BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2017-32-E - ORDER NO. 2017-774

DECEMBER 21, 2017

IN RE:	3109 Hwy. 25 S., L.L.C. d/b/a 25 Drive-In and Tommy McCutcheon, Complainant/Petitioner v. Duke Energy Carolinas, LLC, Defendant/Respondent	))))	ORDER GRANTING RELIEF

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Complaint of Tommy McCutcheon ("McCutcheon" or "Complainant"), owner of 3109 Hwy. 25 S., L.L.C. d/b/a 25 Drive-In, against Duke Energy Carolinas, LLC ("Duke" or "DEC"), asserting that DEC wrongfully transferred McCutcheon off the Greenwood Rate.

A hearing was held in this matter on April 5, 2017, and April 19, 2017. Complainant was represented by Alexander G. Shissias and John J. Fantry, Jr., of The Shissias Law Firm, L.L.C. DEC was represented by Rebecca J. Dulin, Esquire, Senior Counsel for DEC, and Frank R. Ellerbe, III of Sowell, Gray, Robinson, Stepp & Laffitte, LLC. The Office of Regulatory Staff ("ORS") was represented by Jeffery M. Nelson, Esquire. In support of the Complaint, the Complainant presented testimony from Tommy McCutcheon, Carolyn McCutcheon, and James R. Calhoun and Exhibits that were marked Hearing Exhibits 1 through 4. DEC presented testimony from Douglas T. Fowler, Jesse Gonzalez, Theo Lane, and Joel Lunsford and Hearing Exhibits 5 through 9. The ORS presented testimony from April Sharpe.

On January 27 of 2017, the Commission received a Complaint from Mr. Tommy McCutcheon regarding the revocation of his access to the Greenwood Rate by Duke Energy Carolinas, LLC. More specifically, McCutcheon's business entity, a drive-in movie theater in Greenwood, known as 3109 Hwy. 25 S., L.L.C. d/b/a 25 Drive-In, was removed by Duke Energy from the Greenwood Rate in June of 2015. The current action arises out of a series of events taking place at the theater and/or related to its electric service between May 30, 2015, and June 18, 2015.

The theater was built in the 1940's and purchased by McCutcheon in 2008, at which time it had not been in operation in 25 years. After the purchase and during subsequent operation, McCutcheon added, among other things, modern cooking equipment and new projection screens - one in 2008 and one in 2016 - in addition to the single original screen.

The theater was, until June of 2015, subject to the Greenwood Rate. The Greenwood Rate is a product of Act No. 1293 of 1966. The Act approved a negotiated contract for the purchase of the Greenwood County Electric Power Commission's facilities by Duke Power Company – the predecessor to Duke Energy Carolinas, LLC. One of the provisions of the Act was that existing electrical connections at the time of the sale were to be charged the lower of the then-current rate being charged by Greenwood, or the Duke rate. At the time, it was anticipated that electric prices would be going down, and Greenwood customers would eventually be migrated to the Duke rate. This expectation proved to be dramatically incorrect. As a result, there are a number of customers – about 2,540 – that continue to be on the Greenwood Rate. Because it is now substantially lower

than the regular Duke Rate, the Complainant has an interest in retaining access to the Greenwood Rate.

The Complainant was removed from the Greenwood rate in June of 2015 due to certain events. It is uncontested that, on Saturday, May 30, 2015, the theater experienced a power outage during which a very bright spark and burned cable were observed. The cable, in this case, was the service wire that connects the theater facility to the pole-mounted transformer. A Duke Energy crew was able to repair the damage and enabled the theater to continue operations that night. It is also uncontested that two weeks later, on Saturday, June 13, 2015, there was a second power outage. During this second outage, it was observed that the coating had melted off the service wire, and it was smoking. Once again, a Duke Energy crew repaired the line, enabling the theater to continue showing films for the rest of the night.

