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Apr 09 2020

April 9, 2020

VIA ELECTRONIC FILING

Ms. Kimberley A. Campbell, Chief Clerk
North Carolina Utilities Commission
Dobbs Building
430 North Salisbury Street
Raleigh, North Carolina 27603

Re: *Docket No. E-22, Sub 585*
Docket No. E-2, Sub 1249
Docket No. E-7, Sub 1237
Comments of Dominion Energy North Carolina

Dear Ms. Campbell:

Enclosed for filing in the above-referenced proceeding, please find Virginia Electric and Power Company's, d/b/a Dominion Energy North Carolina, *Comments of Dominion Energy North Carolina*.

Should you have any questions, please do not hesitate to contact me. Thank you for your assistance in this matter.

Very truly yours,

/s/E. Brett Breitschwerdt

EBB:kjg

Enclosure

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

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

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Petition for Expedited Approval of)	
Temporary Adjustments to Electricity)	COMMENTS OF DOMINION
Billing Demand Charges for Dominion)	ENERGY NORTH CAROLINA
Energy NC)	

NOW COMES Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina (“DENC” or “the Company”), by and through the undersigned counsel, and files these Comments for the North Carolina Utilities Commission’s (“Commission”) consideration in response to the Carolina Utility Customers Association, Inc.’s (“CUCA”) March 31, 2020 *Petition for Expedited Approval of Temporary Adjustment to Electricity Billing Demand Charges* (“CUCA Petition”) filed in the above-captioned dockets.

DENC recognizes the economic impact and challenging financial circumstances that could be created by the current COVID-19 pandemic for the Company’s customers. In response, DENC voluntarily suspended all customer disconnections for nonpayment and obtained Commission approval to waive late charges and other fees during the present emergency, and believes the Commission has already taken reasonable and responsive steps to fairly address the hardships facing DENC’s customers during the

declared State of Emergency.¹ To the extent commercial or industrial customers' operations within DENC's service territory are required to partially or fully shut down during the State of Emergency, DENC's Commission-approved Terms and Conditions provide the Company the ability to work with individual customers during force majeure events to adjust customer demands to address any extraordinary billing impacts in addition to the relief already ordered by the Commission. Accordingly, for reasons further addressed herein, the Commission should deny the relief requested in the CUCA Petition and instead allow DENC to continue to work with individual customers utilizing the relief already granted by the Commission, as well as the Company's existing Terms and Conditions to address any extraordinary billing and payment issues experienced by DENC's customers during the pending State of Emergency.

COMMENTS OF DOMINION ENERGY NORTH CAROLINA

I. DENC and the Commission have taken actions to provide relief to all customers during the State of Emergency

The CUCA Petition seeks broad relief for commercial and industrial customers taking service on certain of DENC's rate schedules. However, the CUCA Petition does not recognize the proactive efforts already undertaken by the Commission—as well as DENC and other utilities—to respond to the current State of Emergency.

On March 16, 2020, DENC and Public Service Company of North Carolina, Inc. ("PSNC") filed their *Response to COVID-19 and Request for Expedited Approval for the Companies to Waive Late-Payment and Reconnect Fees for its Customers* ("Dominion

¹ See Executive Order of Governor Roy Cooper No. 116 (issued March 10, 2020) (declaring a State of Emergency in North Carolina as a result of the COVID-19 pandemic) (hereinafter, the "State of Emergency").

Petition”).² The Dominion Petition recognized the personal hardships and economic impacts that the COVID-19 pandemic is imposing on DENC’s and PSNC’s customers, and requested the Commission grant DENC and PSNC the authority to suspend disconnections of electric and gas service for residential customers who are unable to pay their bills and to begin waiving late-payment charges for residential and commercial customers under the Commission’s Rules and the Companies’ rate schedules for the duration of the State of Emergency or until otherwise ordered by the Commission. The Petition also highlighted DENC’s and PSNC’s proactive actions in response to the COVID-19 pandemic, including ceasing customer disconnections due to non-payment. On March 18, 2020, the Commission’s *Order Granting Temporary Waivers of Specific Provisions of Commission Rules* granted DENC’s and PSNC’s joint request.³

On March 19, 2020, the Commission also responded more broadly to the current State of Emergency and provided additional relief to all of DENC’s customers. In its *Order Suspending Utility Disconnections for Non-Payment, Allowing Reconnection, and Waiving Certain Fees*⁴ (“Order Suspending Fees and Requiring Payment Arrangements”), the Commission required all electric, natural gas, water and wastewater public utilities, to immediately cease customer disconnections due to non-payment of utility bills, except where necessary as a matter of safety or where requested by the

² The Dominion Petition was filed in Docket Nos. E-22, Sub 583 and G-5, Sub 617.

