

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-2, SUB 1320

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Duke Energy Progress, LLC,	)	ORDER SCHEDULING HEARING,
for Approval of Renewable Energy and	)	REQUIRING FILING OF
Energy Efficiency Portfolio Standard Cost	)	TESTIMONY, ESTABLISHING
Recovery Rider Pursuant to N.C.G.S.	)	DISCOVERY GUIDELINES, AND
§ 62-133.8 and Commission Rule R8-67	)	REQUIRING PUBLIC NOTICE

BY THE COMMISSION: In August 2007, North Carolina enacted comprehensive energy legislation, Session Law 2007-397 (Senate Bill 3) that, among other things, establishes a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) for this State and a procedure for cost recovery of REPS expenditures. North Carolina General Statute § 62-133.8(h) provides for an annual REPS rider for each electric public utility to recover all reasonable and prudent incremental costs incurred to comply with the REPS requirement with specified per-account caps for customers in each customer class. Further, Commission Rule R8-67(e) provides for the establishment of a REPS experience modification factor (EMF) rider to allow the electric public utility to collect the difference between reasonable and prudently incurred incremental costs and the revenues that were actually realized during the test period under the REPS rider then in effect. In addition, Commission Rule R8-67(e) provides that the annual REPS cost recovery rider hearing for each electric public utility will be scheduled as soon as practicable after the annual fuel and fuel-related charge adjustment proceeding hearing held by the Commission for the electric public utility under Commission Rule R8-55, that each electric public utility shall file direct testimony and exhibits at the same time that it files the information required by Rule R8-55, and that each electric public utility shall publish notice prior to the REPS hearing.

Commission Rule R8-67(c) requires each electric public utility to file an annual report describing the electric public utility's compliance with the REPS requirement during the previous calendar year. Rule R8-67(c) further provides that the annual REPS compliance report will be reviewed by the Commission at a hearing following public notice and an opportunity for interested parties to intervene and file testimony.

On June 13, 2023, Duke Energy Progress, LLC (DEP), filed its application for approval of REPS cost recovery and its 2022 REPS compliance report pursuant to N.C.G.S. § 62-133.8 and Commission Rule R8-67, along with direct testimony and exhibits supporting its cost recovery application and the 2022 REPS compliance report.

The Commission finds that good cause exists to schedule a public hearing to consider DEP's application and 2022 REPS compliance report. The guidelines regarding discovery in this docket, subject to modification for good cause shown, are as follows:

1. Any deposition shall be taken before the deadline for the filing of the Public Staff and other intervenor testimony. Notice of deposition shall be served on all parties at least seven days prior to the taking of the deposition. Notice of deposition and all other discovery notices, requests and motions shall be served on the appropriate parties by hand delivery or facsimile, or by electronic delivery if the receiving party has agreed to receipt by electronic delivery.

2. Any motion for subpoena of a witness to appear at the expert witness hearing shall be filed with the Commission before the deadline for filing of the Public Staff and intervenor testimony, shall be served on the person sought to be subpoenaed at or before the time of filing with the Commission, and shall make a reasonable showing that the evidence of such person will be material and relevant to an issue in the proceeding. See N.C.G.S. § 62-62. Unless an objection is filed, the Chief Clerk shall issue the requested subpoena within 2 business days after such a motion is filed.

3. Formal discovery requests related to the application and DEP's prefiled direct testimony shall be served on DEP not later than 14 calendar days prior to the deadline for filing of the Public Staff and other intervenor testimony. The party served shall have up to ten calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than ten calendar days prior to the deadline for filing of the Public Staff and intervenor testimony.

4. Formal discovery requests related to the prefiled direct testimony of the Public Staff or intervenors shall be served not later than five calendar days after the filing of that party's testimony. The party served shall have up to three business days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than nine calendar days after the filing of that party's testimony.

5. Formal discovery requests related to the prefiled rebuttal testimony shall be served not later than three business days after such testimony is filed. The party served shall have up to three calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than three business days after rebuttal testimony was filed. Discovery related to rebuttal testimony shall be limited to new material introduced in such rebuttal testimony and will be carefully scrutinized upon objection that such discovery should have been sought during the initial period of discovery.

