LDCs.

² *Order Approving Agreement and Joint Stipulation of Settlement Subject to Certain Commission-Required Modifications and Decisions on Contested Issues*, Docket No. E-7, Sub 831, at 6.

The LDCs cited a provision of the Legacy Settlement Agreement between DEC and Piedmont that provides:

The energy efficiency programs included in Duke Energy Carolinas' Energy Efficiency Plan: (a) are not intended to displace or replace natural gas appliances with competing electric appliances; (b) are not designed to encourage fuel-switching; and (c) require demonstrated electric energy savings in each application utilizing cost-effectiveness testing.

LDCs' Comments at 14. The first requirement of this reference was that the proposed EE programs are not intended to displace or replace natural gas appliances with competing electric appliances. As stated by DEC witness Duff during the January 27, 2020 hearing before the Commission, "Obviously, the one important thing is that we're incentivizing cost-effective energy efficiency for electric use and that's what the Program is designed to do. That's really its only intent is to help our electric customers become more efficient. Now, obviously there's whole home benefits as well, but that's what the incentives that they designed are intended to do." (Tr. at 17-18.) As mentioned by Commissioner Brown-Bland in her question to DEC witness Duff during the hearing, several commenters, including several home builders, also believed that the proposed RNC program was fuel agnostic. (Tr. at 19.) Even though the original proposed RNC program was not designed or in any way intended to displace or replace natural gas appliances with electric consuming appliances, the Company's proposed modifications to the RNC program are not only not intended to displace natural gas appliances, but to protect against that displacement. In the Sept. 21 Application presenting the modified RNC program, the Company reduced the incentive per kWh on electric space heating measures by nearly 50%, meaning a kWh saving associated with an electricity consuming appliance or device

that has a natural gas consuming appliance or device substitute would receive a far lower incentive than an efficient electric device that does not have a natural gas substitute.

The second pertinent requirement was that the proposed EE programs were not designed to encourage fuel switching. The modified RNC program is designed to encourage, through incentives, building energy efficient homes. Specifically, when asked about the original RNC program's design, witness Duff confirmed that, “. . . speaking from Duke Energy's standpoint we felt our Application was for a program that was agnostic to the installation of a fuel source in a home but would drive energy efficiency,” (Tr. at 21.) The Company specifically modified the original RNC program in its Sept. 21 Application to reduce the per kWh incentive for electric space-heating measures. The initial RNC program was not designed to impact fuel switching, nor is the modified RNC program designed to promote fuel switching. Instead, the modified RNC program is specifically designed to eliminate the potential for unintended consequences of fuel switching.

Additionally, although pages 4-5 of Exhibit H in DEC's Sept. 21 Application lists communities and homes that the LDCs provided as locations that they believe were impacted by DEP's very similar RNC program, they have not provided sufficient support for their assertions that DEP's program impacts the builders' choices. The Company recognizes that making after-the-fact determinations on what motivated a builder's decision around fuel choice is challenging. Nevertheless, DEC investigated the homes and communities provided on the lists, and, in at least one case, found information that may suggest *fuel availability* rather than DEP's RNC program influenced a builder's decision regarding the fuel source in the homes. For example, with respect to the Channel Watch

Subdivision, which accounts for over 16% of the total homes cited by Piedmont, the Company determined that the closest viable natural gas line was over 1.5 miles away from the neighborhood (See Exhibit 1). Based on the unavailability of natural gas, it appears that DEP's RNC program may likely have had little to no impact on the builder's choice in Channel Watch. Although the Company's ability to find a clear rationale behind builders' decisions on fuel choice in the neighborhoods referred to by the LDCs was limited, notably, it also was unable to find any information that would support the LDCs' contention that the RNC program was the driver for those decisions.

The final requirement outlined by the Legacy Settlement Agreements cited by the LDCs is that the proposed EE program "demonstrated electric energy savings in each application utilizing cost effectiveness testing." DEC's modified RNC program clearly meets this last requirement. No party has challenged the revised RNC program's cost-effectiveness, based on its ability to deliver energy savings. DEC's modified RNC program is therefore consistent with Commission Rule R8-68, the mechanism approved in Docket No. E-7, Sub 1032, and the State's policy of encouraging EE as outlined in Chapter 62 of the North Carolina General Statutes. As such, the Public Staff has filed in support of approval of the revised RNC program.

The LDCs' comments also reference Section 3(c) of the Legacy Settlement Agreement between PSNC and DEC. Section 3(c) says that DEC "will promote on an equal basis and offer equivalent incentive payments for heat pumps and air conditioning." DEC's original RNC program included the same \$0.75 per kWh incentive level for both space heating and space cooling measures (air conditioners and heat pumps), meaning that they were incentivized and promoted equally. In its Sept. 21 Application for approval of

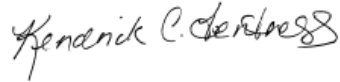
its revised RNC program, however, the Company proposed to incentivize air space heating measures at \$0.40 per kWh of energy savings, while maintaining the incentive level for all other measures, including air conditioners at \$0.75 per kWh. If anything, one could argue that, due to its efforts to alleviate the LDCs' concerns, the Company's currently pending application for approval of the revised RNC program more heavily promotes energy efficient air conditioners than energy efficient heat pumps. Accordingly, even if the Commission concludes that the Legacy Settlement Agreements between the LDCs and DEC associated with DEC's previous EE portfolio maintain current requirements for the Company, the Company's revised RNC program, as outlined in its Sept. 21, 2020 Application for approval, is consistent with these requirements.

B. The Company Will Work with An Independent Third-Party Evaluator to Develop an Evaluation, Measurement and Verification ("EM&V") Process to Ensure Revised RNC Program Has No Unintended Impact on Fuel Choice.

The Company recognizes the LDCs' concerns about fuel switching, and the record in this matter demonstrates its efforts to address these concerns. Unfortunately, despite the good faith efforts of all of the parties on this matter, no consensus has been reached. To further demonstrate its good faith in addressing the LDCs' concerns going forward, the Company will offer that, if the Commission approves the Company's Sept. 21 Application for the modified RNC program, it will work with the independent third-party evaluator to develop a component of the EM&V process evaluation that will assess whether it has had any unintended impact on builders' decision to install natural gas service in new homes. The plan will include research from builders that participated in the program and those that did not. Data from this EM&V effort will be included in DEC's annual EE cost recovery proceedings at the Commission under Commission Rule R8-69.

WHEREFORE, the Company respectfully requests that the Commission consider the foregoing in making its determination in this matter.

Respectfully submitted this the 16th day of February, 2021.



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Exhibit 1: LDC Natural Gas Availability

Location: Wilmington, NC

Developer/Builder: Bill Clark Homes

Subdivisions: *Channel Watch*

Channel Watch Subdivision: NG line ends at intersection of River Road and Sanders Road based on info received from source. Distance from nearest line to access Channel Watch community is over 1 mile via River Road.

Channel Watch Subdivision Satellite view:

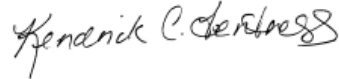
- Red pointer indicates end of existing gas line.
- Yellow pointer indicates subdivision location.



CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Carolinas, LLC's Motion for Leave to File Reply Comments and Reply Comments, in Docket No. E-7, Sub 1155, has been served by electronic mail, hand delivery, or by depositing a copy in the United States Mail, 1st Class Postage Prepaid, properly addressed to parties of record.

This, the 16th day of February, 2021.



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