³ On March 19, 2020, Duke Energy Progress, LLC (“DEP”), and Duke Energy Carolinas, LLC (“DEC”), and Piedmont Natural Gas, Inc. (“Piedmont”) filed a similar response to the COVID-19 pandemic petitioning the Commission for relief in Docket Nos. E-2, Sub 1228, E-7, Sub 1236, and G-9, Sub 767. The Commission granted these utilities requests in its March 20, 2020, *Order Granting Additional Temporary Waivers of Specific Provisions of Commission Rules*.

⁴ *Order Suspending Utility Disconnections for Non-Payment, Allowing Reconnection, and Waiving Certain Fees*, Docket No. M-100, Sub 158 (March 19, 2020).

customers, and waive the application of late fees for the duration of the State of Emergency or until the Commission orders otherwise.⁵ The *Order Suspending Fees and Requiring Payment Arrangements* also ordered DENC and the State’s other regulated public utilities to provide customers a minimum period of six months to make payments on arrearages accrued during the State of Emergency and further waived any late fees on unpaid bills for service rendered during the State of Emergency. However, the *Order Suspending Fees and Requiring Payment Arrangements* was also clear that the Commission did not intend to relieve customers of their obligation to pay their bills for utility service received during the State of Emergency under Commission-approved rates and tariffs.⁶

CUCA filed the CUCA Petition on March 31, 2020, without any reference to the Dominion Petition or any of the Commission’s Orders responding to the current State of Emergency caused by the COVID-19 pandemic. Specific to DENC, the CUCA Petition requests that the Commission grant generic and expedited approval to temporarily adjust minimum and maximum monthly demand charges for certain of DENC’s commercial and industrial rate schedules, Rate Schedules 10, 5, 5C, 5P, 6C, 6L, 6P, 6VP, and 7, for “industrial customers who have ceased or curtailed energy consumption to combat COVID-19” and for “businesses that exceed their current contract demand ... due to increased production to meet Covid-19-related product demand.”⁷ However, the CUCA

⁵ See *Order Suspending Fees and Requiring Payment Arrangements*, at 2.

⁶ *Id.*

⁷ CUCA Petition at 3, 5.

Petition does not identify any CUCA members served by DENC⁸ nor does it address the relief ordered by the Commission in response to the Dominion Petition and in the *Order Suspending Fees and Requiring Payment Arrangements* for all customers. The Company believes the Commission has already taken reasonable and responsive steps to fairly address the hardships facing all DENC's customers during the State of Emergency.

II. DENC's approved Terms and Conditions provide the Company the ability to work with individual customers to provide relief during force majeure circumstances

The Company recognizes that the extraordinary circumstances of the current State of Emergency may create force majeure-type situations for some customers that are not able to operate their facilities. In addition to the relief already ordered by the Commission, DENC's Commission-approved Terms & Conditions provide the Company the ability to work with individual customers during force majeure events where the customers' operations are partially or fully shut down.⁹ Additionally, as also provided for in DENC's Terms and Conditions, the Company is committed to working with customers during the State of Emergency to ensure that they remain on the most cost effective rate schedule available if their operating conditions change.¹⁰

⁸ The CUCA Petition explains that CUCA's members are industrial manufacturing companies taking electric service from DEC and DEP, but not DENC. *See* CUCA Petition at 3. DENC is also not aware that CUCA has any members in DENC's service territory.

⁹ *See* <https://www.dominionenergy.com/large-business/rates-and-tariffs/terms-and-conditions>. Section X.F. of DENC's Terms and Conditions provides:

If, during the term of agreement for furnishing electricity to a Customer, the Customer is unable to operate his facilities, in whole or in part, because of accident, act of God, fire, or strike of the Customer's employees occurring at the location where electricity is supplied, the charge for electricity used during the period reasonably necessary to correct any such conditions will, in the discretion of the Company, be reasonably adjusted in accordance with all pertinent facts and conditions.