Following the second outage, the Duke Construction and Maintenance Supervisor for the area, Tommy Fowler, visited the theater and inspected the facilities. He determined that the existing facilities were insufficient to handle the load demand of the theater and that the electrical facilities serving the theater needed to be upgraded. The record shows that the fuse on the primary side of the pole-mounted transformer melted. This is indicative of excess current flow, which would result in a thermal overload. In this case, we have uncontested testimony that the service line providing power to the theater was a single 2/0-3 aluminum triplex wire, which has a carrying capacity of 185 amperes. As the melted fuse and wire were indicators of thermal overload, Duke Energy determined a replacement of the facilities serving the theater was necessary. The Company replaced the single 2/0

aluminum triplex wire with two 4/0 triplex wires, with a load capacity far above the originally installed service wires. At this time, Duke also replaced the 25 KVA pole-mounted transformer with a 50 KVA transformer and replaced the current transformers and metering equipment at the facility. Testimony was presented that, using data gathered following the repairs, improvements, and reconnection of the facility, demand of the theater was calculated to be 225 amperes, or about 122% of the rating of the line[1]. Pursuant to these modifications and its existing policy, Duke Energy removed the Complainant from the Greenwood Rate.

On June 13, 2015, however, Duke Energy's installed equipment did not meter the load being carried over the service line, but merely the amount of energy that had been used in kilowatt-hours, which is not necessarily indicative of peak load. The calculation of 225 amps drawn by the theater resulted from the readings taken from the new metering equipment installed as upgrades to the existing facilities. The load information, though, was not available at the time of the outages. It would seem that, particularly in the case of a sophisticated commercial establishment, measures would be taken by the operator – here, the Complainant – to ensure compliance within the limits of the Greenwood Rate. In fact, we were presented with testimony that supports that supposition: equipment was chosen for upgrades to the theater which were energy efficient and would operate on single-phase power.[2]

[1] Lunsford Direct Tr. at p. 238
[2] T. McCutcheon Direct Tr. at p. 18

Clearly, it is a critical matter for the utilities to ensure safe, reliable delivery of power to its customers. In this case, a smoked-damaged building with burning cables had been reported. That problem required resolution in a timely fashion, and it was resolved. However, it remains important to provide information to customers and arrive at a safe and economical solution to the problem. There must be a balancing of interests. It would not be appropriate to punish Duke for taking action to safely provide power in what was an unsafe situation. However, it would not be appropriate to have the Complainant -- operating for a number of years in apparent compliance with the Greenwood Rate, and taking measures to ensure compliance with the Rate -- to be removed from the rate without specific proof that they had become non-compliant with the rate. Nevertheless, now that the facilities serving the theater have been greatly upgraded, it would not seem reasonable to give the theater access at the Greenwood Rate to capacity significantly greater than that which it would have access to under the original facilities serving the premises.

The balancing of the interests of the parties results in this Commission allowing the Complainant to have an opportunity to return to the Greenwood Rate, with some limitations.

IT IS THEREFORE ORDERED THAT:

1. There is to be no allowance for recovery for the difference in the normal Duke Rate and the Greenwood Rate from the time the theater was removed until the time that the Complainant is placed back on the Greenwood Rate.

2. The Complainant shall not be granted fees or costs as requested.

3. The Complainant shall be allowed to continue on the Greenwood Rate only so long as the theater stays within the original limitations of the equipment serving the premises. Thus, if the theater experiences a demand as indicated by metered peak usage corresponding to amperage greater than the original capacity of the service line - 185 Amperes – it shall be proper to remove the Complainant from the Greenwood Rate again, and be placed permanently on the applicable Duke rate. The demand shall be measured in a manner consistent with the demand component measurement of Duke Energy Carolinas, LLC's commercial customers that are subscribed to a demand rate schedule. Accordingly, demand shall be measured using rolling 30-minute intervals, with the demand being calculated as the highest 30-minute average demand during each billing period.

4. Duke Energy Carolinas, LLC shall provide electric metering information sufficient for the Complainant to determine peak electric usage.

5. All relief herein granted shall take effect in the first billing cycle after January 1, 2018, unless the Complainant communicates to the Commission and the Company that he would like more time to come into compliance with the conditions of our ruling before re-entering the Greenwood Rate.

6. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

Swain E. Whitfield, Chairman

ATTEST:

Comer H. Randall, Vice Chairman