

1 PLACE: Dobbs Building, Raleigh, North Carolina
2 DATE: Monday, January 27, 2020
3 TIME: 2:00 p.m. - 3:20 p.m.
4 DOCKET NO: E-7, Sub 1155
5 BEFORE: Commissioner ToNola D. Brown-Bland, Presiding
6 Chair Charlotte A. Mitchell
7 Commissioner Lyons Gray
8 Commissioner Daniel G. Clodfelter
9 Commissioner Kimberly W. Duffley
10 Commissioner Jeffrey A. Hughes
11 Commissioner Floyd B. McKissick, Jr.
12
13
14

15 **IN THE MATTER OF:**

16 Application of Duke Energy Carolinas, LLC,
17 for Approval of Residential
18 New Construction Program
19
20
21
22
23
24

1 A P P E A R A N C E S:
2 FOR DUKE ENERGY CAROLINAS, LLC, AND
3 DUKE ENERGY PROGRESS, LLC:
4 Kendrick Fentress, Esq.
5 Duke Energy Corporation
6 Associate General Counsel
7 410 S. Wilmington Street
8 Raleigh, North Carolina 27602
9
10 FOR PUBLIC SERVICE COMPANY OF NORTH CAROLINA,
11 d/b/a DOMINION ENERGY NORTH CAROLINA:
12 Mary Lynne Grigg, Esq.
13 McGuireWoods LLP
14 501 Fayetteville Street, Suite 500
15 Raleigh, North Carolina 27601
16
17 FOR PIEDMONT NATURAL GAS COMPANY, INC:
18 James H. Jeffries, IV, Esq.
19 McGuireWoods LLP
20 201 North Tryon Street
21 Charlotte, North Carolina 28202
22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

A P P E A R A N C E S Cont'd.:
FOR THE USING AND CONSUMING PUBLIC:
Heather Fennell, Esq.
Public Staff - North Carolina Utilities Commission
4326 Mail Service Center
Raleigh, North Carolina 27699-4300

1 P R O C E E D I N G S

2 COMMISSIONER BROWN-BLAND: Good afternoon.
3 Let's come to order and go on the record. I am
4 Commissioner ToNola D. Brown-Bland, the Presiding
5 Commissioner for this hearing, and with me are Chair
6 Charlotte A. Mitchell; and Commissioners Lyons Gray,
7 Daniel G. Clodfelter, Kimberly W. Duffley, Jeffrey A.
8 Hughes, and Floyd B. McKissick, Jr.

9 I now call for hearing Docket Number E-7,
10 Sub 1155, In the Matter of Duke Energy Carolinas,
11 LLC's Application for Approval of Residential New
12 Construction Program, hereafter New Construction
13 Program.

14 On September 21st, 2017, Duke Energy
15 Carolinas, hereafter DEC, filed an Application with
16 the Commission pursuant to Commission Rule R8-68
17 requesting approval of its New Construction Program as
18 a new Energy Efficiency Program.

19 On October 23rd, 2017, the Public Staff
20 filed comments on DEC's Application recommending that
21 the Commission approve the New Construction Program as
22 a new Energy Efficiency Program. But on June 7th,
23 2019, prior to any ruling by the Commission on DEC's
24 Application, DEC filed a Motion to withdraw its

1 Application for approval of the program.

2 On August 7th, 2019, the Public Staff filed
3 a letter stating that it did not object to DEC's
4 request to withdraw its Application for the New
5 Construction Program.

6 Since DEC filed its Motion to withdraw its
7 Application, the Commission has received over 50
8 consumer statements of position generally expressing
9 support for the New Construction Program or a similar
10 measure and urging rejection of DEC's Motion to
11 withdraw the Program.

12 On August 8th, 2019, Southern Alliance for
13 Clean Energy filed a letter in support of the New
14 Construction Program and requesting that the
15 Commission reject DEC's motion to withdraw the
16 Program.

17 On August 16th, 2019, the North Carolina
18 Sustainable Energy Association and the North Carolina
19 Building Performance Association each did the same.

20 On November 25th, 2019, the Commission
21 issued an Order Scheduling Hearing and providing
22 notice of topics.

23 On January 22nd, 2020, Piedmont Natural Gas
24 Company, Inc., and Public Service Company of North

1 Carolina, Inc., filed a letter notifying the
2 Commission that they would have representatives at
3 today's hearing who would be available to answer
4 questions from the Commission.

5 In accordance with the State Government
6 Ethics Act, I remind all members of the Commission of
7 our duty to avoid conflicts of interest and
8 appearances of conflict of interest, and I inquire
9 whether any Commissioner has any known conflict of
10 interest in this matter?

11 (No response)

12 The record will reflect that no conflicts
13 were identified. And now I will ask the parties for
14 their appearances. We will start with the Company.

15 MS. FENTRESS: Good afternoon, Members of
16 the Commission. My name is Kendrick Fentress. I am
17 representing Duke Energy Carolinas in this matter.
18 The Commission's Order directed that we have DEC and
19 DEP personnel present, therefore, I am also
20 representing DEP in this matter. Thank you.

21 COMMISSIONER BROWN-BLAND: Thank you.

22 MS. FENNELL: Good afternoon. I'm Heather
23 Fennell with the Public Staff on behalf of the Using
24 and Consuming Public.

1 COMMISSIONER BROWN-BLAND: Thank you,
2 Ms. Fennell.

3 And as I mentioned representatives from the
4 gas -- the two largest LDCs indicated they would be
5 here. Who's here to speak on behalf of the gas
6 companies?

7 MS. GRIGG: Good morning, Commissioners.
8 I'm Mary Lynne Grigg with the Law Firm of McGuireWoods
9 appearing on behalf of Public Service Company of North
10 Carolina, d/b/a Dominion Energy North Carolina.

11 MR. JEFFRIES: And I'm Jim Jeffries with
12 McGuireWoods on behalf of Piedmont Natural Gas
13 Company.

14 COMMISSIONER BROWN-BLAND: All right. Thank
15 you. Are there any other matters we need to address?

16 MS. FENTRESS: No, there are not from Duke's
17 side.

18 MS. FENNELL: (Shakes head no).

19 COMMISSIONER BROWN-BLAND: Then we will hear
20 from the Company.

21 MS. FENTRESS: Thank you. We would call
22 Mr. Duff and Mr. Evans up to the table.

23 Chairman Brown-Bland, would you like me to
24 introduce them?

1 COMMISSIONER BROWN-BLAND: Yes, please.

2 MS. FENTRESS: Mr. Evans, can you introduce
3 yourself and state your role at Duke Energy Carolinas
4 and Duke Energy Progress?

5 MR. EVANS: My name is Robert Evans. I'm
6 the Senior Manager of Strategy and Collaboration -
7 Carolinas for Duke Energy.

8 MS. FENTRESS: Mr. Duff, can you do the
9 same?

10 MR. DUFF: I'm Timothy J. Duff. I'm the
11 General Manager of Portfolio and Analysis and
12 Regulatory Strategy for the Customer Solutions
13 Organization for Duke Energy.

14 MS. FENTRESS: With that, Chairman
15 Brown-Bland, Mr. Duff and Mr. Evans are prepared to
16 answer the Commission's questions.

17 COMMISSIONER BROWN-BLAND: We will start, if
18 you will, with the Commission's Order. We'll ask you
19 to address three possible topics there. If you've
20 prepared how you will respond to those we're prepared
21 to listen.

22 MS. FENTRESS: Chairman Brown-Bland, is it
23 your intent to go through each of these questions
24 singly, Questions 1, 2 and 3 on the bottom of Page 2?

1 COMMISSIONER BROWN-BLAND: Yes. And we
2 may -- we have additional questions as well but we
3 would like that as a starting point.

4 MS. FENTRESS: If I may, may I read the
5 Question 1 to the witnesses then allow them to
6 respond? I don't know if they have the Orders right
7 in front of them the way I do.

8 MR. DUFF: Yeah, I've got it.

9 MS. FENTRESS: Oh, okay. Well, if you could
10 respond to Question 1. Thank you.

11 MR. DUFF: Sure. I'll respond to Question 1.

12 COMMISSIONER BROWN-BLAND: As you respond,
13 if you would just read that for the record?

14 MR. DUFF: Sure.

15 COMMISSIONER BROWN-BLAND: Thank you.

16 MR. DUFF: Question 1: Details of the
17 concerns of the natural gas providers regarding
18 potential unintended consequences of the RNC Program.

