STATE OF SOUTH CAROLINA

(Caption of Case)

Application of Duke Energy Carolinas, LLC For Approval of Energy Efficiency Plan Including an Energy Efficiency Rider and Portfolio of Energy Efficiency Programs

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

COVER SHEET

DOCKET NUMBER: 2007 - 358 - E

(Please type or print)

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DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition ☒ Request for item to be placed on Commission's Agenda expeditiously

☐ Other:

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
☒ Electric	☐ Affidavit	☐ Letter	☐ Request
☐ Electric/Gas	☐ Agreement	☐ Memorandum	☐ Request for Certification
☐ Electric/Telecommunications	☐ Answer	☐ Motion	☐ Request for Investigation
☐ Electric/Water	☐ Appellate Review	☐ Objection	☐ Resale Agreement
☐ Electric/Water/Telecom.	☐ Application	☐ Petition	☐ Resale Amendment
☐ Electric/Water/Sewer	☐ Brief	☒ Petition for Reconsideration	☐ Reservation Letter
☐ Gas	☐ Certificate	☐ Petition for Rulemaking	☐ Response
☐ Railroad	☐ Comments	☐ Petition for Rule to Show Cause	☐ Response to Discovery
☐ Sewer	☐ Complaint	☐ Petition to Intervene	☐ Return to Petition
☐ Telecommunications	☐ Consent Order	☐ Petition to Intervene Out of Time	☐ Stipulation
☐ Transportation	☐ Discovery	☐ Prefiled Testimony	☐ Subpoena
☐ Water	☐ Exhibit	☐ Promotion	☐ Tariff
☐ Water/Sewer	☐ Expedited Consideration	☐ Proposed Order	☐ Other:
☐ Administrative Matter	☐ Interconnection Agreement	☐ Protest	
☐ Other:	☐ Interconnection Amendment	☐ Publisher's Affidavit	
	☐ Late-Filed Exhibit	☐ Report	

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2007-358-E

In re: Application of Duke Energy Carolinas, LLC For Approval of Energy Efficiency Plan Including an Energy Efficiency Rider and Portfolio of Energy Efficiency Programs	))))))	**PETITION FOR CLARIFICATION AND RECONSIDERATION**

Duke Energy Carolinas, LLC ("Duke Energy Carolinas," the "Company," or "Petitioner") hereby petitions the Public Service Commission of South Carolina (the "Commission") for clarification and reconsideration of its decision to deny the Company's request to close the record and set a date for submission of proposed orders in the above-captioned case in Order No. 2008-834. This Petition is made pursuant to S.C. Code Ann. Section 58-27-2150 and 26 S.C. Code Ann. Regs. 103-854 and 103-825. In support of this Petition, the Company shows the Commission the following:

1. Duke Energy Carolinas' general offices are in Charlotte, North Carolina, and its mailing address is:

   Duke Energy Carolinas, LLC
   P.O. Box 1006
   Charlotte, North Carolina 28201-1006

2. The name and address of Petitioner's attorneys are:

   Catherine E. Heigel, Esquire
   Duke Energy Carolinas, LLC
   526 S. Church Street, Mail Code EC03T
   Charlotte, North Carolina 28202

Frank R. Ellerbe, III, Esquire
Bonnie D. Shealy, Esquire
Robinson McFadden & Moore
1901 Main Street, Suite 1200
Post Office Box 944
Columbia, SC 29202

3. Copies of all pleadings, orders or correspondence in this proceeding should be served upon the attorneys listed above.

4. Duke Energy Carolinas is a limited liability company duly organized and existing under the laws of the State of North Carolina. Duke Energy Carolinas is authorized by its Articles of Organization to engage in the business of generating, transmitting, distributing and selling electricity. It is a public utility under the laws of the State of South Carolina, and in its operations in this State is subject to the jurisdiction of this Commission. It is also a public utility under the laws of the State of North Carolina, and its operations in that state are subject to the jurisdiction of the North Carolina Utilities Commission. It is a public utility under the Federal Power Act, and certain of its operations are subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC").

