

**From:** Tracey Roizman <traceyroizmandc@gmail.com>  
**Sent:** Tuesday, September 4, 2018 11:08 AM  
**To:** Statements  
**Subject:** Statement of Position Letter re: Docket No. E-7 Sub 1115  
**Attachments:** NCUC Statement of Position Letter re Docket No. E-7 Sub 1115.docx

Please see attached Statement of Position letter.

Thank you.

Sincerely,  
Tracey Roizman, DC



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SEP 04 2018  
Clerk's Office  
N.C. Utilities Commission

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To: Statements [statements@ncuc.net](mailto:statements@ncuc.net)  
Subject: Docket No. E-7 Sub 1115

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Clerk's Office  
N.C. Utilities Commission

Dear Commissioners;

This is in opposition to Duke Energy Carolinas (DEC), LLC's *Rider MRM (NC) Manually Read Meter Rider* and *DEC North Carolina MRM Implementation Plan and Schedule*, filed July 24, 2018 and *Duke Energy Carolinas, LLC Proposed Medical Release Form and Physician Verification*, filed August 2, 2018. These filings pertain to the Commission's June 22, 2018 *Order Approving Manually Read Meter Rider with Modifications and Requesting Meter-Related Information*, Docket NO. E-7, Sub 1115. DEC's proposed requirements for the health-related smart meter opt-out, as put forth in their filings, do not comply with the Commission's Order and, therefore, must be rejected by the Commission for the reasons listed and discussed below.

#### 1. Proposed Requirement for Release of Customers' Medical Records to DEC

The Medical Release Form would require DEC customers seeking a health-related opt-out to agree to release their personal and confidential medical records to DEC. This proposed requirement is unacceptable for several reasons.

- i. The Commission's Order provides the following clear and succinct instructions, mentioning one required document, only:

While DEC's smart meter technology meets current FCC standards, the Commission believes it is inappropriate to require customers who maintain that they need to avoid exposure to RF emissions to the extent possible to protect their health to pay DEC's proposed smart meter opt-out charges. Therefore, the Commission will require DEC to amend its Rider MRM to remove the customer charges for those customers who provide the Company with a notarized statement from a medical physician licensed by the North Carolina Medical Board that the customer must avoid exposure to RF emissions to the extent possible to protect their health. Upon receipt of such statement, the Company shall waive both the one-time and the monthly fees under Rider MRM. The Commission further requires that such medical statements must be handled and processed by the Company in a secure and confidential manner to protect customer privacy.

- ii. The Commission's Order does not include a statement requiring individuals to relinquish their private medical history to DEC in order to qualify for a health-related opt-out.
- iii. The Commission's Order does not state that DEC must review or has the option to review a customer's medical history relative to the customer's signed and notarized Physician's Verification.

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- iv. As a utility company, DEC is not qualified to interpret medical data and, therefore, there is no reason for DEC to be in possession of customers' personal medical records.
- v. The Commission's Order does not include a directive to DEC to establish a medical review board for the purpose of evaluating customers' health regarding the appropriateness of a medical opt-out, a process which would undoubtedly be extremely complicated and costly, with associated expenses inevitably being passed onto DEC customers.
- vi. As a utility company, DEC is not regulated by The Health Insurance Portability and Accountability Act of 1996 (HIPAA). Were this request to be granted, individuals would become vulnerable to potential violation of the federally guaranteed privacy of their medical records by DEC without consequence to DEC.
- vii. In the face of mounting and conclusive evidence of the harmful health effects of radiofrequency-emitting AMI technology, DEC continues to claim that this technology is safe. The Commission addresses this issue in the following passage from the Order:

The Commission is aware that the FCC's exposure guidelines were last updated in 1996 and that the FCC has had an open docket on the question of biological impacts from exposure to those radio frequency waves that fall in the range of 300 Hz to 100 GHz since 2013. DEC's smart meters operate within that range, at 900 MHz; thus, the Company's decision to deploy smart meters was made in the context of this uncertain regulatory environment.

DEC's recent filings show that the company is not sympathetic toward those who suffer with electro-hypersensitivity nor, indeed, do they acknowledge this or any other condition or disease that has been associated with chronic exposure to RF radiation. Since DEC is a monopoly, customers who challenge this assertion find themselves in an adversarial position with their utility provider over issues not related to the service of electricity but to their health. With no other practical option for meeting their electricity needs, mandating that these customers release their private and confidential medical records under such circumstances further compromises these customers' privacy and security and, therefore, is unjust, unreasonable, and unacceptable.

- viii. DEC will be exposing itself to legal liability from customers seeking a health-related opt-out while exercising their federally protected rights to maintain the privacy of their medical records.

## 2. Proposed Requirement for Annual Re-verification of Medical Opt-Out Status

From DEC's *Rider MRM (NC) Manually Read Meter Rider*:

The Initial Set-up Fee and Monthly Rate shall be waived and not apply for customers providing a notarized statement from a medical physician fully licensed by the North Carolina Medical Board stating that the customer must avoid exposure to radio frequency emissions, to the extent possible, to protect their health. All such statements shall be retained in Company records on a secure and confidential basis. Customers enrolled in Rider MRM with fees waived will need to be re-verified annually. The Company will provide the customer with a medical waiver form to be verified. The Customer will be notified and must provide, within thirty (30) days, the form to remain on the fee waiver program. If the customer does not provide the form in the allotted time span, the Customer will be subject to the monthly Rider MRM fees. The customer will retain his or her opt-out meter and be responsible for monthly Rider MRM fees until the Company can verify a renewed fee waiver form.

