

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

North Carolina Waste Awareness)	
And Reduction Network, Inc.)	
v.)	Docket No. EL15-32-000
Duke Energy Carolinas, LLC and)	
Duke Energy Progress, Inc.)	

NC WARN’S MOTION FOR RECONSIDERATION
AND RENEWAL OF PETITION FOR INVESTIGATION

NOW COMES the North Carolina Waste Awareness and Reduction Network, Inc. (“NC WARN”), through the undersigned attorney, with a motion for reconsideration of the Commission’s Order on Complaint (the “Order”), issued April 30, 2015, and a renewal of its petition for an investigation to fully assess on the costs and benefits for Duke Energy’s involvement in a regional strategy. In support of the motion and renewal of the petition for investigation, NC WARN offers the following:

In denying NC WARN’s Motion to Allow Reply, Order paragraph 14, the Commission failed to consider Duke Energy’s demonstrated misrepresentations of NC WARN’s factual and legal position, and specifically the relief sought, as clearly evidenced in the complaint. This lead directly to the Commission making fundamental errors in its Order, summarized in paragraphs 17, 65 and 66. The Commission adopted Duke Energy’s position that the complaint failed to prove conclusively Duke Energy’s rates were discriminatory, even though that determination cannot be made without the singular investigation NC WARN requested. NC WARN clearly met its initial burden with enough evidence to show an investigation was needed to determine how rates could be lower through regional strategies. A reasonable position is that any time rates can be lowered, and are not, they are *de facto* unjust and unreasonable.

The Commission's primary error conflated the requested petition for an investigation into potential benefits and costs that participation in a regional transmission organization ("RTO") or other regional strategy may provide, with the need for the complainant, NC WARN, to make the definitive case up-front that an RTO is the necessary remedy. Paragraph 65 of the Order on Complaint summarizes this as "[r]ather, the standard is whether an RTO is necessary to remedy undue discrimination or preference." This is the standard for FERC to mandate RTO participation, but is clearly not the standard for initiating an investigation into whether the lack of RTO participation is causing undue discrimination or preference and/or unjust or unreasonable rates, the relief requested by NC WARN.

The purpose of the requested investigation is to determine whether the rates are now, or will be, far greater than they need to be if Duke Energy does not take advantage of regional cooperative measures, such as joining an RTO. As NC WARN expects, given the data showing excess capacity throughout the region, coupled with the significant savings from Entergy joining Midcontinent Independent System Operator ("MISO"), this investigation would more than likely show significant savings from Duke Energy, and other utilities in the Southeast, from creating an RTO or other similar regional cooperative.

As shown in the Complaint, the study of Entergy integration into MISO, funded in part by FERC, found its consumers will save \$1.4 billion over 10 years by joining the ISO. These potential benefits, although not specifically quantifiable at this time by NC WARN, warrant a close look by the Commission. The Commission is not hampered by the barriers of confidentiality NC WARN faces, and it has the ability to require Duke Energy, and the other utilities in the Southeast, to file

data that has been determined to be proprietary in nature, or trade secrets by state legislatures or the various public service commissions.

Only after the investigation can interested parties debate whether the rates are discriminatory, unreasonable or unjust. Again, if the savings available to Duke Energy customers are of the same magnitude as the saving to Entergy customers, the Commission can make a determination that if Duke Energy customers can save significantly on their electricity bills from joining an RTO, it is unjust and unreasonable for them to pay more.

Pursuant to section 205 of the Federal Power Act (“FPA”), the purpose of regulatory reform by FERC is to ensure that rates, terms and conditions of transmission and sales for resale in interstate commerce by public utilities are just, reasonable and not unduly discriminatory or preferential. 16 U.S.C. 824d. Sections 205 and 206 of the FPA allow the Commission to restructure the electricity industry to foster competition and reduce unfair and unreasonable rates. 16 U.S.C. 824d and 824e.

One of the policies FERC uses to foster fair and reasonable rates is RTO / ISO formation, and contrary to Duke Energy’s assertion on page 14 of its Answer, Order No. 2000 specifically states that "we conclude that the Commission possesses both general and specific authorities to advance voluntary RTO formation. We also conclude that the Commission possesses the authority to order RTO participation on a case-by-case basis, if necessary, to remedy undue discrimination or anticompetitive effects where supported by the record." Order No. 2000, p. 142. The singular purpose of the investigation is to develop the record upon which the Commission can determine whether Duke Energy’s rates would be lower under RTO participation. NC WARN’s position is that if the rates would be significantly lower under a regional strategy, Duke Energy’s rates, now and in the future, are without doubt discriminatory, unjust and unreasonable.

THEREFORE, in light of the above, and based on the allegations and credible evidence presented in NC WARN's Complaint, NC WARN prays that the Commission reconsiders its Order and initiates an investigation of the costs and benefits for Duke Energy's involvement in a regional strategy.

Respectfully submitted this the 14th day of May 2015.

FOR NC WARN

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CERTIFICATE OF SERVICE

I hereby certify that the following persons have been served this NC WARN'S MOTION FOR RECONSIDERATION AND RENEWAL OF PETITION FOR INVESTIGATION by email transmission as the contacts for Duke Energy as listed on the Commission's list of Corporate Officials. Email transmission of this filing have additional been sent to those parties who have made filings to intervene in this docket.

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This is the 14th day of May 2015.

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