STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. M-100, SUB 150

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION:

In the Matter of: )
Petition for Rulemaking Proceeding ) PETITION OF CENTER FOR
to Consider Proposed Rule To ) BIOLOGICAL DIVERSITY
Establish Procedures ) TO INTERVENE
For Disclosure and Prohibition of Public )
Utility Lobbying, Advertising and Other )
Expenditures )

Pursuant to North Carolina Utilities Commission ("Commission") Rules R1-5, R1-7, and R1-19, the Center for Biological Diversity ("the Center") hereby petitions to intervene in the above-referenced docket. In support of this petition, the Center states as follows:

1. The Center for Biological Diversity is a national, non-profit conservation organization with offices throughout the United States, including in North Carolina. The Center has more than 1.5 million members and online activists, including 30,080 in North Carolina, who care about the country’s urgent need to expedite its renewable energy transition and the protection of human health, the natural environment, and species from the ravages of climate change and other environmental harms. The mission of the Center’s Energy Program is to remove barriers to the renewable energy transition, particularly those posed by publicly owned electricity utilities, including through their participation in associations and other political activity seeking to maintain status quo reliance on fossil fuels. The Center’s North Carolina address is P.O. Box 6414. Asheville, NC 28816.
2. The Center seeks to represent the interests of its thousands of members and supporters in North Carolina, many of whom are customers of the state’s investor-owned public utilities ("Electric IOUs"). These members and supporters oppose the Electric IOUs’ heavy reliance on fossil fuels for electricity generation because of its adverse impacts on public health and safety, air quality, species, the environment, and climate change, all of which threaten to harm their interests. Specifically, the Electric IOUs annually expend millions of dollars on lobbying, financial contributions to trade associations and politicians, and other political activity that promote fossil fuel-generated electricity ("Influence Money expenditures"). The Center’s members and supporters oppose the Electric IOUs’ practice of using money derived from their electricity bill payments to finance Influence Money expenditures. Because the Center’s members and supporters are captive to Electric IOUs to provide them electricity under the state’s regulated monopoly system and do not have any meaningful choice to purchase their electricity from other sources, the Electric IOUs’ practice is not just and reasonable, and also violates these members’ and supporters’ First Amendment rights under the U.S. Constitution—which protects not only the freedom of speech, but the freedom to avoid subsidizing group speech with which an individual disagrees. *Knox v. Service Employees Intern. Union*, 567 U.S. 298, 307-08 (2012); see also *Janus v. State, County, and Municipal Employees Council 31*, 138 S. Ct. 2448 (2018) (compelling membership dues in a public union for purposes of speech with which a member disagrees violates the First Amendment).

3. The Center’s participation in this docket will bring important insight and knowledge to the proceeding, including (a) an understanding of First Amendment and
Constitutional law and practices that protect First Amendment rights; and (b) technical knowledge of the impact of Electric IOUs’ reliance on fossil fuel generation and its contribution to climate change and other social, health, economic, and environmental harms.

4. If permitted to intervene in this docket, the Center will support and advocate for the Commission’s adoption of rules—prohibiting the expenditure of Electric IOUs’ funds, derived from customer electricity bills, on certain lobbying, association fees, and other political activities—as proposed in this docket’s petition for rulemaking by NC WARN, Inc. and Friends of the Earth, Inc. (see rulemaking petition’s Exhibit A), which generally provide:

a. No Electric IOU shall be permitted to recover from its customers any Influence Money expenditure made by such Electric IOU;

b. Electric IOUs shall annually file a report fully and specifically disclosing all Influence Money expenditures; and

c. No parent or holding corporation of an Electric IOU shall be allowed to make an Influence Expenditure from money derived from ratepayers and transferred to the parent or holding corporation by an Electric IOU.

5. The Center’s North Carolina office is located in Asheville, North Carolina.

All correspondence related to this proceeding should be addressed to:

Perrin de Jong
Center for Biological Diversity
P.O. Box 6414
Asheville, NC 28816
Perrin@biologicaldiversity.org
6. Pursuant to Commission Rule R1-39, the Center agrees to electronic service of all pleadings and other filings in this matter, and such service may be sent to Perrin@biologicaldiversity.org.

WHEREFORE, for the reasons set forth above, the Center prays that it be allowed to intervene in this matter.

DATED: April 18, 2019

Respectfully submitted,

/s/ Perrin W. de Jong  
PERRIN W. de JONG  
N.C. Bar No. 42773  
P.O. Box 6414  
Asheville, NC 28816  
Email: perrin@biologicaldiversity.org  
Telephone: (828)774-5638
CERTIFICATE OF SERVICE

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing Petition of Center for Biological Diversity to Intervene by deposit in the U.S. mail, postage pre-paid, or by email transmission.

This is the 18th day of April 2019.

/s/ Perrin W. de Jong
PERRIN W. de JONG
N.C. Bar No. 42773
P.O. Box 6414
Asheville, NC 28816
Email: perrin@biologicaldiversity.org
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VERIFICATION

Perrin de Jong, first being duly sworn, deposes and says that he is the attorney for the Center for Biological Diversity; that he has read the foregoing Petition of Center for Biological Diversity to Intervene and that the same is true of his personal knowledge, except as to any matters and things therein stated on information and belief, and as to those, he believes them to be true; and that he is authorized to sign this verification on behalf of the Center for Biological Diversity.

This the 17th day of April 2019.

Perrin de Jong

NORTH CAROLINA
BUNCOMBE COUNTY

Sworn to and subscribed before me,

this the 17 day of April, 2019.

[AFFIX SEAL OF NOTARY]

Mallory Hall
Notary Public

Mallory Hall
Printed Name of Notary Public