- i. Annual re-verification for enrollment in Rider MRM is nowhere stated in the Commission's Order.
- ii. Annual re-verification is counter to the purpose of the health-related opt-out, which acknowledges that chronic exposure to RF radiation is known to cause and/or exacerbate a number of chronic health conditions ranging from electro-hypersensitivity to certain aggressive forms of cancer. Chronic conditions caused or exacerbated by exposure to RF radiation are managed long-term, first and foremost, by avoiding exposure to RF radiation. As such, annual re-verification is unnecessary.
- iii. Annual re-verification would force an individual to likely have to spend time in an environment where he or she will be exposed to RF radiation, with resultant health consequences.
- iv. Annual re-verification would impose an undue burden on the individual in terms of time spent scheduling and attending appointments and time taken from work or other obligations.
- v. Annual re-verification would impose an undue burden on the individual in terms of financial expenditures for medical appointments and lost revenue from loss of work hours. This would make the medical opt-out considerably more expensive than the non-medical opt-out, negating the intent of the Commission's Order and the Commission's stated position that it is inappropriate for those who cannot tolerate RF emissions for health reasons to have to pay initial and ongoing fees. Rather than alleviate a burden for those who opt out due to health concerns, as the NCUC Order aims to do, annual re-verification would increase that burden.
- vi. Annual re-verification would be financially unfeasible and out of reach for many with low or fixed incomes.

### 3. Conclusion

DEC's plan to mandate smart meters for every person who simply requires the use of electricity absent that person opening their federally protected health records and information to an electric company:

- i. violates federal law and HIPAA regulations.
- ii. invades the privacy of every DEC customer required to comply with same.
- iii. eviscerates its customers' absolute right to control their own health and physical environment.
- iv. will no doubt lead to numerous lawsuits.

### 4. Comments

Thank you for taking the important steps of acknowledging the validity of the premise that chronic exposure to RF emissions causes health effects and acting to protect the health and well-being of North Carolinians, as detailed in the June 22, 2018 *Order Approving Manually Read Meter Rider with Modifications and Requesting Meter-Related Information*. For this Order to be carried out as written it is imperative that the Commission reject the medical records release and annual re-verification requirements proposed in DEC's *Rider MRM (NC) Manually Read Meter Rider* and *DEC North Carolina MRM Implementation Plan and Schedule*, as, to do otherwise would nullify the Order.

Additionally, the scheduled start date of October 1, 2018 for DEC's implementation plan is rapidly approaching. It is urgent that the Commission act quickly to reject DEC's proposed plan to protect North Carolinians for the reasons stated above and by others on this important issue.

Thank you for your considerate attention to this matter.

Sincerely,

Tracey Roizman, DC

## Resources

- American Academy of Environmental Medicine  
[https://www.aemonline.org/emf\\_rf\\_position.php](https://www.aemonline.org/emf_rf_position.php)  
Position Statement: “Electromagnetic and Radiofrequency Fields Effect on Human Health”
- Physicians For Safe Technology  
<https://mdsafetech.org/>  
Mission Statement:  
We are a group of physicians and health professionals whose mission is to provide trusted leadership in promoting, healthy and safe environments through the safer use of technology at home, in schools, in the workplace, in healthcare settings and in communities. Our aim is to prevent acute and chronic diseases by encouraging understanding of the connection between the public, psychosocial and environmental health effects of using modern technology. This site will help to advance and translate multidisciplinary science regarding health and environmental impacts of wireless and digital technologies and provide recommendations for health professionals, policymakers and the public.
- Physicians For Safe Technology  
A Clinical Approach to Electrohypersensitivity  
<https://mdsafetech.org/problems/electro-sensitivity/a-clinical-approach-to-ehs/>
- Scientists For Wired Technology  
<http://scientists4wiredtech.com/>  
Mission Statement:  
Scientists For Wired Technology is a member organization that seeks to make effective, lasting changes to federal, state and local laws, regulations and practices that will protect people of all ages, and all living organisms from the hazards of continuous exposures to Radio-Frequency Microwave radiation (RF/MW radiation), which is a manmade toxic agent that causes systemic biological damages at levels many thousands of times lower than current U.S. RF/MW radiation exposure guidelines.
- National Toxicology Program Peer Review Report From Cell Phone Radiofrequency Radiation Study Peer Review March 26–28, 2018  
<https://ehtrust.org/national-toxicology-program-peer-review-report-from-cell-phone-radiofrequency-radiation-study-peer-review-march-26-28-2018/>  
The National Toxicology Program has released the Peer Review Report documenting the proceedings and recommendations of the peer reviewers at the National Toxicology Program Peer Review Meeting of the Draft NTP Technical Reports on Cell Phone

Radiofrequency Radiation held March 26–28, 2018 at the National Institute of Environmental Health Sciences Research Triangle Park, NC.

At the end of the March 26–28, 2018 Peer review meeting the expert reviewers voted to increase the level of confidence for seven tumor types.