

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 1013

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	MOTION TO INTERVENE
Application of Duke Energy Carolinas)	AND REQUEST
LLC, for New Pilot Economic Recovery)	FOR HEARING BY
Rider in North Carolina)	NC WARN

PURSUANT TO NCUC Rule R1-19, now comes the North Carolina Waste Awareness and Reduction Network, (NC WARN), through the undersigned attorney, with a motion to allow it to intervene in this docket. This motion to intervene includes a request for hearing on the merits. In support of the motion and request for hearing is the following:

1. NC WARN is a not-for-profit corporation under North Carolina law, with approximately one thousand individual members and families across the state. Its purpose is to reduce hazards to public health and the environment from nuclear power and other polluting electricity production through energy efficiency and renewable energy resources. Its address is NC WARN, Post Office Box 61051, Durham, North Carolina 27715-1051.

2. The attorney for NC WARN to whom all correspondence and filings should be addressed is John Runkle, Attorney at Law, 2121 Damascus Church Road, Chapel Hill, North Carolina 27516. Rule 1-39 service by email is acceptable and may be sent to jrunkle@pricecreek.com.

3. Most of NC WARN's members reside in North Carolina and many of those

members are customers of Duke Energy, using electric power supplied by Duke Energy in their homes and businesses. The members are concerned about the impacts of the rate increases on their electricity bills and the fairness of utility practices.

4. NC WARN has intervened in the several proceedings before the Commission, most recently Docket E-7 Sub 986, the Duke-Progress merger, and Docket E-7 Sub 989, the Duke Energy rate case. As it states in the cover letter opening this docket, the proposed new Pilot Economic Recovery Rider arose from settlement discussions with certain industrial customers in those two dockets. If allowed to intervene in this docket, NC WARN will advocate that the Commission investigate the merits of the requested rate reduction and its impacts on all other customers.

5. The Commission issued its Order in the rate hike case on January 27, 2012, in which it determined that a 7.2% rate increase for all customers was just and reasonable. The proposed Economic Recovery Rider *sub judice* is a major revision to Duke Energy's rate case application in that case and files in the face of the approved Stipulation Agreement. The apparent current position in this docket that a 1.2% rate increase is actually required from certain customers undercuts the Commission's findings that the 7.2% rate increase across the board was fair and reasonable for all customers. Many of Duke Energy's residential and small business customers are also facing severe financial hardships and would also prefer the opportunity to receive a significant rate discount.

6. NC WARN further finds it troublesome that the rider may act as a rebate, or kick back, to certain industrial customers to win their support for the rate hike and the merger. In 2006, similar actions and negotiated settlements in a Duke Energy rate case

in Ohio lead to antitrust litigation and recently, the Federal 6th Circuit Court of Appeals held that the law suit on whether those payments constituted unlawful antitrust actions should be reinstated and sent to a jury. *Williams v. Duke Energy International, Inc.*, No. 10-3604 (6th Cir. June 4, 2012),

7. Issues that need to be resolved in a hearing on the merits of the rider include the potential discrimination of the rider on other members of the industrial class of customers, i.e., which customers were notified of the proposed rate, when they were notified and which customers were selected to participate; the potential discrimination of the rider on all other customers; the expected cost of the rider; and future plans to continue or expand the rider through subsidies from other customers.

THEREFORE, NC WARN, pray that it is allowed to intervene in this matter and fully participate in the Commission's deliberations. NC WARN further prays that the Commission issue an order establishing a procedural and hearing schedule.

Respectfully submitted, this the 13th day of June 2012.

John D. Runkle
Attorney at Law
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CERTIFICATE OF SERVICE

I do hereby certify that I have this day served a copy of the foregoing MOTION TO INTERVENE AND REQUEST FOR HEARING BY NC WARN, upon each of the parties of record in this proceeding or their attorneys of record by emailing them an electronic copy or by causing a paper copy of the same to be hand-delivered or deposited in the United States Mail, postage prepaid, properly addressed to each.

This is the 13th day of June 2012.

Attorney at Law

VERIFICATION

I, James Warren, Executive Director of the N.C. Waste Awareness and Reduction Network, verify that the contents of the MOTION TO INTERVENE AND REQUEST FOR HEARING BY NC WARN filed in Docket E-7 Sub 1013 are true to the best of my knowledge, except as to those matters stated on information and belief, and as to those matters, I believe them to be true.

James Warren

date _____

Sworn to and subscribed before me,
this is the _____ day of _____ 2012.

Notary Public
my commission expires: