

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 1146

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Application of Duke Energy Carolinas, LLC)	NC WARN'S OPPOSITION
For Adjustment of Rates and Charges)	TO PARTIAL SETTLEMENT
Applicable to Electric Service in)	
North Carolina)	

NOW COMES, NC WARN, Inc., through the undersigned attorneys, with its opposition to the Stipulation and Settlement Agreement among Duke Energy Carolinas, LLC ("DEC") and the Environmental Defense Fund, the Sierra Club, and the North Carolina Sustainable Energy Association regarding the Company's Power/Forward Carolinas "grid modernization" initiative filed with the Commission on June 1, 2018.

1. In this and previous proceedings, NC WARN has expressed its dissatisfaction with stipulated settlements, especially those entered into late in the process. The Commission is not under any obligation to approve any stipulation agreement, and more important, it is required to make its own independent findings of fact and conclusions of law. *State ex rel. Utilities Commission v. Cooper*, 366 N.C. 484, 739 S.E.2d 541 (2013). The Commission is required "to make an independent determination regarding the Return on Equity ("ROE") based upon appropriate findings of fact that weigh all the available evidence." *State ex rel. Utilities Commission v. Carolina Utils. Customers Ass'n*, 348 N.C. 452, 461, 500 S.E.2d 693, 700 (1998). The court

further discussed the Commission's failure to make findings beyond accepting what the court designated as a "non unanimous" settlement agreement, and required the Commission to conduct a full review of the reasonableness of the ROE, including a weighing of the credibility of witness testimony and other evidence. Clearly, the Commission cannot rely on any stipulation alone to determine what constitutes a reasonable and prudent capital investment, and ultimately, the fairness and reasonableness of the resulting rates. The determination as to what is a just and reasonable rate belongs to the Commission, not to the settling parties.

2. \$2.5 billion in new expenditures over a three-year period should be dealt with directly and in detail, with all of its inherent priorities examined carefully. The present stipulation was untimely filed well after the hearing was over and almost a month after the filing of post-hearing briefs and proposed orders. The Commission is in the final stage of preparing and refining its Order in this matter, and would need to reassess its entire findings and conclusions to adopt this newly-crafted scheme. None of the other parties has had the opportunity to test the validity of the bald assertions in the stipulation through testimony and cross-examination at an evidentiary hearing. There is little, if any, evidence and testimony in the record to support positions on the reasonableness of the proposal, and its impacts on rate payers.

3. The present stipulation purports to resolve and limit issues concerning the Power/Forward Carolinas program but does not resolve the legality of the prospective ratemaking for future projects. In Section III of its post hearing brief,

NC WARN argues that DEC has not justified the need for most of the activities it proposes to undertake in the Power/Forward Carolinas Initiative, DEC's grid modernization program, as being anything other than normal spending on the operation and maintenance ("O&M") of its grid infrastructure.

4. In its June 1, 2018, letter to the Commission opposing the stipulation, the Southern Environmental Law Center ("SELC") on behalf of its clients concluded, "[n]ot only would the proposed Grid Rider be unlawful, recovery of multi-billion dollar grid investments through a rider, rather than a general rate case, would be bad policy and harmful to ratepayers." NC WARN agrees with SELC's conclusion.

CONCLUSION

In light of the above, NC WARN prays the Commission reject the present stipulation outright OR IN THE ALTERNATIVE establish a separate proceeding to fully assess its reasonableness and rate impacts.

Respectfully submitted, this the 6th day of June 2018.

/s/John D. Runkle

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing NC WARN'S OPPOSITION TO PARTIAL SETTLEMENT (E-7, Sub 1146) upon each of the parties of record in this proceeding or their attorneys of record by deposit in the U.S. Mail, postage prepaid, or by email transmission.

This is the 6th day of June 2018.

/s/ Kristen Wills

Attorney at Law