

Statement of Position and Comment Letter

Ms. M. Lynn Jarvis
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

RE: Docket No. E-7, Sub 1213
Duke Energy Carolinas, LLC's Petition for Approval of Prepaid Advantage Program

Dear Ms. Jarvis:

The North Carolina Justice Center (NCJC), and co-authors listed below, submit this comment letter regarding Docket No. E-7, Sub 1213, *Duke Energy Carolinas, LLC's Petition for Approval of Prepaid Advantage Program*, hereinafter Prepaid Program. After carefully reviewing the petition, we believe the Prepaid Program should not be approved.

We recognize that the Prepaid Program proposal has one design characteristic that would make it superior to similar programs in other jurisdictions; namely, it is our understanding, that Duke will not charge a fee for processing utility payments, nevertheless, due to other program aspects we do not believe the program should be approved.

Objections to the Prepaid Program Design

At its heart, to operate as proposed in the petition, the Prepaid Program institutes two significant changes over current payment methods;

- 1) rapid remote disconnection from electric service for non-payment; and,
- 2) coupled with a waiver of all rules and protections for disconnections provided by Rule R12-11 (a) (b) (f through n) as well as additional Rules R8-8, R8-20(b), (c), and (d), R8-44(4)(d), R12-8, R12-9(b)(c) and (d)

It is essential, especially for low-income customers that face frequent financial hardship, to maintain existing procedures and protections when dealing with disconnections. It is a significant and harmful policy change for any payment program to be allowed to operate without these procedures and protections.

Not only will elimination of current procedures reduce the time that low-income rate payers have to maintain electric service while dealing with a financial crisis, but if the customer is also

behind on payment for phone, email and/or texting services that are being used as an alternative to current notification requirements, the customer will not receive notice of pending shut-offs.

Data Accessibility, Alerts and other Benefits Should Be Made Available to All Customers

As regards the other aspects of the Prepaid Program, we believe that Duke should offer these program design elements to all customers regardless of the type of payment service they utilize. Most of the purported beneficial aspects of the Prepaid Program could be made available to all residential customers where technically possible, for example:

- See usage and electricity costs on a daily basis from anywhere via the web — even with their Smartphone;
- Set notification preferences, receive notifications and view the account information 24 hours a day, 7 days a week;
- Potentially avoid bill surprises at the end of an unusual weather month, or even be informed during the month of unusual weather or other circumstances that may be driving electric usage higher than they anticipate, such as an equipment malfunction; and
- Have service reconnected faster through remote capability if service is disconnected.¹

In addition, other characteristics of the Prepaid Program can and should be offered to all residential customers regardless of the manner in which they pay for service. For example, every customer should if desired have:

- 1) Phone, text and/or email alerts when predesignated energy consumption levels and/or the cost of energy used has reached a certain level
- 2) Phone, text and/or email alerts with forecasts of anticipated energy consumption and/or the cost of associated energy consumed

The advantages of access to data alone should not be a basis for the adoption of a prepaid program as these elements where the meters and technology exist can and should be offered independent of payment options.

It's also important to point out that customers can prepay their accounts now if they so choose. There is nothing prohibiting customers from prepaying their account under current payment systems.

¹ Duke Energy Carolinas, LLC's Petition for Approval of Prepaid Advantage Program, Docket No. E-7, Sub 1213 at page 4.

Where remote disconnection technology exists, disconnection fees should be eliminated on all payment options since the true cost of disconnections is lower with remote disconnection technology.

Finally, there is the question of whether customers should earn interest on the funds held by the utility in a prepay program or whether customers should receive a lower rate when participating in a prepaid program. In any case, the utility should not be able to financially benefit from the proceeds related to holding customer funds, and instead, some tangible benefit should be given to participating customers if a prepaid program is approved.

Equal Payment Plans are Optimal Design for Low-Income Rate Payers

Many housing and consumer credit counselors in North Carolina recommend that their clients opt for Equal Payment Plans.² Equal Payment Plans, where anticipated energy costs are averaged over the year, provide customers with the significant benefit of a regular and predictable monthly utility payment. The optimal payment plan for low-income rate payers would be to combine Equal Payment Plans with access to real time energy consumption and cost data, as well as energy usage and cost alerts. Prepayment plans, however, if approved as proposed, will eliminate the current procedures and protections that help protect customers when dealing with disconnections and consumers will not have the predictive benefit of Equal Payment Plans.

