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Mount, Gail

From: Duke, Rob <RDuke@surety.org>
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To: Statements
Subject: Statement of Position-Docket E100, Sub 101
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E-100 SUB 101

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N.C. Utilities Commission

Attached is a statement from SFAA as a non-intervening party regarding the captioned docket.

Thank you for your consideration.

Robert J. Duke
Corporate Counsel
The Surety & Fidelity Association of America
202-778-3630
rduke@surety.org

The Surety & Fidelity Association of America

1101 CONNECTICUT AVENUE, NW, SUITE 800, WASHINGTON, DC 20036 TEL: (202) 463-0600 – FAX: (202) 463-0606
website: http://www.surety.org
E-mail: information@surety.org

March 19, 2015

Gail Mount, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4325

Re: Statement of Non-Intervening Party
Financial Security per Section 6.3 of the Interconnection Agreement
Docket E-100, Sub 101

The Surety & Fidelity Association of America ("SFAA") is a non-profit corporation whose member companies collectively write the majority of surety and fidelity bonds in the United States. SFAA is a licensed rating or advisory organization in all states and is designated by state insurance departments as a statistical agent for the reporting of fidelity and surety experience. The vast majority of bonds that secure regulatory and performance obligations are provided by SFAA members. We understand that the North Carolina Utilities Commission ("Commission") currently is considering certain modifications of interconnection standards under the captioned docket. In addition, we understand that there was some discussion at the Technical Conference on February 23, 2015, regarding whether a surety bond should be retained as a permissible form of financial security under Section 6.3 of the Interconnection Agreement. SFAA submits the following comments as a non-intervening party to assist the Commission in its consideration of whether to retain the surety bond option.

A surety bond is an instrument by which an obligation owed by one party (bond. principal) to another (obligee) is secured by a third party, the surety. Surety bonds provide two valuable services. The better-known service of the surety is to perform its stated bond obligation and provide financial protection in the event the bond principal defaults in its performance. In such an event, the surety steps in to handle the claims on the bond and perform pursuant to the conditions of the bond and the applicable statutory or regulatory language. A critical point that may have been missed in the discussion at the February 23, 2015, Technical Conference is that the scope and nature of the surety's obligation is not the same with respect to all types of bonds. For example, not all bonds are cancellable. The bond is a contract, and the scope of the obligation, the triggers of the surety's remedies and the cancellability of the bond, among other bond conditions, are determined by the parties and incorporated into the bond form.

The second service provided by a bond is the surety's prequalification of the bond principal before the surety will write a bond. A surety seeks to avoid a loss by making an assessment of the bond principal's experience, capabilities and financial resources, and provides a bond only to those entities that, in the surety's estimation, are capable of performing the obligation that is bonded. This is an area where the services afforded by a surety bond are greater than the services afforded by a letter of credit. The underwriting focus with respect to a letter of credit is primarily the bond principal's financial position or the collateral backing the letter of credit. A qualitative and operational review that takes place when underwriting a surety bond is usually lacking when underwriting a letter of credit.

SFAA submits that the better way to address any concerns about the nature of the surety bond's protection is to develop a bond form that provides meaningful coverage and addresses the needs of all parties. Eliminating a surety bond as an optional form of financial security unnecessarily deprives the parties of the valuable services provided by a surety bond.

We would be happy to work with the Commission and all interested parties to develop a workable bond form. Thank you for your consideration.

Sincerely,

Robert J. Duke
Corporate Counsel