¹⁰ *See* DENC Terms and Conditions, Sec. VIII.C.

The CUCA Petition further asserts that some industrial customers may also “have significantly . . . expanded consumption” during the State of Emergency and that customers who have “ramped up their operations to produce items needed to combat COVID-19 should not be subjected to ‘excess demand’ charges.” CUCA Petition at 4-5. To date, DENC is not aware of any customers in the Company’s service territory that have significantly increased demand during the State of Emergency. To the extent customers can and do show a significant increase in demand as a result of the State of Emergency, DENC is committed to working with such customers to adjust demand charges when their businesses return to normal operations.

In sum, the Company’s approved Terms and Conditions enable DENC to work with specific customers facing extraordinary hardships without the Commission granting the broad relief requested in the CUCA Petition.¹¹ The Company remains committed to working with its customers as long as they are impacted by the State of Emergency.

III. The CUCA Petition seeks to adjust rates established by the Commission as just and reasonable

The CUCA Petition requests that the Commission provide prospective relief by “temporarily mak[ing] adjustments to the minimum and maximum demand levels for customers served under . . . DENC Rate Schedules 10, 5, 5C, 5P, 6C, 6L, 6P, 6VP, 7

Should the Customer’s load and/or operating conditions change, the Customer will be responsible for the selection of an applicable Rate Schedule, unless determined by the applicability provisions of Rate Schedules which may change from time to time. The Customer may request assistance from the Company in determining an alternate Rate Schedule, based on the new usage, but responsibility for the selection rests exclusively with the Customer.

¹¹ The Company also recognizes the Commission’s direction in the *Order Suspending Fees and Requiring Payment Arrangements* that utilities may request expedited Commission authorization to deviate from approved tariffs or Commission regulations in response to the current State of Emergency. *See Order Suspending Fees and Requiring Payment Arrangements*, at 2.

[under which DENC provides service to most commercial and industrial customers].”

However, the CUCA Petition does not prescribe specific changes to any of DENC’s rate schedules or address how the relief requested will conform to the requirements of the Public Utilities Act. Though CUCA argues that granting the relief requested “is within the public interest,” it does not address the Commission’s obligation under the Public Utilities Act to ensure rates charged for utility service are just and reasonable.¹²

DENC’s rates have been established by the Commission in the Company’s most recent general rate case as just and reasonable and designed to allow the Company a reasonable opportunity to recover its ongoing costs of providing regulated electric service.¹³ Ensuring DENC’s rates are just and reasonable is a fundamental requirement of the Public Utilities Act. *See* N.C. Gen. Stat. §§ 62-130; 62-133(a) (requiring the Commission to fix just and reasonable rates), 62-132 (deeming rates fixed by the Commission to continue to be just and reasonable and the charging of rates different from those so established to be unjust and unreasonable and contrary to law). DENC is also prohibited from charging rates that differ from those determined by the Commission to be just and reasonable and non-discriminatory to all customers. N.C. Gen. Stat. § 62-139. Therefore, a threshold question in reviewing the CUCA Petition under the Public Utilities Act is whether the CUCA Petition’s broad relief will continue to result in rates that are just and reasonable to DENC and for all of the Company’s customers. The CUCA

¹² CUCA Petition at 5.

¹³ *See Order Accepting Public Staff Stipulation in Part, Accepting CIGFUR Stipulation, Deciding Contested Issues, and Granting Partial Rate Increase*, Docket Nos. E-22, Sub 562, E-22, Sub 566 (Feb. 24, 2020) (“2019 DENC Rate Case Order”).

Petition fails to provide any evidence on this issue, and generically adjusting the Company's rates, as proposed, would not be appropriate.

In setting rates, demand charges are primarily designed to recover the fixed costs of building and maintaining each utility's system—costs that will continue to be incurred during the State of Emergency. Utilities, like other businesses, are managing the unprecedented economic challenges of the State of Emergency caused by the COVID-19 pandemic, while also continuing to provide reliable electric service to all customers. A generic Commission order directing DENC to uniformly adjust or eliminate the minimum demand charge component of Commission-approved industrial and commercial rate schedules could affect DENC's ability to recover its cost of providing electric service, thereby resulting in DENC not being unable to recover its Commission-approved just and reasonable rates or shifting costs to other customer classes. As requested by the Commission, DENC is providing in Attachment A projections of potential revenue impacts if the Commission were to grant the CUCA Petition.¹⁴ Accordingly, DENC does not agree that the public interest supports modifying DENC's industrial and commercial rate schedules in the manner requested in the CUCA Petition.