19 The unintended consequences that were at a
20 high level given to Duke Energy from the gas companies
21 was the concern that new construction that
22 participated in this program would be discouraged from
23 having natural gas service installed in it.

24 COMMISSIONER BROWN-BLAND: And it's as

1 simple as that. Okay?

2 MR. DUFF: Yes. That's pretty much the
3 concern.

4 COMMISSIONER BROWN-BLAND: And if you
5 could -- what's next there?

6 MR. DUFF: Sure. Detail of the efforts made
7 by DEC to resolve the concerns of the natural gas
8 providers regarding potential unintended consequences
9 of the RNC Program.

10 When Duke met with the gas companies
11 regarding these concerns we went through a number of
12 different issues. One of the first concerns that was
13 expressed was that, in particular when you're paying
14 financial incentives to new builders, they felt that a
15 lot of the smaller starter homes where these
16 incentives could be very meaningful to builders would
17 be more likely to be discouraged from having natural
18 gas installed. And we actually went and looked at our
19 existing DEP Residential New Construction Program to
20 kind of get data to dispel that concern. And when we
21 did find that we found that the average DEP
22 Residential New Construction Home Program home that
23 was participated was 2760 square feet with at least
24 four bedrooms, which generally would not be considered

1 a starter home so we felt that the existing DEP RNC
2 Program statistic also said -- showed that really that
3 one of the concerns in particular on starter homes
4 really hadn't shown itself on the DEP side. And then
5 we talked about the changes that were actually made in
6 the DEC proposal versus the existing DEP RNC Program.
7 And really what it did was, because of the way it was
8 paying the incentive, the differential, because it
9 pays a whole home incentive, the differential between
10 a home that had a gas high -- or just a gas furnace
11 and gas water heater versus a home that was all
12 electric, the differential in the incentives was
13 actually smaller. Because one of the things with the
14 program is it will actually pay an incentive to a home
15 if it has gas heating and gas water cooling because of
16 the envelop and appliance and the HVAC -- and the air
17 conditioning savings. But the differential between an
18 all-gas and an all-electric home under the new DEC
19 model was less. There was still some concern about it
20 so DEC took another step and actually lowered the cent
21 per kWh of incentive on electric heating measures from
22 the \$0.75 which was filed to forty-five -- I'm sorry,
23 from \$0.75 to \$0.45 per kWh of savings. Again, to try
24 and alleviate concerns that it would have some way of

1 incenting electric heat over gas heat, because we pay
2 a lower incentive.

3 And then, finally, that didn't seem to
4 address the concerns or the unintended consequences.
5 So the last thing that the Company proposed was to
6 kind of put together a collaborative approach between
7 the gas companies and Duke Energy Carolinas whereby it
8 would be willing to whole market the incentives and
9 actually run it through a single application where it
10 would pay the incentive on behalf of the gas companies
11 to make it easier for the builders. And so at the
12 same time they would be looking at the electric
13 incentives they could be looking at the gas
14 incentives. But that was -- that didn't seem to
15 address the concerns as well so ultimately the Company
16 decided to withdraw the Application.

17 COMMISSIONER BROWN-BLAND: And, Mr. Duff,
18 going back to the second to the last when you lowered
19 so that the incentive would be -- it wouldn't be a
20 favorite between gas and electric and you say that
21 didn't meet the concerns. What were the concerns that
22 still came back? Why was that deemed not sufficient?

23 MR. DUFF: There were still concerns that
24 again it would somehow discourage customers to install

1 natural gas in new construction.

2 COMMISSIONER BROWN-BLAND: And, I mean, any
3 details around that or just general --

4 MR. DUFF: It would --

5 COMMISSIONER BROWN-BLAND: -- that's going
6 to cause this problem.

7 MR. DUFF: I really only feel comfortable
8 giving the general concern rather than the details.

9 COMMISSIONER BROWN-BLAND: And with regard
10 to the co-marketing approach, what more can you say
11 about why it didn't meet concerns?

12 MR. DUFF: I think one of the things that
13 was a barrier that was identified is currently the
14 PSNC and the Piedmont incentives are only for
15 replacement and not for new construction. So their
16 Energy Efficiency Programs didn't deal with new
17 constructions as I understand it.

18 COMMISSIONER BROWN-BLAND: I'm sorry.
19 Repeat that again.

20 MR. DUFF: The incentives that are currently
21 offered by the gas companies for energy efficient,
22 high efficiency gas equipment are, my understanding
23 are for replacement only and not for new construction.

24 COMMISSIONER BROWN-BLAND: All right. And

1 what can you add on Question Number 3?

2 MR. DUFF: Question Number 3, because of the
3 timing of that program being approved, it was prior to
4 Duke Energy Carolinas and Duke Energy Progress merger,
5 so I'm going to leave that one to Mr. Evans.

6 MR. EVANS: Due to my age I was around in
7 2008 when the first Residential New Construction
8 Program was requested for approval. We had several
9 parties intervene. Two of which were Piedmont and
10 Public Service. We had -- for example, we had a
11 higher incentive on heat pumps than we did on air
12 conditioning units, central air conditioning units
13 through a settlement agreement with the gas companies.
14 We brought those to neutrality. Subsequent to that
15 time I have paid close attention to our program
16 modifications to make sure they do, in fact, still
17 comply with that agreement. The RNC Program replaced
18 the Residential Home Advantage Program, which was
19 the -- the Residential New Construction Program filed
20 in 2008.

21 Now, in 2009, we saw the beginnings of a
22 recession and did not approve much. We actually had
23 to pull the Program in 2012, due to
24 cost-effectiveness.

1 cost-effectiveness.

2 The new program, again we had the same
3 incentives on central air and heat pumps try to again
4 model with respect to that agreement. We also had
5 whole house incentives which Mr. Duff referred to
6 earlier in that program.

7 Now, we've had to make several changes due
8 to building code changes and so forth, but in its
9 current form we have stand-alone appliances, the AC
10 and the heat pump, the incentives are the same. We
11 also have whole house incentives. We have a HERO and
12 a HERO Plus incentives for the building envelopes and
13 those have been very successful as well. In fact, I
14 guess as a modicum of success we have more gas-heated
15 customers taking advantage of that portion of the
16 program than we do electric-heated power customers.
17 So it's kind of an ironic situation to say the least,
18 but needless to say it is still very effective. There
19 is a great deal of energy being saved through that
20 program. And DEP -- I, with DEP and DEC, of course
21 now, up until the RNC situation on the DEC side of
22 things, I had not heard any complaints about our
23 Residential New Construction Programs. And, as such,
24 on the DEP side it was smooth sailing; a lot of

1 changes and a lot of problems with the economy and
2 conforming to building codes. But in the end it
3 continues to do quite well and saves a great deal of
4 energy on behalf of our customers and, of course, as a
5 high -- reasonably high cost-effectiveness test
6 scores.

7 COMMISSIONER BROWN-BLAND: And so this is
8 for the both of you. Am I understanding that prior to
9 2017, when the Application was made through your
10 proposal or request to withdraw the Program, you have
11 not -- you don't have any evidence that there has been
12 a negative impact in the DEP side from this
13 residential construction program?

14 MR. DUFF: None to my knowledge. The only
15 specific concern was the starter homes that we did
16 investigate the statistics to find out it really
17 wasn't -- the Program wasn't really aimed or really
18 hitting the target, the starter home target market
19 that was expressed as part of the concern.

20 COMMISSIONER BROWN-BLAND: And so the target
21 homes which was the concern for the DEC program, those
22 target homes were not impacted by the Program; is that
23 fair --

24 MR. DUFF: That was what our investigation

1 said. Yes.

2 COMMISSIONER BROWN-BLAND: We have some
3 questions here and I would ask the gas representatives
4 to listen up because we may want your input on these
5 same questions.

6 So first, your Application states that the
7 Program does not provide any inducement or incentive
8 affecting the participants' decision to install or
9 adopt natural gas or electric service. Has there been
10 any change since the Application was filed in that
11 regard?

12 MR. DUFF: No. The Company still does not
13 believe that it creates an incentive to switch from
14 natural gas to electricity.

15 COMMISSIONER BROWN-BLAND: And do you agree
16 with the comments that have been filed by some of the
17 commenters, I'll just say, that it's fuel agnostic,
18 the Program is fuel agnostic?

