

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 986
DOCKET NO. E-2, SUB 998

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Application of Duke Energy Corporation and)	ADDITIONAL SUPPORT
Progress Energy, Inc., to Engage in a)	FOR NC WARN'S
Business Combination Transaction and to)	MOTION FOR
Address Regulatory Conditions and Codes)	RECONSIDERATION
of Conduct)	

NOW COMES the N.C. Waste Awareness and Reduction Network (“NC WARN”), by and through the undersigned counsel, with additional support for its motion for reconsideration of the merger order.

1. On June 29, 2012, the Commission issued its Order Approving Merger Subject to Regulatory Conditions and Code of Conduct. On July 26, 2012, NC WARN filed its Motion for Reconsideration of Merger Order, and on August 14, 2012 filed its Reply to Responses to its Motion for Reconsideration of Merger Docket.

2. Concurrently, NC WARN and others requested that merger settlement agreements between the utilities and other parties be made public. In its Final Order on Public Records Act Request, August 14, 2012, the Commission ordered substantial portions of the settlement agreements to be filed, and on August 24, 2012, Duke Energy filed those agreements in the present docket.

3. After reviewing the settlement agreements, NC WARN maintains that

the settlement agreements contain new and significant information relevant to the merger, supporting its motion for reconsideration. In the agreements with two industrial groups, Duke Energy and Progress Energy committed themselves to the Summer Coincident Peak (“SCP”) method for allocating costs in the next three rate cases. As shown in NC WARN’s filings in the rulemaking docket on the allocation methods, Docket E-100, Sub 133, the SCP method focuses on a single hour in the summer when the most electricity is used and allocates the costs for power plants and operations on who is using how much at that time. This is one of the most unfair ways to decide who bears the costs, and especially for new generation, and puts a tremendous burden on residential customers and small businesses who are not notified by the utilities to cut back on their usage.

4. More important, the utilities also committed to seeking a 6% discount on the industrial customer’s current rates along with other adjustments. Based on the most recent Duke Energy rate hike, NC WARN’s preliminary assessment is that a 6% discount would be approximately \$34.4 million annually in the Duke Energy service area (NC) alone.¹ A similar discount for Progress Energy would be in the \$20 - 25 million range for a total of approximately \$55 million annually.

The merger order projected energy savings of \$650 million over 6.5 years and

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Docket E-7, Sub 989; Order Scheduling Investigation and Hearing, July 28, 2011. Appendix A shows present revenues from OPT-Industrial class of \$535.8 million. The Order Granting General Rate Increase, January 27, 2012, granted a 7.2% rate increase for annual revenue of \$574.4 million. A 6% discount would be approximately \$34.4 million. Progress Energy present revenues will be more fully presented in its application for a rate case, Docket E-2, Sub 1023, although the NC service area is proportionately smaller than that of Duke Energy’s.

this was one of the principal benefits to the rate payers. However, the \$357.5 million in the discount to the industrial customers over the same time period would erode any fuel savings forecasted by the utilities as part of the merger and contribute to the imbalance between customer classes.

5. The remainder of the agreements contained concessions to the wholesale customers, such as the power agencies and cities, to hold them harmless on all merger-related costs. In several of the agreements there were cash payments (totaling at least \$1.7 million) so that the wholesale customers would not challenge Duke before the Utilities Commission or Federal Energy Regulatory Commission. To the extent the concessions to the wholesale customers push costs onto retail ratepayers, then these agreements are relevant to the merger and the Commission's findings and conclusions on the net benefits to the ratepayers.

6. In its Brief filed November 23, 2011, NC WARN argued that the Commission could not issue an order in the merger docket without the settlement agreements. The settlement documents should be part of the evidentiary record as they have a material impact on the merger deliberations. Now that the documents have been made public, the Commission should determine whether those settlements should have been disclosed at during the September 2011 hearings, or in the time period between the hearings and the merger order.

THEREFORE, NC WARN renews its motion for reconsideration and prays that the Commission reconsiders its merger order and issue a show cause order to Duke Energy.

Respectfully submitted this the 10th day of September 2012.

/s/ John D. Runkle

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing ADDITIONAL SUPPORT FOR NC WARN'S MOTION FOR RECONSIDERATION upon each of the parties of record in this proceeding 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 the 10th day of September 2012.

/s/ John D. Runkle

Attorney at Law