

Blue Ridge Environmental Defense League

www.BREDL.org PO Box 88 Glendale Springs, North Carolina 28629 BREDL@skybest.com (336) 982-2691

October 24, 2011

North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

RE: Docket No. E-7, Sub 989

On behalf of the Blue Ridge Environmental Defense League, I submit the following comments opposing Duke Energy Carolinas request to the North Carolina Utilities Commission to increase electric rates. Also, we plan to attend public hearings to testify in person.

Opportunism is a Bad Word

In his annual report, Duke Energy's Chairman and CEO, James E. Rogers, wrote: "We are creating a future that strengthens our ability to be more opportunistic." ¹ Opportunism is the adapting one's actions and speech to circumstances in order to further one's immediate interests, without regard for basic principles or eventual consequences. ² Was this a slip? Or did Jim Rogers accidentally tell the truth? On the following pages we will detail the consequences of Duke Energy's actions in order to illuminate the company's basic principles.

According to the company, Duke Energy's request would be spent as follows:

Approximately three-fourths of the rate increase would allow Duke Energy Carolinas to begin recovering \$4.8 billion in investments made since 2009 to modernize our electric system and comply with state and federal emissions regulations. The remaining fourth covers the impacts of lower than expected electric sales due to the recession, additional financing and other general costs. ³

Would the rate increase recover investments, or be used on new ventures? How could we know? We do know that Duke Energy has submitted a license application to the Nuclear Regulatory Commission to build two nuclear power reactors at its William States Lee III plant site in Gaffney, S.C., 50 miles west of Charlotte. And Duke Energy would merge with Progress Energy which has plans to expand the Shearon Harris nuclear plant in Wake County. These are very

¹ "Chairman's Letter to Stakeholders," *Duke Energy Corporation 2010 Annual Report and Form 10-K*, page 1

² Webster's New Universal Unabridged Dictionary

³ "Rate Increase Facts, Straight talk about Duke Energy Carolinas' rate increase request" Duke Energy website accessed 24 October 2011, <http://www.duke-energy.com/north-carolina/nc-rate-change-req-facts.asp>

expensive projects with long lead times, uncertain outcomes and considerable financial risks, creating reluctant investors.

Nuclear construction cost estimates are notoriously inaccurate. An early Department of Energy study of nuclear power plant construction found cost overruns averaged 300%.⁴ More recently, the DOE's assessment was, "new [nuclear] plants are not expected to be economical."⁵ And Standard & Poor's assessment of nuclear power is, "given that construction would entail using new designs and technology, cost overruns are highly probable."⁶

Duke Energy's Gaffney site, originally slated for three nuclear reactors in the 1980s, is now being considered for two Westinghouse AP1000 reactors. This is a new reactor design, scaled up from an earlier model; both are experimental and neither has ever been built. Recently we learned that the reactor's steam turbine building which was originally designed for the smaller plant was carried forward without proper modification. The problem is that the AP1000's larger turbine will not fit inside the building designed for a smaller AP600 turbine. At this time, the budgeting and nuclear licensing implications are unknown.

The AP1000 suffers from other problems. In a letter to the Nuclear Regulatory Commission, Congressman Ed Markey reported on the technical and engineering problems caused by the Westinghouse reactor shield building's modular construction. The shield building is what protects the outside world from nuclear exposure in the event of an accident, and which protects the reactor from outside forces. A non-concurrence filed by a senior NRC engineer pointed to critical safety problems in the AP1000. Markey's letter said, "In fact, Dr. Ma warned that if the AP1000 shield was struck, it could shatter like a glass cup." The reason for Dr. Ma's statement is that the AP1000 shield building failed, or failed to complete, physical tests designed to evaluate whether the structure has adequate toughness for these sorts of impacts.⁷ The issues raised in the letter remain unresolved.