The Commission has also previously considered and denied relief to deviate from Commission-approved rate schedules due to extraordinary circumstances.¹⁵ In 2014,

¹⁴ This information on potential lost revenues was requested by counsel for the Commission via e-mail on April 3, 2020 and is based upon a range of potential impacts to commercial and industrial customer demand during the current State of Emergency assuming it extends through July 1, 2020. At this time, the Company does not have sufficient information and assumptions based upon the relief requested in the CUCA Petition to project impacts to cash flows or uncollectibles.

¹⁵ See *Order on Petition for Limited Modification of Rider A and Request for Expedited Decision*, Docket No. G-5, Sub 545, at 14 (Sept. 8, 2014) ("PSNC Polar Vortex Rate Adjustment Order"). See *Order on Petition for Limited Waiver of Rate Schedule 106 Billing Procedures*, Docket No. G-9, Sub 649, at 27 (Oct. 29, 2014) ("Piedmont Polar Vortex Rate Adjustment Order").

PSNC and Piedmont each petitioned the Commission for limited and narrowly tailored modifications to their tariffs to mitigate the extreme cost impacts for certain interruptible customer associated with unauthorized usage of natural gas during curtailment periods called under applicable rate schedules during the January 2014 polar vortex. Despite the extraordinary conditions of the polar vortex and the perceived unfairness of charging the significantly higher cost of gas required under approved tariffs, the Commission denied the gas companies' requests to reduce the cost of gas component charged to interruptible customers during the polar vortex because doing so would result in the gas companies billing interruptible customers that failed to curtail their usage less than it would bill those customers under the rate schedules approved by the Commission.¹⁶ The Commission noted that granting the petitions to adjust rates during extraordinary circumstances would "set a precedent of questionable legality and one that should be avoided as poor practice" as other utility customers could be adversely impacted by deviating from the Commission-approved rates while the utility would lose confidence that it can plan its system based upon the ability to charge the rates approved by the Commission.¹⁷

Importantly, while the Commission denied the primary relief requested by PSNC and Piedmont, it did afford customers impacted by the extraordinary circumstances of the polar vortex some relief by providing them additional time to pay their January 2014 bills

¹⁶ See *PSNC Polar Vortex Rate Adjustment Order*, at 5; *Piedmont Polar Vortex Rate Adjustment Order*, at 7-8, 26-28 (the Commission fined Piedmont for violating N.C. Gen. Stat. § 62-139(a) by unilaterally modifying and billing rates previously approved by the Commission).

¹⁷ See *PSNC Polar Vortex Rate Adjustment Order* at 15; *Piedmont Polar Vortex Rate Adjustment Order*, at 18.

without incurring late fees or interest on arrearages.¹⁸ Similar to the relief granted by the Commission in response to the polar vortex, the *Order Suspending Fees and Requiring Payment Arrangements* already waives late fees and provides significant potential relief where customers are challenged to pay their bills during the State of Emergency.

IV. CUCA’s requested relief is not supported by substantial evidence justifying a modification to DENC’s Commission-approved rate schedules

DENC recognizes that the CUCA Petition seeks expedited Commission action to mitigate potential rate impacts to its members, as well as other commercial and industrial customers served by DEP, DEC, and DENC as a result of the extraordinary circumstances of the ongoing State of Emergency. However, Commission decisions, especially in fixing rates and charges, must be based on competent, material and substantial evidence.¹⁹ The generic nature of the CUCA Petition does not provide sufficient evidence to support the relief requested in the Petition.

CUCA has made a number of generalized assertions regarding the impacts of the State of Emergency on commercial and industrial customers in North Carolina, as well as the manner in which minimum demand charges operate under DENC’s as well as DEC’s and DEP’s rate schedules. CUCA Petition at 3-4. CUCA has not alleged that any of these assertions are specific to any particular customers in DENC’s service territory. The CUCA Petition also asserts that “public utility commissions and regulated utilities in other states have already acted to address these [minimum and/or maximum monthly]

¹⁸ *PSNC Polar Vortex Rate Adjustment Order* at 16; *Piedmont Polar Vortex Rate Adjustment Order*, at 19.