19 MR. DUFF: I can tell you that our program
20 managers who designed the Program and worked with the
21 builders, many of whom submitted comments, purposely
22 tried to design it that way. Obviously, the one
23 important thing is that we're incentivizing
24 cost-effective energy efficiency for electric use and

1 that's what the Program is designed to do. That's
2 really its only intent is to help our electric
3 customers become more efficient. Now, obviously
4 there's whole home benefits as well, but that's what
5 the incentives that they designed are intended to do.

6 COMMISSIONER BROWN-BLAND: All right. One
7 of the incentives offered is a cash payment to the
8 builder of up to \$750 for constructing the home in
9 compliance with what you call HERO. Is the cash
10 incentive payment available to a builder if the
11 builder or the homeowner decides to install natural
12 gas HVAC and appliances?

13 MR. DUFF: Yes.

14 COMMISSIONER BROWN-BLAND: An optional
15 incentive under the Program is a payment of up to \$300
16 for installation of a high-energy air source heat
17 pump. Is this incentive available if the builder or
18 homeowner decides to install a natural gas heat pump?

19 MR. DUFF: The incentive is available to --
20 well, I believe under our -- under the modified
21 approach that we had talked with them, it wasn't
22 clarified but we did clarify it when we started
23 talking, a dual fuel heat pump wouldn't qualify for
24 that incentive because in order to have that incentive

1 you needed the electric savings to justify it. So
2 with the dual fuel you still have the high-efficient
3 electric component of it.

4 COMMISSIONER BROWN-BLAND: Now, the
5 Duke's -- the Duke-Piedmont Code of Conduct states in
6 pertinent part that DEC, DEP and Piedmont shall
7 continue to compete against all energy providers
8 including each other to serve those retail customer
9 energy needs that can be legally and profitably served
10 by both electricity and natural gas.

11 Is DEC's avoidance of the potential
12 unintended consequences that caused DEC to seek
13 withdrawal of the Program consistent with that
14 obligation under the Code of Conduct to fully compete
15 with Piedmont?

16 MR. DUFF: Our decision to withdraw was
17 based on conversations with the gas companies, not
18 just Piedmont. Both shared unified concerns about the
19 Program design. And given the Legacy Settlement and
20 Agreement we felt that it was the appropriate thing to
21 withdraw the Application.

22 COMMISSIONER BROWN-BLAND: And I take it
23 then you don't see the conflict with the Code of
24 Conduct?

1 MR. DUFF: No.

2 COMMISSIONER BROWN-BLAND: In its
3 Application, DEC stated in addition this proposal is
4 intended to mirror DEP's Residential New Construction
5 proposal. And that program is ongoing and has been
6 recognized by every one who has made a comment in this
7 docket that it's been successful. Is the way -- other
8 than the Program there not really addressing the
9 target home, is there anything else that would explain
10 how you've been able to avoid unintended consequences
11 in that area?

12 MR. DUFF: I am not aware of any activities
13 that has specifically been undertaken. Again, the
14 intent of the Program to my knowledge of it since the
15 Duke, the Duke Energy and Progress Energy merger so
16 it's been the joint operations, is that the Program is
17 designed to incent cost-effective energy efficiency in
18 new construction and has no intent to make any sort of
19 fuel choice a part of the decision.

20 COMMISSIONER BROWN-BLAND: And I take it
21 that a minute ago you gave me all the -- that was a
22 complete list of the alternatives that Duke attempted
23 or are there other ways that Duke attempted to meet
24 the concerns of the gas companies?

1 MR. DUFF: Yes, that's correct.

2 COMMISSIONER BROWN-BLAND: So the
3 Application stated that DEC believes the proposed
4 program would be cost-effective. It's Attachment B
5 showed the total benefits of the Program to be ranging
6 from \$56 million to \$88 million with net benefits of
7 between \$20 million and \$47 million depending on the
8 cost benefit test that was applied. Also, the Public
9 Staff's initial comments stated the Program is in the
10 public interest. So what are the factors that you
11 would have the Commission weigh in striking a balance
12 between approving the Energy Efficiency Program that
13 serves the public interest and the potential
14 unintended consequences on the other hand that affect
15 the natural gas utility?

16 MR. DUFF: I would think that the Commission
17 needs to balance them but I wouldn't want to make the
18 legal judgment on what or how things should be
19 weighted. Again, speaking from Duke Energy's
20 standpoint we felt our Application was for a program
21 that was agnostic to the installation of a fuel source
22 in a home but would drive energy efficiency, and so we
23 felt the Application was appropriate. As I said
24 before, we withdrew it because there was concern

1 expressed by the gas companies regarding the
2 unintended consequences of leading -- of potentially
3 not having natural gas installed in new construction.
4 And we felt given that settlement that was mentioned
5 that it was the appropriate thing to withdraw the
6 Application because of those concerns and that Legacy
7 Agreement.

8 COMMISSIONER BROWN-BLAND: So outside of
9 those concerns you would agree and stand by that the
10 Program as proposed in the Application is in the
11 public interest?

12 MR. DUFF: We filed it because we believed
13 it was in the public interest. Yes.

14 COMMISSIONER BROWN-BLAND: Hold on and let's
15 see if we've got any questions from the Commission.

16 All right, gentlemen -- Ms. Fentress.

17 MS. FENTRESS: Can I ask just a couple of
18 follow-ups, Chair?

19 COMMISSIONER BROWN-BLAND: Sure. I will let
20 you do that.

21 MS. FENTRESS: Thanks.

22 Mr. Evans, you referred to HERO standards a
23 couple of times. Could you explain what HERO
24 standards are just for the record?

1 MR. EVANS: HERO standards are, looking at
2 the North Carolina Building Code or at the
3 Conservation Energy Code, HERO is about 15 -
4 20 percent more energy efficient -- more energy
5 efficient than that baseline, and it is called the
6 HERO code. It's the High Efficiency Residential Option
7 is what it stands for.

8 MS. FENTRESS: Thank you.

9 And, Mr. Duff, I believe Chairman
10 Brown-Bland asked you some questions about our Code of
11 Conduct. And realizing that you're not probably
12 working with the Code of Conduct on a daily basis I'm
13 going to ask you some questions along those lines,
14 too, in response to your responses to Chairman
15 Brown-Bland.

16 Mr. Duff, when we file an energy
17 efficiency -- I'm sorry, when DEC files an Energy
18 Efficiency Program it does so pursuant to Commission
19 Rule R8-68; is that correct?

20 MR. DUFF: That is correct.

21 MS. FENTRESS: And R8-68 does include a
22 provision where we have to state whether we believe a
23 program might be -- might encourage the type of
24 concerns that the gas companies expressed to you; is

1 that correct?

2 MR. DUFF: That is correct.

3 MS. FENTRESS: And I believe we state we
4 disagree that the Program causes those concerns or we
5 wouldn't have filed it that way?

6 MR. DUFF: That is correct.

7 MS. FENTRESS: And that is a part of the
8 Commission's considerations typically when we do
9 file -- when Duke Energy Carolinas files an Energy
10 Efficiency Program; is that correct?

11 MR. DUFF: Yes, it is.

12 MS. FENTRESS: And so when you discussed
13 this program with the natural gas companies did you
14 discuss it just with our affiliate, Piedmont?

15 MR. DUFF: No. The discussions on the
16 Program as well as the potential modifications the
17 Company was willing to make to alleviate those
18 concerns was done in the presence of both of the gas
19 companies.

20 MS. FENTRESS: And were the gas companies
21 represented by their own representatives at these
22 discussions?

23 MR. DUFF: Yes.

24 MS. FENTRESS: One moment. And so is it --

1 if Piedmont were not an affiliate is it your testimony
2 today that it's your belief that PSNC, another gas
3 company, would express the same concerns; is that
4 correct?

5 MR. DUFF: Yes.

6 MS. FENTRESS: Thank you. That's all I
7 have.

8 COMMISSIONER BROWN-BLAND: Ms. Fennell, do
9 you have anything?

10 MS. FENNELL: I have one question if that's
11 okay.

12 I believe this is to Mr. Evans but it may be
13 to Mr. Duff. To your knowledge is the avoided cost
14 rates that are used to calculate cost-effectiveness
15 that were used when you filed in 2017 the same that
16 would be used under the mechanism today if you were to
17 refile the Program today?

