

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

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

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Petition for Expedited Approval of)	REPLY COMMENTS OF THE
Temporary Adjustments to Electricity)	PUBLIC STAFF
Billing Demand Charges)	

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Christopher J. Ayers, and, pursuant to the Commission's April 2, 2020, *Order Joining Necessary Parties and Requesting Comments* in the above captioned dockets, respectfully submits the following reply comments to the *Petition of Carolina Utility Customers Association, Inc. for Expedited Approval of Temporary Adjustments to Electricity Billing Demand Charges* (Petition) filed by Carolina Utility Customers Association, Inc. (CUCA) in these dockets on March 31, 2020.

1. CUCA requests expedited approval of temporary adjustments to electricity billing demand (minimum and maximum) charges for customers served under certain rate schedules of Duke Energy Carolinas, LLC (DEC), Duke Energy Progress LLC (DEP), and Virginia Electric and Power Company, Inc., d/b/a Dominion Energy North Carolina (DENC) (collectively, ("the IOUs")), due to either temporary curtailments required or compelled by the COVID-19 State of Emergency declared by Governor Roy Cooper or ramping up production to meet needs related to COVID-19. CUCA indicates that under the cited tariffs, industrial

and commercial customers who have ceased or curtailed energy consumption due to COVID-19 will be required to pay certain monthly minimum demand charges, while businesses that exceed their current contract demand to meet increased demand due to COVID-19 will be penalized. CUCA requests that the Commission order DEC, DEP, and DENC to immediately eliminate both the monthly minimum billing demand charges and maximum contract demand charges, prorate those current monthly demand charges for partial month of operation for sites that have significantly curtailed or expanded consumption, and review other tariff provisions to provide flexibility while CUCA's customers' operations are disrupted during the COVID-19 state of emergency. CUCA further requests that this action remain in effect through the State of Emergency declared by Governor Cooper and for 60 days for affected commercial sectors and six months for affected industrial sectors after the state of emergency has ended.

2. On April 9, 2020, the Public Staff filed initial comments in these dockets noting the Commission's March 19, 2020 *Order Suspending Utility Disconnections for Nonpayment, Allowing Reconnection, and Waiving Certain Fees* in Docket No. M-100, Sub 158,¹ requiring all jurisdictional electric, natural gas, and water and wastewater public utilities immediately cease customer disconnections due to non-payment of utility bills, except where necessary as a matter of safety or where requested by the customer, and waive late fees incurred during the State of Emergency and suspended all regulations and

¹ <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=99807398-6abd-412f-b94c-6c23eb2427b0>

provisions of individual utility tariffs that prevent or condition reconnection of disconnected customers. The Commission further ordered that at the end of the State of Emergency, customers having arrearages accrued during the State of Emergency should be allowed to make a reasonable payment arrangement for at least a six-month period without late fees for arrearages accrued during the State of Emergency.

3. The Public Staff stated in its initial comments that it would review the response to a data request it had issued to CUCA, as well as the revenue impacts calculated by the IOUs, before determining its ultimate recommendation on the Petition.

4. The Public Staff recognizes the adverse economic impacts that non-residential customers may be experiencing due to the Executive Orders² issued to combat the spread of the COVID-19 pandemic. The Public Staff also is generally aware that certain industrial customers are retooling their manufacturing processes to produce or increase production of equipment and supplies necessary to mitigate the spread of COVID-19. Nonetheless, all customers likely have been adversely affected by the COVID-19 pandemic, and it would be most inequitable to shift the costs to serve some customers to other customers. The Public Staff believes the Commission should balance the interests of particular customer classes against the statutory requirement that all of the using and consuming public receives adequate, reliable, and economical utility service at just, reasonable, and fair rates. The Public Staff does not support

² See <https://www.nc.gov/covid-19/covid-19-executive-orders>.

the granting of relief that would shift the costs to other customer classes or spread the costs across other customers within a class.

5. The Public Staff also recognizes the regulatory compact that imposes an obligation on the IOUs to provide service, while allowing them a reasonable opportunity to earn a fair rate of return. As noted in their initial comments (at 12), DEC and DEP indicate that they have observed reductions in load and revenues as a result of the COVID-19 State of Emergency. They further note the difficulty in assessing the revenue impacts on a prospective basis due to the unknown nature of customers' prospective loads.