South Carolina is in an active earthquake zone. The National Earthquake Information Center reports over 20 earthquakes of intensity V or greater (5 or more on a scale of 10 in the Modified Mercalli scale) have been centered in the state. The famous Charleston earthquake of 1886 was an intensity X which damaged building 100 miles away. Moreover, the new AP-1000 reactor design and personnel training regimen has not been tested in the real world. In effect, Duke is asking to conduct an experiment in Cherokee County, South Carolina. Duke spent \$600 million

⁴ "An Analysis of Nuclear Power Plant Construction Costs," Energy Information Administration of the US Department of Energy, 1986.

⁵ Annual Energy Outlook 2005, by EIA DOE cited in "Why a Future for the Nuclear Industry is Risky," by Synapse Energy Economics, Bradford and Schlissel, January 2007

⁶ "Credit Aspects of North American and European Nuclear Power," Standard & Poor's, January 9, 2006

⁷ Letter from Rep. Edward J. Markey to NRC Chairman Gregory Jaczko, March 7, 2011

before it abandoned the original project. How much will it spend this time before economic reality again intervenes?

Carolina Power & Light built the existing lone nuclear reactor at Shearon Harris at a cost of \$3.9 billion, dropping its original plan for four reactors. Had CP&L continued in 1978, the projected cost of \$1.1 billion for all four units would have ballooned to \$15.6 billion, a 14-fold cost overrun.

Expressing the nuclear industry's desire for regulations which would transfer the cost burden of nuclear power plant construction from private investors to the public, Progress Energy's CEO Bill Johnson said, "We can't raise the money on Wall Street unless we get that kind of regulatory structure." He continued, "For our business, access to capital is the key thing. Any advantage you get to raise capital on reasonable terms, that's good for your customers."⁸ Here then is opportunism knocking on the ratepayers' door.

A Duke Rate Increase Would Hurt the Economy

According to Duke Energy, a typical residential customer who uses 1,000 kilowatt-hours per month of electricity pays approximately \$97.05. If the rate increase is approved, that bill will increase by approximately \$19. Electric rates would increase by the following amounts:⁹

Customer Class	Average rate increase percentage
Residential	17 percent
Commercial	14 percent
Industrial	14 percent
Lighting	8 percent

If approved by the N.C. Utilities Commission, the request would be the biggest rate increase in 20 years; towns and cities across the state are crying foul. Recently, the Town of Franklin's Board of Aldermen voted to oppose the rate increase. The board cited local unemployment at 9.9%, high numbers of residents on low or fixed incomes, Duke Energy's lack of a clear reason for the increase and excessive compensation for top executives and directors of the company.¹⁰ The City of Lowell, citing "extraordinarily difficult economic times" also voted against the increase. The Town of Spindale voted a resolution against the increase stating that it would add

⁸ "Nuclear goals stoked by Duke-Progress merger" *News & Observer*, John Murawski and Bruce Henderson, January 16, 2011, <http://www.newsobserver.com/2011/01/16/923250/merger-stokes-nuclear-goals.html>

⁹ Duke Energy website at <http://www.duke-energy.com/news/releases/2011070101.asp> accessed 10/24/2011

¹⁰ Town of Franklin's Resolution Opposing Duke Energy's Rate Increase, July 5, 2011, filed 8/11/11

\$31,000 to the budget and a tax increase of 1.5 cents on 60-cent property tax rate. All these municipalities have filed letters stating their opposition in the current docket.

Duke Energy says that the cost of electricity, averaged and adjusted for inflation, has declined over the past 50 years. But ratepayers in North Carolina do not pay their bills in real 2005 dollars, they pay them out of pocket in today's dollars. Nor are wages adjusted for inflation. The average weekly wage in North Carolina is \$840, or 13% below the national average. Of the 100 counties in North Carolina, 23 have average weekly wages under \$600, 51 have wages from \$600 to \$699, 17 have wages from \$700 to \$799, and only 9 have wages above \$800.¹¹ On the other hand, Duke Chairman/CEO James E. Rogers was paid \$8,815,181 in 2010, equivalent to \$169,523 per week.¹² What could possibly justify paying him over 200 times the wage which the average man or woman makes in North Carolina?