18 MR. DUFF: Yes, it would be for 2020. In
19 2021, the new avoided cost rates go into effect.

20 MS. FENNELL: Thank you.

21 MS. FENTRESS: May I ask a follow up?

22 COMMISSIONER BROWN-BLAND: Yes.

23 MS. FENTRESS: The Program is still pending;
24 is that correct? It has not been withdrawn?

1 MR. DUFF: The Application was withdrawn and
2 the Commission hasn't taken action other than to
3 schedule this hearing; yes.

4 MS. FENTRESS: Thank you. I just wanted to
5 clarify that. Thanks.

6 COMMISSIONER BROWN-BLAND: That's the
7 questions we have for you at this time so you may step
8 down.

9 (Mr. Duff and Mr. Evans are excused)

10 COMMISSIONER BROWN-BLAND: Now, the gas
11 company representatives, if you would come forward, we
12 will take you up on your offer to answer a few
13 questions.

14 MR. JEFFRIES: With the Chair's permission,
15 I'm more comfortable on this side of the room.

16 COMMISSIONER BROWN-BLAND: Yes.
17 Mr. Jeffries, if you'll get them identified for the
18 record.

19 MR. JEFFRIES: Certainly. Mr. Barkley,
20 could you state your name and business address for the
21 record, please?

22 MR. BARKLEY: Yes, sir. My name is Bruce
23 Barkley with Piedmont Natural Gas. It's 4720 Piedmont
24 Road Drive, Charlotte, North Carolina. I serve there

1 as Vice President of Gas Supply and Rates.

2 MR. JEFFRIES: Thank you.

3 MS. GRIGG: Mr. McAulay, will you please
4 state your name and address for the record, please?

5 MR. McAULAY: Absolutely. I'm Bill McAulay
6 of William A. McAulay & Associates representing
7 Dominion Energy North Carolina. My address is 210
8 Ivey Gate Lane, Garner, North Carolina 27529.

9 MS. GRIGG: Thank you.

10 COMMISSIONER BROWN-BLAND: Do you have
11 anything you would like to start with, Mr. Jeffries,
12 or do we just go straight to the Commission?

13 MR. JEFFRIES: Well, I would, if I may, if
14 you would indulge me a little bit, I'd like to offer
15 maybe a 50,000-foot view of this situation.

16 COMMISSIONER BROWN-BLAND: Go right ahead.

17 MR. JEFFRIES: I may have the pleasure of
18 being the only one in this room old enough to remember
19 when these festivities got started back in 1995.
20 We've had about three major go-arounds over the course
21 of my career representing Piedmont at the Commission
22 between the electric companies and the gas company,
23 and this one has been not at the same level and with
24 the added twist that Piedmont is now a subsidiary of

1 Duke.

2 So -- but the Commission for the bulk of the
3 last 30 years has attempted to walk what I think is a
4 difficult line sometimes. Piedmont would not tell you
5 that the motivations of DEC in filing these programs
6 are bad, they're not. They're responding to
7 legitimate Demand-Side Management pressures to try to
8 reduce baseload demand on their system, and that's
9 perfectly legitimate.

10 We would also tell you that developers who
11 see an additional incremental stream of income
12 associated with these kind of programs, that we
13 acknowledge the rationality and the economic interest
14 they have in seeing those programs continue. For the
15 environmental intervenor's, same sort of thing,
16 they're more focused on the Demand-Side Management
17 reduction in electric demand and we recognize that.

18 The problem is or the difficulty and the
19 thing that I think all of us have struggled with for
20 the bulk of the last 30 years is there is -- any time
21 you provide an economic incentive for someone to do
22 something that wouldn't otherwise exist you are
23 influencing them to take that action. And so in a
24 purely competitive market where the gas companies were

1 competing with the electric companies and you didn't
2 have these kinds of incentives, you could trust that
3 people were making decisions because they wanted this
4 particular fuel, they had a preference for
5 electricity, they had a preference for natural gas;
6 lots of different reasons why people might choose one
7 or the other and you can be assured that that was not
8 being influenced in any way because there weren't any
9 outside incentives. When you start paying people to
10 do something, even for a good reason, you're
11 influencing behavior. And a really critical problem
12 and what has driven us for the gas companies over the
13 years, and I think the electric companies recognize
14 it, this is not their fault, there's a huge size
15 difference between these companies and I'll give you a
16 really quick example of that.

17 As I read DEC's proposed program they're
18 projecting something like 40,000 participants over the
19 first five years of this program. And as we
20 understand from the Progress program, the maximum
21 incentive that could be paid particularly under this
22 per-kilowatt-hour incentive approaches something like
23 \$10,000 a residence. If you multiply 40,000 customers
24 times \$10,000 per residence, that's Piedmont's entire

1 O&M budget for a year. Piedmont can't compete with
2 that kind of investment and promoting the installation
3 of electric equipment.

4 Mr. Duff said something I -- and maybe it's
5 just a misunderstanding on my part, but at least with
6 the kilowatt-hour incentive I don't know how you can
7 install gas equipment and get a kilowatt-hour savings
8 bonus. I'm not quite sure how that works. That
9 doesn't seem to make sense to me. So we look at that
10 and it seems to incent reduced electric usage not
11 increase gas usage. So that's kind of the fundamental
12 problem. And I think -- and I'll turn it over to
13 Ms. Grigg if she's got any follow up and then to the
14 Commission to ask questions.

15 But in a nutshell, you know, finding that
16 line between what's appropriate to encourage
17 responsible energy saving behavior by customers versus
18 what is edging over into destructive competition is a
19 tough line and we've all struggled with it, and I
20 think the Commission has struggled with it over the
21 years. But that's at least my understanding of kind
22 of why we're here today and why the gas companies have
23 concerns.

24 MS. GRIGG: Thank you. And I think the

1 history is very -- the context is very important
2 because we have had these concerns over the last
3 several decades. And after the mid '90's, which was
4 an awful proceeding that lasted a long time and was
5 not productive for either industry at the end, I think
6 we could all agree we've tried to work together when
7 the gas companies or the electric companies have seen
8 problems with each other's programs, and that's what
9 we attempted to do in this case and were unfortunately
10 unable to resolve those.

11 COMMISSIONER BROWN-BLAND: And the record
12 will reflect that Ms. Grigg raised her hand that she
13 too was in the '90's when --

14 MS. GRIGG: I was. I'm dating myself. But
15 yes, I was here as well representing Duke at the time,
16 as a very young lawyer. And I told Mr. McAulay I
17 still have PTSD about those proceedings. They were
18 not fun and particularly not fun for the Commission.

19 But I would -- I think Mr. Jeffries did a
20 nice job of explaining some of the context of it. I'd
21 be happy, if the Commission so chooses, to address why
22 didn't you do anything on the DEP project filing back
23 in 2012, I mean, 2012, if that would be helpful to the
24 Commission to provide that response.

1 COMMISSIONER BROWN-BLAND: I would like to
2 hear it and your representatives here as well can
3 weigh in if --

4 MS. GRIGG: I'll start --

5 COMMISSIONER BROWN-BLAND: -- whoever you
6 think is appropriate.

7 MS. GRIGG: And Mr. McAulay has never been
8 shy about telling me when to stop talking so I know
9 he'll jump in.

10 But, as you are aware, Piedmont filed its
11 program first and the gas companies did work with
12 Piedmont because -- I mean, I'm sorry, with Progress
13 because they did have concerns with that program. And
14 at the time of its initial offering I believe it was
15 limited to a thousand customers so at the inception we
16 did not see it; we, PSNC, did not see problems with
17 fuel switching in its western territory. But as time
18 progressed and at some point along the line, I think
19 it was in 2015, we noted that Duke withdrew that
20 thousand customer limitation and rolled it out on a
21 much more aggressive basis. So when you get to about
22 2017 when Duke Energy Carolinas rolled out its program
23 we were seeing -- the company representatives in the
24 field were seeing builders who had traditionally

1 installed water heating and gas -- water heating and
2 gas heating equipment were switching from tankless gas
3 water heaters to electric heat pumps and seeing much
4 more loss of installations that would have ultimately
5 gone gas going electric in the western part of the
6 territory. So when 2017 rolled around and Duke Energy
7 Carolinas filed its program, we said hey we are seeing
8 problems due to Duke Energy Progress's program so we
9 have real issues and we need to sit down at the table
10 and talk about this.

