

~**From:** Bob Hall [<mailto:sprc@mindspring.com>]

Sent: Monday, December 16, 2019 2:30 PM

To: Kennedy, Julie <kennedy@ncuc.net>

Subject: Ms. Kennedy: comment submitted by Bob Hall 12/16

Ms. Kennedy,

Thanks very much for your help in making sure this is filed in a timely manner.

Below is my submission.

Name: Bob Hall

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Docket: M-100 Sub 150

Comment:

Response Comments re Docket M-100 Sub 150

After reviewing the filings of others, I continue to worry that the definitions in the August Order are too narrow and will result in ratepayers being charged for more, not less, political spending by regulated utilities.

For example, regarding the definition of lobbying, I agree with the Public Staff's recommendation that "designated individuals" should be defined, but the Public Staff's solution means ratepayers would only be spared from paying from utility spending related to lobbying state-level officials, which is the focus of Chapter 138A of the General Statutes. The large amounts spent to lobby local elected leaders and their appointees would be charged to ratepayers under the Public Staff's narrow definition. That's wrong.

Quick story: Several years ago, as chair of my county's Economic Development Commission, Duke Energy invited me to join 150 or so other officials from my region to an upscale hotel for a sumptuous dinner and high-tech, multi-media presentation about

Duke's perspective on regulation, energy needs, environmental protection, etc. Critics would call it biased propaganda. A Duke executive sat at each table of 8 to schmooze and answer questions. Each local official (elected or appointed) received a handsome gift to take home, emblazoned with Duke's logo to remind us where it came from. Such events are clearly goodwill lobbying and should not be paid by Duke's customers.

Therefore, at the minimum, please add a phrase to the Public Staff's recommendation so it would read: "For purposes of this subsection, 'designated individual' means a legislator, legislative employee, public servant, local elected official or appointee of a local election official. 'Public servant' means those persons as defined in Chapter 138A of the General Statutes."

Other recommendations from the Public Staff and intervenors are vitally important.

I am especially disturbed by the Order's definition of "political contribution." As written, if followed to the letter by utilities, it provides a safe harbor for them to charge ratepayers millions of dollars of political expenses that they can claim are not "for the purpose of supporting the election or re-election of a candidate." Why? Because NC General Statutes very clearly define what does and does not constitute a "contribution" for "supporting" a candidate's election – see, for example, NCGS 163-278.6(6), (8j), and (9a) and 163-278.14A.

Here's a concrete example: Duke Energy contributed hundreds of thousands of dollars to the Republican Governors Association (RGA) in 2016. That year, RGA spent over \$6 million in North Carolina during the election contest between Gov. Pat McCrory and Roy Cooper – and none of that money was a "political contribution" under state (or federal) law, because the ads did not use the "magic words" described in NCGS 163-278.14A and are therefore not communications "to support" a candidate's election (or defeat – oddly, that word is left out of the Order). Here are links to four of the ads that, under state law, are NOT for "the purpose of supporting the election or re-election of a candidate":

<https://www.youtube.com/watch?v=1xc5tzwwZOA>

<https://www.youtube.com/watch?v=KoVonC74KIE>

<https://www.youtube.com/watch?v=ZbtrnOB1OPk>

<https://www.youtube.com/watch?v=2RGQ40KG8Gs>

These are called "issue ads" because, even though they identify a candidate and portray the candidate's behavior in ads to millions of voters, they do NOT use the "magic words" and are not coordinated with a candidate. These ads are not even regulated under North Carolina law unless they appear within close proximity to the election, when their expenditures must be disclosed as "electioneering communications." That disclosure requirement is the only reason we know RGA spent more than \$6 million to influence the NC gubernatorial election. And under the Order's definition, whatever money utilities

gave RGA that was used for those ads would be charged to ratepayers. That's wrong.

Perhaps the Utilities Commission is not using the term "supporting" a candidate to mirror state law and somehow the utilities, Public Staff, intervenors, courts, and the public should know that it's meant as a very broad term in the definition of "political contribution." Then it becomes very confusing about what the term does or does not include. What is the standard? I hope you will study my recommendation for not even using the term "political contribution," which is a narrowly defined term in state law, and instead use "political spending" and define it broadly, as I attempted to do in my previous comments.

Or forget about these definitions for lobbying and political contributions and focus on developing a strong policy statement, as I also previously suggested.

Thank you for your consideration.

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