Other Entities and Parties Recommending Consumer Protections in Prepay Programs or Objecting to Prepay Programs Generally

We are not alone in our concerns regarding the potential negative impacts and design of Prepaid Programs.

The National Association of State Utility Consumer Advocates, for example, has adopted a resolution, *Urging States to Require Consumer Protections as A Condition for Approval of Prepaid Residential Gas and Electric Service*, which proposes 12 consumer protections (see attached as exhibit 1), most of which are not part of this proposed Prepaid Program.³

The Office of Consumer Advocate, in the Commonwealth of Pennsylvania opposed a recent prepay proposal.⁴

² Louise Mack, President/CEO, Prosperity Unlimited Inc.

³ National Association of State Utility Consumer Advocates, Resolution 2011-3.

⁴ PECO Energy Company Pilot Plan for an Advance Payment Program and Petition for Temporary Waiver of Portions of the Commission's Regulations with Respect to that Plan, Commonwealth of Pennsylvania, Docket No. P-2016-2573023.

A recent Prepaid program proposal in Missouri, *Application for Approval of Flex Pay Program Pilot and Request for Associated Variances*, was withdrawn by the applicant.⁵

A prepaid program was rejected by the California Public Utilities Commission in part for the proposed program's inadequate disconnection notification procedures:

“We also take note of Consumer Groups’ logical inference that, depending on the communications means chosen (e.g., text message, automated phone message, or e-mail), customers on the proposed Prepay Program might receive no advance notice of termination at all since customers who are behind on their electric bills may also be behind on their internet or phone bills. We find that such an outcome is unacceptable.”⁶

Concerns Regarding Existing Prepayment Programs Impacts on Low-Income Customers

Relatively few studies examining prepayment programs exist, however, the Electric Power Research Institute (EPRI) has studied aspects of at least one prepaid program, M-Power, Arizona’s Salt River Project prepayment program.⁷ The study showed that between 2007 and 2010 the average median income of program participants was \$27,600 in 2007 and dropped to \$17,900 in 2010.⁸ The average income was \$33,200 in 2007 and dropped to \$24,400 in 2010.⁹ The study stated that “M-Power customers compared to all other residential customers were more likely to be relatively young, have families, be relatively low-income, be low electricity consumers, live in apartments, have been SRP customers for less than five years, and have unsatisfactory or “new” credit ratings.”¹⁰

As stated, we are especially concerned with the potential negative impacts this proposed Prepaid Program would have on low-income rate payers that would not have existing protections against disconnections. The EPRI study demonstrates the distinct possibility that this proposed program, intentionally or not, could end up being used predominately by vulnerable low-income customers.

⁵ Motion for Expedited Treatment and Request to Withdraw Application for Approval of Flex Pay Program Pilot and Request for Associated Variances, Before the Public Service Commission of the State of Missouri, File No. EO-2015-0055, April 24th, 2018.

⁶ California Public utilities Commission, *Decision Addressing The Application And The Motions To Adopt Partial Settlements*, Application 11-10-002 (Jan. 23, 2014), at page 54, available at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M086/K541/86541422.PDF>

⁷ *Paying Upfront: A Review of Salt River Project’s M-Power Prepaid Program*, Electric Power Research Institute, October 2010 at v Abstract.

⁸ Id at page 4-6 Table 4-3.

⁹ Id at page 4-6 Table 4-3.

¹⁰ Id at page 4-6.

Conclusion and Recommendations

We appreciate the opportunity to comment with regards to the proposed Prepaid Program and recommend that the Commission not approve the program or in the alternative, if a prepaid program is approved, that the commission maintain protections for program participants provided by existing Rules R12-11 (a) (b) (f through n), and other essential Rules and require Duke to adopt additional consumer protections including each of those contained in The National Association of State Utility Consumer Advocates, resolution, *Urging States To Require Consumer Protections As A Condition For Approval Of Prepaid Residential Gas And Electric Service*.