11 Anything to add on that, Mr. Jeffries?

12 And initially, too, I think to Mr. Jeffries'
13 point, when it was first rolled out it was not - the
14 savings were not calculated on a per-kilowatt-hour
15 basis, the incentives were not. And now we've seen
16 that change which I think has affected more electric
17 installations than you would see gas.

18 MR. JEFFRIES: With that, I think
19 Mr. Barkley and Mr. McAulay are available for
20 Commission questions.

21 COMMISSIONER BROWN-BLAND: Mr. Barkley, do
22 you have anything to add to what we've heard and just
23 other impressions about the situation?

24 MR. BARKLEY: I will echo I think just a

1 quick summary of what --

2 COMMISSIONER BROWN-BLAND: Pull your mic up.

3 MR. BARKLEY: Oh, okay. Excuse me.

4 -- of what Ms. Grigg just summarized.

5 The difference, this would address the
6 Commission's Question Number 3 - is that there were
7 changes in the Program - I'm just reiterating what
8 Ms. Griggs said, changes in the Program that had
9 occurred between 2012 and 2017, and also there had
10 been education during those five years about what was
11 happening in the marketplace. And I think that there
12 were losses in the marketplace on both the PSNC and
13 the Piedmont side.

14 And just as regards, just concerns in
15 general, I think Mr. Jeffries has outlined a lot of
16 the challenges, the balance, if you will, that has to
17 be walked in this area. And Mr. Duff had really
18 quickly I think given you his perspective of the
19 concern, that is the Commission's first question
20 around the consequences, and I think he was spot on
21 that we were concerned and are concerned about the
22 switch from -- in the builder's perspective to switch
23 from installing natural gas to installing electric
24 equipment, and so some of these incentives are

1 considerable. We believe they are material.

2 And as Mr. Jeffries pointed out in a
3 spending, if we try to outspend each other here it's
4 going to be a distinct advantage for the electric
5 side. Our programs in totality are about \$2 million a
6 year for PSNC and Piedmont so very small amounts of
7 spending that go on as opposed to these again
8 well-intended and perhaps well-constructed in some
9 cases electric programs. But when the incentives are
10 of the magnitude that they have grown in these
11 programs we believe they do tilt the playing field in
12 a manner that's not consistent with competition, with
13 fair competition.

14 COMMISSIONER BROWN-BLAND: Would you see the
15 same tilt if you were to go to the legislature and
16 have the same ability for the same kinds of programs
17 and measures that the electric companies have?

18 MR. BARKLEY: I think it would be again very
19 difficult for us to spend that amount of money and
20 have riders to flow through our rates, that would be
21 extremely hard on our customers. That would be -- it
22 would be a lot of money and that would make the price
23 advantage that we enjoy today much less. We feel like
24 natural gas is a very good value. If we start

1 spending large amounts of money for these type of
2 programs that may not be the case. And also, Chairman
3 Brown-Bland, the low price of natural gas makes
4 programs in many cases hard to justify on a cost
5 benefit basis. The dynamics of the electric industry
6 and the natural gas industry as far as proving the
7 cost benefits are quite different. It's just two
8 different exercises, two different businesses. And so
9 I think if we were to turn this with either
10 legislative help or any other kind of help into let's
11 spend an equal amount, I think that would not be
12 helpful for the gas LDCs.

13 COMMISSIONER BROWN-BLAND: Now, with regard,
14 Mr. Duff made the Commission aware of a couple of
15 efforts that -- proposals that they made to try to
16 make adjustment to make the program more palatable,
17 have less of an influence on fuel switching and that
18 kind of thing, and he wasn't available to shed any
19 light on why none of those were deemed sufficient in
20 the gas company's view. Can you shed light on that?

21 MR. BARKLEY: Yes, I will. And the first
22 thing I'd like to say is we definitely appreciate
23 Mr. Duff's efforts and how he worked with us during
24 this program so that the relationship was very

1 positive and constructive throughout. To answer your
2 question though we were not able to arrive at a
3 midpoint. And I think you asked Mr. Duff I believe,
4 Commissioner Brown-Bland, about two out of the three
5 aspects that are provided as incentives. You asked
6 him about the \$300 and the \$750. I don't believe
7 either one of those were a significant impediment. I
8 think as long as there is a per-kWh, and I believe
9 Mr. Jeffries hit upon this in his opening remarks, as
10 long as the reward grows as the kWh grow, I just don't
11 think we'll be able to make it work with that still a
12 part of the Program, and I do believe Mr. Duff and his
13 team tried.

14 He also mentioned perhaps them being an
15 administrator or a clearinghouse, I think there though
16 it becomes again the finance, the amount of money that
17 it would take for the gas companies to make an impact
18 in terms of what's being spent by the electric
19 companies, we just do not have that in our rates
20 currently. And, as I explained to you a little while
21 ago, I don't think we want to run through a lot of
22 extra cost, to raise our customers cost without really
23 providing them a higher quality service. That's not
24 in anybody's best interest I don't believe.

1 COMMISSIONER BROWN-BLAND: Mr. McAulay,
2 you're welcome to weigh in.

3 MR. McAULAY: I will be brief. I was here,
4 I raised my hand as Ms. Grigg did, and Mr. Jeffries is
5 totally accurate in this does not at all rise to the
6 level of the previous discussions and procedures that
7 we've had on this subject. I will, having said that,
8 say that everybody in this room including me would
9 rather be doing something else right now I'm sure.
10 And to that end I want to ensure the Commission the
11 gas company did not look for a problem here. Okay.
12 We really believe that there is an issue here that is
13 of consequence to our future efforts or we wouldn't be
14 here.

15 We would be -- and talking about unintended
16 consequences, whenever we told Duke that we really
17 couldn't see that their efforts alleviate our
18 concerns, this hearing today is an unintended
19 consequence, that's sure enough. We didn't expect to
20 be here. That having been said, I believe everyone
21 has postured this correctly, we were unconvinced at
22 the end of the day that this program as offered would
23 not influence fuel choice despite their assertion that
24 it would. I understand that they believe that and I'm

1 not calling into question the accuracy of the
2 statement they make. It's just that we are
3 unconvinced given the Program and the way the Program
4 was designed and what we were hearing from the field
5 with regard to the already in place Progress program,
6 that it, in fact, it was influencing fuel choice. So
7 not to a great degree, okay. Our house isn't burning
8 down and I'm not whining or crying, but we were
9 hearing that it influenced fuel choice. So if we have
10 some evidence that that's occurring and we have a
11 program that we can have very robust discussion, and I
12 can't echo what Mr. Barkley said enough, they were
13 more than accommodating in trying to reach an amicable
14 conclusion of this, no doubt about it. But I'm sorry
15 we just couldn't get our hearts right and seem to get
16 it in the same place.

17 COMMISSIONER BROWN-BLAND: Do either of the
18 companies have any measurements or level of data to
19 support the impacts from the DEP program?

20 MR. BARKLEY: We do have some reports from
21 the field on some neighborhoods that we believe went
22 electric that would have otherwise have gone natural
23 gas. I'm not sure that we could ever say for sure
24 because there may not be one factor that influences

1 how a builder sets up a subdivision. So I think it's
2 really relying on the intelligence and the perspective
3 of our experienced field people that they do feel they
4 lost -- that they have sustained loss of market share.
5 And I would say again not catastrophic loss of market
6 share but some denigration of market share due to the
7 presence of some very -- of this program which offers
8 some significant incentives.

9 COMMISSIONER BROWN-BLAND: As I understand
10 what was said earlier, it's that certain builders that
11 the Company's work with have primarily chosen gas
12 installs and now they saw a switch in the field that
13 perhaps those same builders --

14 MR. BARKLEY: That's right.

15 COMMISSIONER BROWN-BLAND: -- who had
16 previously, I would say if I'm using the wrong word
17 you replace it, but have been committed to gas
18 installations or seemed to favor gas installations now
19 were changing?

20 MR. BARKLEY: It fell out of favor, I think
21 that's a good way, in a few instances I think for both
22 of the gas companies. And I think our market people
23 in the field felt like these incentives were a
24 contributing factor.

1 COMMISSIONER BROWN-BLAND: And as a
2 countervailing view, if we've got agreement or at
3 least apparent agreement at one time between the
4 Public Staff and the Company that this proposed
5 program was in the public interest, is there a
6 countervailing view that it's in the public interest
7 not to approve the Program?

