

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-2, SUB 1249  
DOCKET NO. E-7, SUB 1237  
DOCKET NO. E-22, SUB 585

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition for Expedited Approval of	)	ORDER DENYING PETITION TO
Temporary Adjustments to Electricity	)	INTERVENE AND ALLOWING
Billing Demand Charges	)	LIMITED AMICUS CURIAE
	)	STATUS

BY THE CHAIR: On March 31, 2020, Carolina Utility Customers Association, Inc. (CUCA), filed a petition in the above-captioned dockets requesting that the Commission grant expedited approval of temporary adjustments to minimum and maximum billing electricity demand charges under various commercial and industrial retail rate schedules of Duke Energy Carolinas, LLC, Duke Energy Progress, LLC, and Virginia Electric and Power Company, Inc., d/b/a Dominion Energy North Carolina (collectively, electric utilities).

On April 2, 2020, the Commission issued an Order Joining Necessary Parties and Requesting Comments.

On April 9, 2020, North Carolina Electric Membership Corporation (NCEMC), filed a petition to intervene. In summary, NCEMC stated that it is a generation and transmission cooperative responsible for the power supply of 25 member distribution cooperatives in North Carolina, and that it purchases power pursuant to wholesale contracts with Duke Energy Progress, LLC (DEP) and other sellers to supply electricity to its members. NCEMC further stated that DEP and NCEMC's other wholesale suppliers recover their cost of service from NCEMC through contract demand charges, among other charges. Finally, NCEMC stated that no other party can adequately represent NCEMC's interests in this proceeding.

In a subsequent email exchange with Commission Staff, DEP and CUCA stated that they do not oppose NCEMC's petition to intervene.

Pursuant to Commission Rule R1-19, any person having an interest in a Commission proceeding may become a party thereto by filing a verified petition that includes, among other things, "a clear, concise statement of the nature of the petitioner's interest in the subject matter of the proceeding and the way and manner in which such interest is affected by the issues in the proceeding." Commission Rule R1-19(d) provides

that “[l]eave to intervene filed . . . in compliance with this rule and showing a real interest in the subject matter of the proceeding, will be granted as a matter of course[.]”

In *Investigation of Existing Rates and Charges Pursuant to Regulatory Condition No.76*, Docket No. E-7, Sub 828, et al., the Commission considered a petition by North Carolina Municipal Power Agency 1 (NCMPA) to intervene in a Duke Energy Carolinas, LLC (DEC), general rate case. NCMPA and DEC were joint owners of the Catawba Nuclear Station (CNS), and parties to a Restated Operating and Fuel Agreement (OFA) under which DEC operated and provided fuel for the CNS. The OFA provided that the CNS costs would be allocated by the same methods used for allocating the costs of DEC's other generating facilities. NCMPA argued that it had a real interest in the decision to be made by the Commission because the Commission's decision would determine the allocation of DEC's operating costs. However, the Commission disagreed and denied NCMPA's petition to intervene. The Commission reasoned that although the Commission's cost allocation decisions might be relied upon in a dispute regarding the OFA, the Commission's decisions were not binding on DEC or NCMPA because the ultimate resolution of such a dispute would be made by an arbitrator. With regard to Rule R1-19, the Commission stated that “[a]lthough the right to intervention under Rule R1-19 is generous, it is not unlimited. Intervention requires a real interest in the proceeding.” Order Denying Petition to Intervene, at 3 (September 13, 2007) (emphasis in original).

The present docket involves a request for a temporary adjustment to the retail rates of the electric utilities. NCEMC's interest arises from rates and charges under a wholesale power purchase agreement with DEP, not retail rates. The Commission does not regulate wholesale electric rates.

Based on the foregoing and the record, the Chair concludes that NCEMC's petition to intervene should be denied because NCEMC's interest and the manner in which such interest is affected are not directly related to the issues herein. Nevertheless, the Chair determines in her discretion that limited participation by NCEMC as amicus curiae is appropriate. Thus, the Commission will accept comments, if any, filed by NCEMC. However, the opportunity to participate as amicus curiae shall not create the right in NCEMC to participate as a party in hearings or to appeal from Commission orders in this proceeding.

IT IS, THEREFORE, ORDERED as follows:

1. That the petition to intervene filed by NCEMC shall be, and is hereby, denied;
2. That NCEMC shall be allowed to participate in this proceeding as an amicus curiae as specified above in the body of this Order; and
3. That the Chief Clerk shall serve all future filings in this docket on the attorneys for NCEMC by electronic service, as follows:

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ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of April, 2020.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, appearing to read "Janice H. Fulmore", is written over a light gray horizontal line.

Janice H. Fulmore, Deputy Clerk