Sincerely;

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EXHIBIT ONE

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION 2011-3

URGING STATES TO REQUIRE CONSUMER PROTECTIONS AS A CONDITION FOR APPROVAL OF PREPAID RESIDENTIAL GAS AND ELECTRIC SERVICE

Whereas, the National Association of State Utility Consumer Advocates (“NASUCA”) has a long-standing interest in issues and policies that affect the access of residential consumers to essential gas and electric services; and

Whereas, some gas and electric utilities have sought to replace traditional credit-based service to some residential customers with prepaid service delivered through prepayment meters or digital meters with remote connection and disconnection capabilities; and

Whereas, prepaid gas and electric service requires customers to pay in advance for their service, with prepaid account balances decreasing as service is delivered; and

Whereas, automated and remote disconnection of service can and does occur when prepaid account balances are depleted; and

Whereas, experience in the United States and United Kingdom demonstrates that prepaid metering and prepaid billing (1) is targeted toward and concentrated among customers with low or moderate incomes that are facing service disconnections for nonpayment, (2) results in more frequent service disconnections or interruptions, and (3) is delivered at a higher rate than traditional credit-based service;¹ and

Whereas, most of the current state consumer protection requirements regarding the disconnection of service were not developed in anticipation of prepaid services, and such protections may be bypassed or eliminated when services are provided on prepaid basis; and

Whereas, proponents of prepaid service have sought legislation in at least one state providing that automated, remote disconnection of service upon depletion of prepaid account balances be considered a voluntary termination of service by the customer and not a disconnection by the utility subject to consumer protection laws and regulations regarding the disconnection of service;² and

Whereas, the proliferation of digital meters with remote connection and disconnection capabilities makes implementation of prepaid service more feasible economically for utilities; and

Whereas, prepaid utility service reduces or eliminates utility incentives to negotiate effective, reasonable payment agreements and to implement effective bill payment assistance and arrearage management programs; and

Whereas, increased service disconnections of vital gas and electric service that come with implementation of prepaid service and prepaid metering threaten the health and safety of customers, particularly those who are most vulnerable to the effects of a loss of service, including the elderly, disabled and low-income families, as detailed and documented in a companion resolution encouraging

state legislatures and state public utility commissions to institute programs to reduce the incidence of disconnection of residential gas and electric service based on nonpayment; and

Whereas, utilities offering prepaid service benefit financially from reduced cash working capital requirements, uncollectibles amounts and credit and collections risk; and

Whereas, utilities in at least one state require customers to pay deposits for a customer prepayment device or system;³ and

Whereas, providers of residential electric service in at least one state impose additional fees on customers choosing to make payments more frequently than once every thirty days and under other circumstances;⁴ and

Whereas, in at least one instance, a company has reportedly gone out of business after receiving prepayment funds from customers, resulting in large unpaid fines and more distressingly in an undetermined number of customers having lost their money;⁵

Now, therefore, be it resolved, that NASUCA continues its long tradition of support for the universal provision of essential residential gas and electric service for all customers;

Be it further resolved, that proposals by utility companies that seek to replace traditional credit-based service to some residential customers with prepaid service delivered through prepayment meters or digital meters with remote connection and disconnection capabilities should not be approved unless they guarantee that current consumer protections are not bypassed or eliminated and that adequate and comparable consumer protections are developed and in place. At a minimum, if prepaid services are offered, a utility should be required to satisfy each of the following conditions:

- (1) All regulatory consumer protections and programs regarding disconnection limitations or prohibitions, advance notice of disconnection, premise visits, availability of payment plans or deferred payment agreements, availability of bill payment assistance or arrearage forgiveness, and billing disputes are maintained or enhanced;
- (2) In the event that the billing credits of a customer receiving prepaid residential electric or natural gas service are exhausted, the customer shall be given a reasonable disconnection grace period, after which the customer shall revert to traditional, credit- based service, subject to all rules and customer protections applicable to such service;
- (3) Prepayment households include no one who is
 - (a) income-eligible to participate in the federal Low Income Home Energy Assistance Program (LIHEAP);
or
 - (b) protected under state law from disconnection for health or safety reasons;
- (4) Prepaid service is only marketed as a purely voluntary service and is not marketed to customers facing imminent disconnection for non-payment;