8 MR. BARKLEY: I think if you look at it from
9 a purely, the perspective of the electric company, and
10 this is -- this docket and this hearing today is E-7,
11 I don't think that the Public Staff or the Company
12 necessarily erred in making that statement. I don't
13 think it was the Public Staff's perspective to in any
14 shape, form, or fashion to represent the natural gas
15 LDCs when they were making that statement. So I think
16 in general I don't question the various tests that
17 were laid out when this proposal was made to the
18 Commission in 2017. I don't doubt the accuracy of
19 those tests. And I'm sure the Public Staff did an
20 analysis of that. So I think their statements made to
21 you were not untrue, they just did not consider this
22 perspective of the gas LDCs and the perspective it has
23 or could continue to have on competition between
24 electric companies and natural gas LDCs.

1 COMMISSIONER BROWN-BLAND: Might there be
2 another test for the Commission to think about in
3 terms of impact of the competition between the gas
4 utilities and the electric utility?

5 MR. BARKLEY: I think there's been some
6 discussion over the years about what is the most
7 efficient way, what is the least amount of energy
8 that's consumed when you provide service to a home,
9 and the Commission had said we don't really want to
10 look at this. We don't want to try to pick a winner
11 and a loser. Is it better for this neighborhood to go
12 gas or to go all electric. So I don't have a -- here
13 today I don't have a specific analysis tool that could
14 help the Commission to do that. We certainly could
15 make some recommendations. Again, it's not been the
16 history and the tradition of the Commission to look at
17 this from a gas versus electric perspective. It's
18 more or less the Commission has analyzed these
19 electric programs based on how they impact the
20 electric side and the same thing over on the gas side
21 for the limited programs that Piedmont and PSNC have.

22 COMMISSIONER BROWN-BLAND: Mr. McAulay, I
23 see you looking anxious.

24 MR. McAULAY: I'm not anxious. I just -- I

1 would just add that heretofore and going back to --
2 you know, we kind of learned a little lesson in those
3 three weeks back in the '90's about we need to get
4 along, okay. We all need to get along. Nobody came
5 out of that any better off than when they started by
6 any stretch. So we've all got to get along. And
7 since then there haven't been any sort of programs
8 that in our view could potentially incentivize fuel
9 choice. And whenever we identified in the dockets
10 back in 2008, E -- 928 and 831, and we reached those
11 settlements that have been talked about, okay. That
12 was getting along there, too. That's more harmony.

13 And I think, Commissioner Brown-Bland, what
14 I'd say is that if you don't have the potential for
15 the incentivization of fuel choice the marketplace
16 will take care of itself and what -- you know,
17 certainly the Commission can look at that but in terms
18 of having any sort of requirement or anything in
19 place, if you're not incentivizing fuel choice then
20 the marketplace is just going to carry on like is has
21 over the last 30 years.

22 MR. BARKLEY: And I want to tag onto that.
23 Very briefly is that I do think rather than having
24 more along towards some of the other questions you

1 asked, sort of having our programs on the gas side to
2 compete with electric programs, I think we're much
3 more comfortable where neither of the programs go in
4 and influence choice. We have -- they would influence
5 some conservation, but the programs should not affect
6 the choice. Let the market decide, not the amount of
7 spending that can be done or the design of programs.
8 Let the market decide whether customers receive
9 electric or natural gas service. That I think is a --
10 that's what's worked for this amount of time that
11 Mr. McAulay just referenced and we believe that's what
12 will work best prospectively is no incentives that try
13 to shape the market rather than both sides trying to
14 fight fire with fire by rolling out our own incentives
15 to try to attract market share.

16 COMMISSIONER BROWN-BLAND: Questions from
17 the Commission. Chair Mitchell.

18 CHAIR MITCHELL: One of you all indicated
19 that the participation limit on the DEP side was
20 removed at some point, I think I heard in the 2015
21 era. Did I hear that correctly?

22 MS. GRIGG: That is correct.

23 CHAIR MITCHELL: Do you remember what the
24 limit was?

1 MS. GRIGG: I believe they just removed a
2 limit. I think there was an asterisk at the bottom of
3 their program at one -- I'll let Ms. Fentress answer
4 that. She may be better --

5 MR. EVANS: One thousand.

6 MS. FENTRESS: One thousand was the limit.

7 CHAIR MITCHELL: So there were a thousand
8 customers and then it became basically an unlimited
9 program subsequent to 2015?

10 MS. FENTRESS: For heat pump water heaters.
11 Mr. Evans has these details --

12 CHAIR MITCHELL: Okay.

13 MS. FENTRESS: -- and I'm happy to put him
14 back up or relay what he's whispering in my ear.

15 COMMISSIONER BROWN-BLAND: He can answer
16 from there.

17 CHAIR MITCHELL: And I just have one more to
18 follow up.

19 COMMISSIONER BROWN-BLAND: Just turn your
20 mic around.

21 CHAIR MITCHELL: In 2015, when that
22 participation limit was removed, I assume that was
23 done pursuant to the authority granted by the
24 Commission?

1 MR. EVANS: Yes.

2 CHAIR MITCHELL: And did the gas companies,
3 and y'all can answer this as well too, did the gas
4 companies participate in that proceeding? Did they
5 have a -- take position on that issue?

6 MR. EVANS: No. There were no interventions
7 on the 2015 change, program change, to the best of my
8 knowledge. Now there may have been other parties. I
9 can verify that quite quickly if you'd like.

10 MS. GRIGG: I'm not sure they were aware of
11 it, the gas companies were aware of it at the time it
12 got changed.

13 CHAIR MITCHELL: Okay.

14 MS. GRIGG: Or didn't focus on that or pay
15 attention to that or see that at that time.

16 CHAIR MITCHELL: Okay. And it makes sense
17 to me -- just one more question -- it makes sense to
18 me that in 2012 natural gas prices were at an all-time
19 high at some point. The market -- we would have seen
20 a pretty rapid transition or change from gas to
21 electric in 2012 and several years afterwards, but has
22 the rate of change been pretty consistent? And, you
23 know, you guys have indicated that you've seen some
24 changes in the field where builders who at one time

1 had been installing gas equipment moved to electric.
2 Again, I can understand why in 2012 and several years
3 thereafter that change would have been fairly rapid,
4 but has that change been consistent as we've moved
5 forward?

6 MR. BARKLEY: I think -- again, I think we
7 both expressed the change has not been hugely
8 significant but I think it's been relatively -- I
9 don't think that there's been a great deal in the pace
10 of the switches from gas over to the electric side.
11 So I think it's been more consistent than
12 inconsistent. I don't think there's really a pattern
13 that I know of, Commissioner Mitchell, associated with
14 this would fluctuate with the commodity cost of
15 natural gas or any other benchmark out there that
16 would have accelerated or decelerated the pace.

17 MR. McAULAY: I'd agree with that. In fact,
18 it's just timing actually. Members of the Commission,
19 with regard to our concern about the Duke program,
20 because it was only about the time that the Duke
21 program was filed that we began to get reports from
22 the field that seemed to indicate that we were seeing
23 some erosion of service out there of what historically
24 we had gotten, so it was a timing thing. We got these

1 reports, we investigated those, and about that time
2 Duke filed its program and so that's whenever we went
3 to Duke with our concerns.

4 Back in the 2012, 2013, 2014, I don't know,
5 I can't say for sure if erosion occurred or not but
6 none of our field representatives seemed to notice it
7 if it did. And, of course, I shouldn't say this - of
8 course, it takes time for a program like this to catch
9 on. We are coming out of the recession at that point
10 in time, the economy is still rebounding and so there
11 are a lot of factors there, but it was only in 2015 --
12 pardon me, 2017 that I got notified that we were
13 seeing some erosion of services in the field.

14 MR. BARKLEY: And the change -- just very
15 briefly, the change that may have brought about most
16 of this was proposed by DEP late in '15. I believe it
17 was the month of December of '15, so certainly for it
18 to start working it's way through the market it would
19 have been 2016 before this per kWh really took effect.
20 So I think anything probably prior to there, there was
21 no concerns being filtered up to the regulatory teams
22 because there really probably was limited to perhaps
23 no damage prior to the changes that were instituted on
24 the DEP side in late '15.

1 MS. MITCHELL: Thank you.

2 COMMISSIONER BROWN-BLAND: And just to be
3 clear, both companies, Piedmont and Dominion - PSNC,
4 have received those similar reports back from the
5 field?