I. PROCEDURAL BACKGROUND

5. On September 28, 2007, Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or the "Company) filed its Application for approval of an energy efficiency rider and portfolio of energy efficiency programs (the "Application"). On December 10, 2007, the Company filed testimony in support of its Application. Subsequently, on January 29, 2008, the Company filed an Explanatory Brief and Joint Motion for Approval of Partial Settlement and Adoption of Settlement Agreement (the "Settlement"). The Settlement resolved all issues with the Office of Regulatory Staff ("ORS"), the South Carolina Energy Users Committee ("SCEUC"), and Wal-Mart Stores East, L.P. ("Wal-Mart"). On February 1, 2008, the Company, ORS and Piedmont

Natural Gas Company Incorporated ("Piedmont") filed a separate Explanatory Brief and Joint Motion for Approval of Settlement and Adoption of Settlement Agreement (the "Piedmont Settlement") resolving issues relating to the Company's proposed energy efficiency rider. Specifically, Piedmont withdrew its opposition to approval by the Commission of Duke Energy Carolinas' Energy Efficiency Plan filed in Docket No. 2007-358-E, as amended by the Settlement, subject to Piedmont's right to oppose subsequent individual program tariff filings and the parties' commitment to work together over a period of four months to resolve issues relating to the Company's proposed programs.

6. On February 5-6, 2008, the Commission held a hearing in this matter in which live testimony was taken and the Settlement was supported by the Company. At the conclusion of the hearing, the Commission announced that it would hold the record open to allow for further hearings or possible oral arguments. Following the hearing, on February 13, 2008, the Southern Environmental Law Center, Southern Alliance for Clean Energy, Coastal Conservation League, and Environmental Defense Fund (collectively, the "Environmental Intervenors") filed a response to the Settlement. The ORS and the Company separately replied to the Environmental Intervenors' Response to the Settlement on February 21, 2008.

7. On March 18, 2008, the Company sent a letter to the Commission requesting that the record be closed and a procedural schedule be set for resolving the case. On July 11, 2008, ORS, the Company and Piedmont filed an Explanatory Brief and Joint Motion for Approval of Amended Settlement and Adoption of Amended Settlement Agreement (the "Amended Piedmont Settlement"), which resolved all issues among Piedmont, Duke Energy Carolinas and ORS. On November 21, 2008, the Company filed its proposed program tariffs to be effective upon the Commission's approval of Rider EE (SC). Finally, on November 25, 2008, Duke

Energy Carolinas submitted a second request to the Commission to close the record and require parties to submit proposed orders and legal briefs by December 22, 2008.

II. ORDER NO. 2008-834

8. On December 23, 2008, the Commission issued Order No. 2008-834 denying the Company's request that the record in this proceeding be closed and requesting that legal briefs be submitted by the parties by January 15. On page 4 of its Order, the Commission stated,

> As to the Company's request to close the record in this matter, the Commission does not want unnecessary delay in issuing its ruling in this matter, and understandably Duke Energy Carolinas would like a ruling on its application. However, the Commission feels certain that the Company and the parties understand how careful the Commission must be when considering a proposal that would involve added costs for customers, especially in the current economic climate; therefore, Duke Energy Carolinas' request to close the record is denied in order to allow the Commission to review the briefs and determine if any other proceedings are necessary.

III. REQUEST FOR CLARIFICATION AND RECONSIDERATION

9. Duke Energy Carolinas respectfully petitions the Commission to clarify and reconsider its decision in Order No. 2008-834. The Company requests the Commission clarify its reference in the Order to the need for careful consideration of proposals "that would involve added costs for customers," by acknowledging that under the Settlement, the Company will offset the rate increase associated with Rider EE (SC) with over-collections from its Demand Side Management deferred balance account (the "DSM Balance") until the balance is zero or the Company's next base rate case, whichever occurs first. Pursuant to the Settlement, the DSM Balance will be used to implement a rate decrement for Residential, General Service, and Lighting customers equal to the increment resulting from the difference between the current DSM collection in rates and the demand response and conservation factors comprising the annual Rider EE (SC) rate. For industrial customers, the DSM Balance will be used to

implement a rate decrement equal to the demand response and conservation factors comprising the annual Rider EE (SC) rate increment.