- (5) Utilities offering prepaid service also offer effective bill payment assistance and arrearage management programs for all customers, including customers with arrearages who choose prepayment service;
- (6) Rates for prepaid service are lower than rates for comparable credit-based service, reflecting the lower costs associated with reduced cash working capital requirements, uncollectibles amounts and shareholder risk affecting a utility's return on equity;
- (7) Utilities demonstrate the cost effectiveness of any proposed prepaid service offerings through a cost versus benefit analysis and reveal how costs will be allocated among various classes of customers;
- (8) Prepayment customers are not subjected to any security deposits or to additional fees of any kind, including but not limited to initiation fees or extra fees assessed at any time customers purchase credits;
- (9) Utilities ensure there are readily available means for prepayment customers to purchase service credits on a 24-hour a day, seven-day a week basis;
- (10) Prepayment customers can return to credit-based service at no higher cost than the cost at which new customers can obtain service;
- (11) Payments to prepaid accounts are promptly posted to a customer's account so as to prevent disconnection or other action adverse to the customer under circumstances in which the customer has in fact made payment; and
- (12) Adequate financial mechanisms are developed and in place within the state to guarantee that funds prepaid by customers are returned to the customers who prepaid them if and when a company becomes insolvent, goes out of business or is otherwise unable to provide the services for which the funds were prepaid;

Be it further resolved, that the implementation of prepaid service programs should be monitored to ensure that it does not in practice result in an increased rate of service disconnections for non-payment;

Be it further resolved, that utilities implementing prepaid service programs should track and report to the state regulatory commission separately for credit-based and prepayment customers each of the data points delineated in the companion resolution urging the states to gather uniform statistical data on billings, arrearages and disconnections of residential gas and electric service;

Be it further resolved, that NASUCA authorizes its Executive Committee to develop specific positions and take appropriate actions consistent with the terms of this resolution. The Executive Committee shall advise the membership of any proposed action prior to taking action if possible. In any event the Executive Committee shall notify the membership of any action pursuant to this resolution.

Submitted by Consumer Protection Committee

Approved June 28, 2011

San Antonio, Texas

Abstention: Tennessee

[1] "SRP's prepaid electricity plan found to have higher rates," The Arizona Republic, (July 11 2010), www.azcentral.com/private/cleanprint/?1299004402750; Electric Power Research Institute, "Paying

Upfront: A Review of Salt River Project's M-Power Prepaid Program, (October 2010); Talbot, "Prepayment meters: A scourge penalizing the poor" (June 2009), <http://www.energychoices.co.uk/prepayment-meters-a-scourge-penalising-the-poor.html>; Centre for Sustainable Energy and National Right to Fuel Campaign, "Counting the Hidden Disconnected," (1998).

[2] See 2011 Iowa Proposed Legislation, House Study Bill158, <http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=billinfo&Service=Billbook&menu=false&hbill=hsb158>.

[3] "Paying Upfront" A Review of Salt River Project's M-Power Prepaid Program," EPRI, Palo Alto, CA: (2010), <http://www.srpnet.com/environment/earthwise/pdfx/spp/EPRIMPower.pdf>.

[4] Biedrzycki, "New Fees On Residential Electric Bills Complicate Cost Comparisons For Consumers Shopping For A Better Deal And Penalize Those Who Save Electricity And Those Struggling To Pay Their Bill" (February 2011), <http://www.scribd.com/doc/49467979/Fees-Report-FINAL-2232011>.

[5] Texas Public Utility Commission, News Release, "PUC orders \$3.7 million in penalties: two former retail electric providers fined millions (Jan. 14, 2010), <http://www.puc.state.tx.us/nrelease/2010/011410.pdf>; "Consumer group: Electricity companies have big fees hidden in small print," KHOU11 Houston (April 30, 2011) , <http://www.khou.com/news/local/Consumer-group-Electricity-companies-have-big-fees-hidden-in-small-print-121014164.html>.

June 28th, 2011 | Categories: [Consumer Protection](#)