6 MR. BARKLEY: Correct.

7 MR. McAULAY: Correct.

8 COMMISSIONER BROWN-BLAND: Commissioner
9 Duffley.

10 COMMISSIONER DUFFLEY: So, Mr. Barkley, I
11 think I heard the answer to this question but I just
12 want to clarify. So I think I heard you state in your
13 testimony that pretty much any type of incentive might
14 be a problem for the natural gas companies. So my
15 question that I was going to ask before I heard that
16 was is there any type of incentive program or any type
17 of program that the gas companies could be comfortable
18 with? I also heard Mr. McAulay say the program as
19 offered seems to influence fuel choice. And so I'm
20 just wondering if the two companies are continuing to
21 talk about whether there is some type of program that
22 could be offered that does not incentivize fuel
23 choice.

24 MR. BARKLEY: And I misspeak so often I may

1 have misspoken when I said that there are no
2 incentives that would be acceptable. May I address
3 that first?

4 COMMISSIONER DUFFLEY: Sure. And I think it
5 was that, kind of the incentive for, you were kind of
6 saying that you just couldn't win the incentive game
7 because of size and scope?

8 MR. BARKLEY: Absolutely. I think that
9 there are many incentives that exists today that we're
10 comfortable with. I think that some -- certain
11 incentives that have been brought before the
12 Commission incent conservation. And some of these
13 original agreements that people have referenced talk
14 about the incentive needs to be the same regardless of
15 whether there is electric or natural gas use as a
16 heating source. So there are incentives that are paid
17 that, for instance, something that would make the home
18 more efficient such as insulation. There are many
19 incentives and I don't believe that provide a
20 competitive edge to one company or the other. And I
21 don't necessarily believe that this program was
22 designed with that competition in mind. I believe
23 Mr. Duff stated that it was not so, therefore, I
24 believe it. It's just that the consequence of this

1 one, this residential builder program does harm the
2 Company. So if there is something that doesn't
3 generate a competitive edge we certainly have no
4 quarrel with it. It's the competitive forces that
5 bring out the problem.

6 And I think in trying to recall your
7 question and make sure I fully respond to it, there
8 are no ongoing conversations between Mr. Duff's team
9 and Mr. McAulay's team and mine right now. But if we
10 were to return to a set up similar to when these were
11 rolled out, they were residential programs in '08 -
12 '09 timeframe, even in 2012 when DEP originally rolled
13 out their program, those were acceptable at the time.
14 Something along those lines would work for us. Those
15 did not have a per kWh incentive I don't believe so
16 something like that could work for us, but I just say
17 that that may not work for DEP and DEC. They may need
18 it to be structured the way it is now. I can't know
19 all of what's going on behind the scenes for them.
20 But to answer from our perspective, if there's no
21 competitive angle we certainly don't quarrel with the
22 Program.

23 COMMISSIONER DUFFLEY: And remind me the, I
24 think it was called the New Home Construction Program,

1 the 2008 program that you stated, the recession came
2 in in 2009, and the Company asked for those programs
3 to relieve you from working on those programs. Have
4 you had any conversations or thought about
5 reinstituting those programs?

6 MR. EVANS: That was the Residential Home
7 Advantage Program and it was introduced in 2008. It
8 was the predecessor of the RNC Program and it was
9 discontinued in 2012. Again, the EM&V which we do
10 used 2009 as a target year, bad year start of things,
11 things didn't get much better for a few years. I
12 believe Mr. McAulay brought up the economy finally
13 started up. But the incentives are almost identical
14 between that program and this program with the
15 exception of the whole house measure. The whole house
16 measure does not use a kilowatt-hour base. There is
17 an incentive for that as well, it's a HERO only.
18 Approximately 66 percent of the participants are those
19 with gas heated homes. So it's very gas friendly so
20 to speak.

21 Now, the per-kilowatt-hour incentive that he
22 brought up which is the HERO Plus part of the Program,
23 it's about 50/50 of gas heated customers and electric
24 heated customers. And I -- let me put this out here,

1 I do feel -- I was a gas guy back in the '80's and I
2 have been around for a long time right, Bruce?

3 MR. BARKLEY: Yes, sir.

4 MR. EVANS: I'm sorry. Did I answer your
5 question properly?

6 COMMISSIONER DUFFLEY: Yes, thank you.

7 MR. EVANS: Thank you, ma'am.

8 COMMISSIONER BROWN-BLAND: Commissioner
9 McKissick.

10 COMMISSIONER MCKISSICK: Thank you, Madam
11 Chair. And I guess I'd just like to hear from
12 Mr. McAulay and Mr. Barkley as to why when this trend
13 was first observed relating to this, I guess, lack of
14 customers from the gas side or more customers moving
15 over to electric, why at some point in time did you
16 not try to obtain some type of empirical data or
17 substantive evidence that would substantiate your
18 contention that this customer migration was occurring?

19 MR. MCAULAY: Commissioner McKissick, when
20 this was first brought to our attention it was late in
21 2017, at which point we put all of our field people on
22 notice to keep their eyes out for this sort of
23 activity. We did have some reports and documented
24 those reports and they are somewhere still within the

1 Company where we had builders who prior had used
2 natural gas for an application, be it heating or water
3 heating, what have you. Those were the two and now
4 they weren't. And part of this was okay that's kind
5 of the suspect file and we saw it happening so we were
6 documenting it. In a very few cases a builder would
7 tell us yes I am dealing -- doing this because of a
8 program where I'm being incentivized. Often times,
9 the builder will -- just doesn't share that
10 information so it's hard to tell.

11 So in terms of two things, I'll tell you we
12 did maintain records, we did try to get to the bottom,
13 we did try to find out as much as we possibly could.
14 As I'd indicated earlier, it wasn't a maelstrom of
15 activity, okay. It was not that much but it was
16 enough to cause us concern and so we tried.

17 The other thing that I'll mention to you,
18 Commissioner, back to this notion of harmony and
19 trying to figure out what's the right thing to do and
20 when to do it is, had the Duke program had not come
21 along we would have been faced with a procedural
22 question if we had enough evidence that would have
23 really caused us concern which how do we deal with
24 what we know now. And that would have been, you know,

1 the easy answer there is to take it to a complaint
2 proceeding to the Commission. We didn't want to
3 really do that; don't want to do that now. So when
4 the Duke program came along, it afforded us the
5 opportunity to get with them and talk about the Duke
6 program. Obviously, what's happened with the Progress
7 program in the past is it's still something that's out
8 there that one day we'll need to make a decision on
9 and that will come after deliberation on continuing
10 data gathering - how is that harming us today and what
11 do we see out there. That's a long answer to a short
12 question. I apologize.

13 COMMISSIONER McKISSICK: Sure and that's
14 okay. And I guess the follow up would simply be since
15 there was some effort made to collect data, or
16 developers were contacted, or there had been some
17 follow up done, is it possible to obtain more
18 information about that, which would be more
19 definitive, because right now it seems to be very much
20 subjective. It's kind of like a feeling or conjecture
21 as opposed to anything that we can really -- I haven't
22 heard anything today that sounds like something I can
23 really hang my hat on.

24 MR. McAULAY: I do know that in '17 we had

1 direct reports that we were losing load definitely
2 with a builder who said that that was happening in
3 response to the Program. I've heard -- I'd agree with
4 you, not everything I have after that is
5 necessarily -- to take it to the extreme we certainly
6 don't have affidavits from anybody, okay, and I don't
7 have anything close, but we do have enough of a sense
8 of our business in the field that this one was kind of
9 walking and quacking like a duck if you will, for what
10 that's worth.

11 Mr. Barkley, do you --

12 COMMISSIONER McKISSICK: Let me ask one more
13 follow up.

14 MR. McAULAY: Sure.

15 COMMISSIONER McKISSICK: I know earlier I
16 think with Mr. Duff that might have mentioned that
17 there was concern about particularly starter homes
18 being an issue or a problem, but when they went back
19 and reviewed their data I think the typical home was
20 like 2760 square feet which would not have been a
21 starter home. So I mean when that issue emerged as
22 that being a part or segment of the market where there
23 was this fierce competition or where people were
24 making decisions based upon the incentives in place.