6. As noted in the Public Staff's initial comments, each customer has its own unique set of facts, depending on its business sector and circumstances. First and foremost, the Commission's March 20 Order appears to allow the IOUs to consider individual circumstances when they are working out payment arrangements of no less than six months, albeit in a nondiscriminatory manner. The Public Staff also notes the 18-month term without late charges allowed for repayment in the natural gas cases arising out of the Polar Vortex, Docket No. G-5, Sub 545, *Order on Petition for Limited Modification of Rider A and Request for Expedited Decision*, September 8, 2014, and Docket No. G-9, Sub 649, *Order on Petition for Limited Waiver of Rate Schedule 106 Billing Procedures*, October 29, 2014 (Polar Vortex Dockets). To the extent the six-month timeframe is determined to be impractical for non-residential customers, the Public Staff supports extending the timeframe for payment arrangements to mirror the 18-month term without late charges as authorized in the Polar Vortex Dockets.

7. Should the Commission consider these measures be inadequate, the Public Staff would suggest the following for the Commission's consideration:

During the period of the State of Emergency, a non-residential customer of any IOU³ may request the utility to modify the minimum billing demand applicable to its service under either of the following conditions:

a. Decrease in Actual Demand: If the actual demand decreases below the currently established billing demand for the customer for any month during the State of Emergency, then the billing demand for any month during the State of Emergency may be established on a monthly basis as the higher of either (1) the actual demand, or (2) one-half of the minimum billing demand as established by the rate schedule applicable to the customer's service. Once the State of Emergency has concluded, the customer must make a new request for utility service, at which time the IOU shall reestablish the billing demand pursuant to the terms of the rate schedule selected by the customer.

b. Increase in Actual Demand: If the actual demand increases above the currently established billing demand for the customer for any month during the State of Emergency, then the billing demand for any month during the State of Emergency shall

³ In response to the Public Staff's data request, CUCA identified the following rate schedules that contain minimum or threshold (kW) demand levels that establish minimum billing demands for periods of up to twelve months: DEP: MGS, LGS, LGS-TOU, and LGS-RTP; DEC: SGS, LGS, I, OPT-E, OPT-V, and HP; and DENC: none.

be established pursuant to the rate schedule applicable to the customer's service. Once the State of Emergency has concluded, the customer may request to have its actual billing demand modified to a level that is consistent with its billing demand preceding the State of Emergency. However, if the customer's increased actual demand is sustained for at least three months beyond the period of the State of Emergency, the actual billing demand shall be modified pursuant to the rate schedule applicable to the customer's service, retroactive to the first billing month after the conclusion of the State of Emergency.

The impacts of any revenue changes that occur during the State of Emergency may be addressed as part of the test year revenues in a future rate case. As with any general rate case, the Commission can consider the actual data during the emergency, and make appropriate pro forma adjustments to revenues accordingly.

8. For purposes of this State of Emergency, the Public Staff would also propose that the Commission allow the IOUs to interpret the term "cessation", as found in IOU service regulations, to exclude the minimum essential systems required for a business to be able to resume operations once the State of Emergency has been lifted. These systems would vary by business, and the IOU and customer would be required to work together to determine the requirements for each customer.

9. As discussed earlier, each customer's situation is unique and the extent and timing of a return to normal industrial operations will vary widely. To the extent the aforementioned mitigation measures are insufficient, the Public Staff recommends any additional relief be considered on a case-by-case basis upon application by the customer to the Commission. Such relief should be narrowly targeted to the unique circumstances of the customer and the extent to which its business has been impacted.

10. The Public Staff also notes that there is variation in the service regulations of the IOUs as to their ability to amend billing and/or contract demands due to various circumstances. Given the uncertainty expressed by CUCA as to whether the service regulations allow amending billing or contract demands for situations like the COVID-19 State of Emergency, the Public Staff believes that it would be appropriate for the Commission to request that the IOUs convene discussions with parties to their current or most recent general rate cases dockets to identify any specific changes that should be made to the service regulations to address future emergencies and file a report on the discussions, including any proposed changes to the service regulations.

WHEREFORE, the Public Staff prays that the Commission consider these comments in reaching its decision in this proceeding.

Respectfully submitted this the 15th day of April, 2020.

PUBLIC STAFF
Christopher J. Ayers
Executive Director

David T. Drooz
Chief Counsel

Electronically submitted
s/ Lucy E. Edmondson
Staff Attorney

4326 Mail Service Center
Raleigh, North Carolina 27699-4300
Telephone: (919) 733-6110
lucy.edmondson@psncuc.nc.gov

CERTIFICATE OF SERVICE

I certify that a copy of these Reply Comments has been served on all parties of record or their attorneys, or both, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 15th day of April, 2020.

Electronically submitted
/s/ Lucy E. Edmondson