10. Duke Energy Carolinas further respectfully requests that the Commission issue a new order superseding Order No. 2008-834 closing the record and setting a date for proposed orders.

IV. RECONSIDERATION OF ORDER NO. 2008-834 IS IN THE PUBLIC INTEREST

11. Duke Energy Carolinas believes that the public interest is served by closing the record for two primary reasons:

a. Customers Need Energy Efficiency Programs Now.

As the procedural summary of this case illustrates, it has been fifteen months since Duke Energy Carolinas first filed its Application in this matter and more than ten months since the hearing on the merits of the Application was held. In this time, Duke Energy Carolinas has not been able to provide its much-needed proposed energy efficiency programs to the Company's South Carolina customers. In these troubled economic times, customers need options to save energy and reduce their bills more than ever. Pursuant to the Settlement, the Company's customers will receive a rate offset for Rider EE (SC) until the DSM Balance is reduced to zero. Further, for the Company's industrial customers, approval of the Settlement will actually result in a rate decrease. At a time when many industrial customers are struggling with reduced consumer demand and financial credit issues, the immediate rate decrease and the opportunity to reduce their energy bills further through participation in the Company's energy efficiency programs are greatly needed.

b. The Company Needs Regulatory Certainty.

Duke Energy Carolinas has included the energy and capacity savings impacts associated with its Energy Efficiency Plan in its 2008 Integrated Resource Plan (the "IRP"). As a result, the Company is counting on energy efficiency as a low-cost resource to meet its customers' load requirements. Further delay in this proceeding may jeopardize the Company's ability to fully utilize conservation and demand response programs as an available resource in its resource portfolio. In addition, implementation of the Company's energy efficiency programs prior to approval of the associated rate recovery mechanism, Rider EE (SC), would have negative consequences for both consumers and the Company. First, it would delay the rate decrease that would be provided to industrial customers under the Settlement. Second, continued regulatory uncertainty about the Company's financial recovery mechanism will be viewed negatively by both consumers and the investor community. If program costs are allowed to accumulate, this creates a regulatory asset that can grow quite large and result in a large rate increase when a recovery mechanism is ultimately approved. Contemporaneous rate recovery provides greater rate stability and more appropriately aligns the utility's financial recovery with the benefits of the energy efficiency programs provided to consumers.

12. Accordingly, Duke Energy Carolinas respectfully petitions the Commission to reconsider its decision in Order No. 2008-834 and grant the Company's request to close the record and set a date for the submission of proposed orders in furtherance of the public interest.

V. PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that pursuant to S.C. Code Ann. Section 58-27-2150, as amended, the Commission enter an order (1) clarifying that the Settlement mitigates the rate impact to customers associated with Rider EE (SC), and (2) superseding Order No. 2008-834 by closing the record and setting a date for the submission of proposed orders, and (3) granting such other and further relief as the Commission may deem just and proper.

Respectfully submitted, this 8th day of January, 2009.

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In re: Application of Duke Energy Carolinas, LLC For Approval of Energy Efficiency Plan Including an Energy Efficiency Rider and Portfolio of Energy Efficiency Programs	))))))	**CERTIFICATE OF SERVICE**

This is to certify that I have placed a copy of the foregoing Petition for Clarification and Reconsideration in the United States mail, postage prepaid, to the persons listed below on this 9th day of January, 2009.

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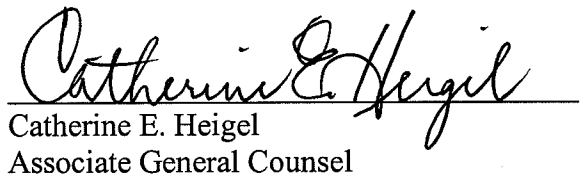
This the 9th day of January, 2009.



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