1 First it -- was that accurate what I heard? And then
2 secondly, what was the response at that time of your
3 Company?

4 MR. McAULAY: The starter home market is --
5 first of all, I wouldn't argue with Mr. Duff's
6 characterization, I'll just share a little bit of a
7 different take on it. We're seeing homes built in
8 Wake County, just outside of Wake County, Harnett,
9 Johnston County that are 2500 square feet plus in the
10 low two hundreds. That may be today's starter home.
11 So 2760 and four bedrooms is not that far out. So is
12 that a starter plus home? Might be called that. It's
13 a significant enough -- significant a piece of the
14 market that could give us pause and concern. So maybe
15 it was in the way that we characterized then. Maybe
16 it's a starter plus home. But that's a big part of
17 the market now. And, golly, in today's economy a low
18 two hundred house is typically considered entry level
19 market. So that's -- does that respond appropriately?

20 COMMISSIONER McKISSICK: It does, but it
21 also leaves me to an additional question. Because I
22 heard the gentlemen from Duke just now also indicate
23 that underneath a program that existed that there were
24 homes where there was about, I guess, 50 percent gas

1 that were a part of the program that seemed to be
2 working reasonably well.

3 MR. McAULAY: Right.

4 COMMISSIONER McKISSICK: Are you aware of
5 that?

6 MR. McAULAY: That was shared with us during
7 the discussions. And I certainly don't mean to sound
8 flip or like I'm turning someone's words in the other
9 direction, but I don't know that those homes wouldn't
10 have been a hundred percent gas without this program.
11 I just simply don't know. Okay. And so I understand
12 that 50 and 60 percent that utilize natural gas sounds
13 very positive, I just don't know what the outcome
14 would have been otherwise.

15 COMMISSIONER McKISSICK: I understand.

16 MR. McAULAY: I'm not saying that with any
17 sort of maliciousness whatever.

18 COMMISSIONER McKISSICK: Sure. And, of
19 course, I guess, Mr. Barkley, perhaps you can respond
20 to that same series of questions.

21 MR. BARKLEY: Absolutely. So as far as the
22 gathering of data we did have some situations, again,
23 more anecdotes coming in from the field places where a
24 gas main was in front of the neighborhood that had

1 been installed previously, not for the neighborhood,
2 but gas was available and gas was not chosen. So that
3 was atypical for our experience. And it's hard to
4 say, we don't have, I think as was mentioned, the
5 ability to compel anybody to tell us exactly why they
6 didn't select our product, and it's certainly anything
7 that would be negative toward these programs that
8 we're discussing today. The building community is
9 very supportive of these programs so for them to share
10 with us that that was the reason that may be not
11 necessarily in their interest. So we don't have the
12 kind of -- I guess what I would call empirical data
13 that you asked about, and I think Mr. McAulay gave you
14 a similar response.

15 We just feel like that the pattern was there
16 from people that have a lot of experience in dealing
17 with builders, people that are there face-to-face with
18 them on a day-in and day-out basis, that these
19 programs contributed to the loss of some of these
20 neighborhoods as far as the gas perspective.

21 As far as the 2760, I must admit I hadn't
22 heard that one before and I'm not sure I completely
23 followed Mr. Duff's point, but I don't think it was
24 his point that that was like exclusively the point it

1 had to be that or more before there was harm to the
2 gas companies, and I think we feel more threatened
3 perhaps, Commissioner, in the starter home market. I
4 think a lot of homes that are larger they may select,
5 almost demand, natural gas. They want natural gas.
6 Whereas, a lot of people and I think my own children
7 in the starter home market, they're really not that
8 focused on their source of energy; some are I'm sure,
9 but maybe less so I believe at this starter level than
10 as you get larger and more expensive homes. So I
11 think that we certainly feel like that's where we've
12 experienced the cross-over is in the starter home
13 market.

14 And then on the 50/50, I think that was your
15 third follow up.

16 COMMISSIONER McKISSICK: That would be
17 correct, sir.

18 MR. BARKLEY: I think that the 50/50, I'm
19 going to very briefly agree with what Mr. McAulay
20 said. I don't doubt that the numbers that Mr. Evans
21 shared with the Commission but there's no way to know
22 would it have been more gas. We certainly would like
23 to get more than 50/50. And so we don't know -- and
24 we're not happy with the 50/50, again assuming that's

1 true. So these programs could be contributing to it
2 being as high as 50/50.

3 COMMISSIONER McKISSICK: And I guess the
4 last question would simply be this, it sounds like at
5 this point there isn't any ongoing communication with
6 Duke about what might be a win-win program. But I
7 mean do you -- can you identify what the components of
8 a win-win program might be that the gas companies
9 could feel good about knowing what Duke is interested
10 in implementing in the proposal that's before us at
11 this time where they're contemplating withdrawing?

12 MR. BARKLEY: I can certainly give it a
13 shot. I think for us there's certainly no need to
14 protest the withdrawal. So that's really the matter
15 that's before the Commission at this time. So we're
16 not opposed in any shape, form, or fashion to the
17 withdrawal of the Program because, again, we believe
18 it was harmful to us. So I think looking beyond just
19 that matter of where we are procedurally in this
20 docket, I think that we would say any kind of program
21 that doesn't affect the competitive landscape, that
22 wouldn't affect the choice. A lot of the things --
23 talk about fuel switching, here it's not necessarily
24 switching because it's new construction but a program

1 that wouldn't influence the choice of whether the home
2 uses natural gas or not. If it falls in that
3 category, which the vast majority of programs over the
4 history since these programs have been around do fall
5 in that category of not really influencing the choice.
6 We're all for it. We're all for conservation, whether
7 it be natural gas or electric conservation, just no
8 influence to the decision as to which fuel to choose,
9 for which fuel to provide to the customer.

10 COMMISSIONER McKISSICK: And I said that
11 would be the last but this will be the last and that's
12 simply this, I understand that's your guiding
13 principle and that's kind of the bright star, the
14 polar star so to speak. But are there components
15 specifically that you could identify since this is
16 being discussed on an ongoing basis and contemplated,
17 and there's been some discussion or I guess things
18 reach what I would refer to as somewhat of an impasse
19 that's resulting in the request for withdrawal, as to
20 what it might be if optimally you could craft it.

21 MR. BARKLEY: Nothing has happened since
22 they requested to withdraw.

23 COMMISSIONER McKISSICK: Right. I
24 understand.

1 MR. BARKLEY: And I think if there was a
2 specific it would be, one would be the per kWh amount
3 that has been -- that is part of the proposal --

4 COMMISSIONER McKISSICK: It's built into it.

5 MR. BARKLEY: -- that remains part of the
6 proposal that would be a significant aspect that we
7 would look at that would restore the kind of lack of a
8 tilt to the playing field that I've referenced several
9 times.

10 COMMISSIONER McKISSICK: Thank you.

11 COMMISSIONER BROWN-BLAND: Is there follow
12 up on these questions you've heard from the Commission
13 and Ms. Fentress in as much as the Company is here in
14 support of its motion to withdraw, you certainly may
15 ask questions.

16 MS. FENTRESS: Chairman Brown-Bland, I don't
17 have any questions for these gentlemen but appreciate
18 their willingness to share the gas companies'
19 perspective.

20 COMMISSIONER BROWN-BLAND: From the gas
21 company counsel? Nothing?

22 MR. JEFFRIES: No questions.

23 MS. GRIGG: No.

24 COMMISSIONER BROWN-BLAND: Ms. Fennell?

1 MS. FENNELL: No, thank you.

2 COMMISSIONER BROWN-BLAND: There being
3 nothing for further from the Commission, gentlemen,
4 you may step down. We appreciate you coming out. We
5 thank you for providing us information at this
6 informational hearing. And if there's anything else
7 that we need to take up, the Commission would
8 appreciate either or both of post-hearing briefs or
9 proposed orders and would ask that if you could file
10 those 30 days from today, if that's not a problem.

11 MS. FENTRESS: No. Thank you. We will do
12 so.

13 COMMISSIONER BROWN-BLAND: Okay. So
14 ordered. Again, we thank you and we stand adjourned.

15 (The proceedings were adjourned)
16
17
18
19
20
21
22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

C E R T I F I C A T E

I, KIM T. MITCHELL, DO HEREBY CERTIFY that
the Proceedings in the above-captioned matter were
taken before me, that I did report in stenographic
shorthand the Proceedings set forth herein, and the
foregoing pages are a true and correct transcription
to the best of my ability.

*Kim T. Mitchell*_____

Kim T. Mitchell
Court Reporter