¹⁹ See e.g. *2019 DENC Rate Case Order*, at 82 (recognizing that the “Commission’s orders [setting DENC’s current base rates and charges is] . . . based on competent, material and substantial evidence”); see also N.C. Gen. Stat. § 62-94(b)(5) (establishing that Commission orders are subject to reversal on appeal where not supported by competent, material and substantial evidence in view of the entire record as submitted).

charges and other tariff provisions impacted by the current state of emergency.”²⁰ The Petition infers that the Public Utilities Commission of Ohio (“PUCO”)—and potentially other state utilities commissions—have taken action to temporarily eliminate or “address” demand charges” and cites to PUCO Case No. 20-591-AU-UNC. However, this docket approves relief for all customers relatively similar to the relief approved by the Commission’s *Order Suspending Fees and Requiring Payment Arrangements*, and it does not mandate any specific action be taken with regard to adjusting demand charges for industrial and commercial rate schedules. Ohio Power Company, one of the four investor-owned electric utilities regulated by the PUCO, has proposed a plan in PUCO Case No. 20-602-EL-UNC to modify minimum billing demand charges within its commercial and industrial rates and to defer such unrecovered revenues for future recovery. As of the date of these Comments, the PUCO has not ruled on Ohio Power Company’s proposal. Accordingly, there is insufficient evidence in the Petition to support CUCA’s assertion that public utility commissions and regulated utilities in other states have already acted to provide relief similar to the relief requested in the CUCA Petition.

Finally, the CUCA Petition requests that the Commission should order the requested modifications to DENC’s and other utilities’ tariffs to “remain in force for the duration of [North Carolina’s] state of emergency and for a recommended time period afterwards to allow for normal operations to be resumed,” specifically recommending “that time period to be 60 days for affected commercial sectors and 6 months for affected

²⁰ CUCA Petition, at 4.

industrial sectors.”²¹ However, CUCA does not explain why these time periods are appropriate, whether all customers on the DENC rate schedules identified in the CUCA Petition need relief from minimum and maximum billing demand charges, or which customers should make up the under-recovery of DENC’s cost of service caused by this rate reduction.

In sum, the Petition does not provide the substantial evidence required for the Commission to modify DENC’s rates and charges duly established in DENC’s most recent general rate case.²²

CONCLUSION

WHEREFORE, Dominion Energy North Carolina respectfully requests that the Commission deny the CUCA Petition and instead allow DENC to work with individual customers, as needed, to address any billing and payment issues arising during the current State of Emergency.

Respectfully submitted, this the 9th day of April, 2020.

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²¹ CUCA Petition at 5.

²² See also *PSNC Polar Vortex Rate Adjustment Order* at 19 (recognizing that PSNC’s rates were fixed by the Commission after thorough consideration in a general rate case and denying the Petition “where the Commission does not have before it adequate evidence to support a need for such changes”).

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Attachment A

**Dominion Energy North Carolina
North Carolina Jurisdiction
Impact of CUCA Petition on Minimum Demand Provisions in Rate Schedules
Estimate for Bill Months of April through June 2020**

Estimated Revenue Reduction With a Demand Reduction <u>of 25 Percent</u>	Estimated Revenue Reduction With a Demand Reduction <u>of 50 Percent</u>	Estimated Revenue Reduction With a Demand Reduction <u>of 75 Percent</u>
\$840,000 - \$1,260,000	\$2,100,000 - \$3,150,000	\$3,360,000 - \$5,025,000

Note: The above forecast is indicative only and is based upon assumed impacts to Rate Schedules 5, 5C, 5P, 6C, 6L, 6P, 6VP, 7 and 10 and based upon hypothetical amounts of load reductions. The values shown are cumulative for a 3 month period and include reduced distribution demand and power supply demand tariff revenues, predicated upon an assumption of the elimination of contract or tariff minimum charges or demand ratchets. The range is an estimate because individual customer impacts could vary widely.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Comments of Dominion Energy North Carolina as filed in Docket Nos. E-2, Sub 1249; E-7, Sub 1237; and E-22, Sub 585 were served electronically or via U.S. mail, first-class, postage prepaid, upon all parties of record.

This, the 9th day of April, 2020.

/s/E. Brett Breitschwerdt

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