Occupy Duke Energy

Last year, bad weather for North Carolina was good news for Duke Energy. At year's end the company's adjusted diluted earnings per share was \$1.43, well above the expected \$1.30, and predicted a long-term adjusted diluted earnings growth rate of 4 to 6 percent. Also in 2010, Duke Energy increased its quarterly cash dividend to shareholders by 2%, to \$0.245 per share, and expects its long term dividend payout ratio—dividends as a percentage of earnings—to be 65 to 70 percent.¹³ For comparison, the average S&P 500 dividend payout ratio is just over 30%. Mature industries with little room for growth, such as utilities, typically give higher dividends.¹⁴ Further, Duke's chairman states:

Our strong investment-grade credit ratings have stable outlooks with both S&P and Moody's. We had total available liquidity of approximately \$3.4 billion at year-end. Our shareholders enjoyed a total return (including dividends and the change in stock price) of 9.5 percent in 2010, outperforming the Philadelphia Utility Index, which returned 5.7 percent. Longer term, too, Duke Energy has outperformed the utility index, with cumulative three-year returns of 4.7 percent and five-year returns of 44.2 percent, compared to -15.4 percent and 20.9 percent, respectively, for the utility index.¹⁵

With such a rosy assessment, why would Duke Energy need a rate increase?

¹¹ "County Employment and Wages in North Carolina—Fourth Quarter 2010," U.S. Dept. of Labor Bureau of Labor Statistics, August 11, 2011, <http://www.bls.gov/ro4/qcewnc.pdf>

¹² Duke Energy CEO James E. Rogers Profile, *Forbes*, at <http://people.forbes.com/profile/james-e-rogers/32366>

¹³ "Chairman's Letter to Stakeholders," *Duke Energy Corporation 2010 Annual Report and Form 10-K*, page 3

¹⁴ General information sources: Investopedia.com and stocks.about.com

¹⁵ *Op.cit.*

Moreover, stock dividends do not put money in the pockets of the average family. Increased dividends to shareholders are of no help to the majority of people who are struggling to get by in North Carolina and, indeed, the nation. Among the less wealthy half of the U.S. population, only 6.5% own stock. Even among the richest 50-90% less than one-third own stock. Of the richest 10% a majority owns stock, but only in the top 1% of the population does stock ownership reach 70%.¹⁶ Therefore, the Duke Energy rate increase would be tantamount to a massive transfer of wealth from the poorest 99% to the richest 1%.

Merger Creates Additional Problems

The proposed merger of Duke Energy and Progress Energy would create the largest electric utility in the nation. According to Democracy North Carolina, the merger would also produce the most politically influential corporation in the state. Executive Director Bob Hall said, "Their combined spending on NC and federal lobbying and political donations hit \$19 million in the 2009-2010 cycle. Total political spending over the past 8 years is \$52 million — just for NC and national politics, not counting spending in other states like FL and SC where they operate." Hall noted that 115 of the 170 state legislators elected in 2010 got a donation from one or both of the utilities; the top legislative leaders from both parties received at least \$13,000 each.¹⁷

Although the merger is not strictly within the purview of this rate request docket, the NC Utilities Commission must not let itself be caught unawares of the larger implications of a merger request and a rate hike request occurring in close proximity. The people of North Carolina would bear the brunt of this 1000-pound gorilla, a beast with the financial clout to have the North Carolina Legislature wreak havoc with electric rates, environmental regulations, financial oversight and whatever else the opportunists want without regard for basic principles or eventual consequences.

Respectfully submitted,

A handwritten signature in black ink that reads "Louis A. Zeller". The signature is written in a cursive style and is followed by a horizontal line.

Louis A. Zeller

¹⁶ Arthur B. Kinnickell, *Currents and Undercurrents: Changes in the Distribution of Wealth, 1989–2004*, January 30, 2006, Mr. Kinnickell is Senior Economist and Project Manager at the US Federal Reserve Board. His paper is available at <http://www.federalreserve.gov/pubs/FEDS/2006/200613/200613pap.pdf>, accessed 10/24/2011

¹⁷ "Merged Utilities Would Create State's Top Corporate PAC, 115 of 170 NC Legislators Have Duke/Progress Donations," Democracy North Carolina press release, October 19, 2011, <http://www.democracy-nc.org>