6. Discovery requests need not be filed with the Commission when served; however, any party filing objections shall attach a copy of the relevant discovery request to the objections. Each discovery request, or part thereof, to which no objection is filed shall be answered by the time objections are due, subject to other agreement of the

affected parties or other order of the Commission. Upon the filing of objections, the party seeking discovery shall have two calendar days to file with the Commission a motion to compel, and the party objecting to discovery shall have one calendar day thereafter to file a response. All objections, motions to compel, and responses shall be served on the other affected party at or before the time of filing with the Commission.

7. A party shall not be granted an extension of time to pursue discovery due to that party's late intervention or other delay in initiating discovery.

The Commission recognizes that in the past most discovery has been conducted in an informal manner without the need for Commission involvement or enforcement, and that such has been generally successful. The above guidelines are without prejudice to the parties conducting informal discovery or exchanging information by agreement at any time with the understanding that such will not be enforceable by the Commission if outside the guidelines.

Finally, the Commission finds good cause to require that DEP, the Public Staff, and other parties who file supporting exhibits in Excel format shall provide electronic versions of the exhibits filed in native Excel format, including all supporting tabs/worksheets and formulas, to the Commission Staff within three business days of the filing of such exhibits.

IT IS, THEREFORE, ORDERED as follows:

1. That a public hearing shall be, and is hereby, scheduled for Tuesday, September 19, 2023, at 9:00 a.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, for the purpose of considering DEP's application for approval of REPS cost recovery and the 2022 compliance report;

2. That any person having an interest in this proceeding may file a petition to intervene stating such interest on or before Tuesday, August 29, 2023;

3. That the direct testimony and exhibits of the Public Staff and other intervenors shall be filed on or before Tuesday, August 29, 2023;

4. That DEP may file rebuttal testimony and exhibits on or before Thursday, September 7, 2023;

5. That all parties filing supporting exhibits in either PDF or Excel format shall provide the Commission Staff electronic versions of the exhibits filed in native Excel format via email at [NCUCexhibits@ncuc.net](mailto:NCUCexhibits@ncuc.net), including all of the supporting worksheets and formulas, within three days of the filing of such exhibits (or within three business days of the issuance of this order if already filed with the Commission), and that DEP and all other parties filing exhibits and workpapers that include tables of numbers and calculations shall provide the Public Staff and any other party upon request an electronic version of all such exhibits and workpapers, with formulas intact;

6. That DEP shall publish the Public Notice attached hereto as Appendix A in a newspaper or newspapers having general circulation in its service area once a week for two successive weeks beginning at least 45 days prior to the hearing;

7. That DEP shall file affidavits of publication on or before the date of the hearing; and

8. That the parties shall comply with the discovery guidelines established herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of June, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "A. Shonta Dunston". The signature is written in a cursive style with a large, looped initial "A" and a stylized "Dunston".

A. Shonta Dunston, Chief Clerk

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
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DOCKET NO. E-2, SUB 1320

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Application of Duke Energy Progress, LLC,            )  
for Approval of Renewable Energy and                )  
Energy Efficiency Portfolio Standard Cost            )     PUBLIC NOTICE  
Recovery Rider Pursuant to N.C.G.S.                 )  
§ 62-133.8 and Commission Rule R8-67                )

NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission has scheduled a public hearing in the annual Renewable Energy and Energy Efficiency Portfolio Standard (REPS) cost recovery proceeding for Duke Energy Progress, LLC (DEP). The public hearing has been scheduled to begin Tuesday, September 19, 2023, at 9:00 a.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina. The proceeding is being held pursuant to N.C. Gen. Stat. § 62-133.8 and Commission Rule R8-67 to consider DEP's application for approval of REPS cost recovery and compliance with the REPS requirements during the 2022 calendar year. Public witness testimony will be received in accordance with Commission Rule R1-21(g).

On June 13, 2023, Duke Energy Progress, LLC, filed its application for approval of REPS cost recovery and 2022 REPS compliance report. By its application, DEP proposes to implement the following monthly REPS rates, not including regulatory fee, effective for service rendered on and after December 1, 2023: a \$1.29 charge for residential customers; an \$6.94 charge for general service customers; and a \$46.42 charge for industrial customers. DEP's proposed new monthly REPS rates, if approved, will result in the following decreases to DEP's current monthly REPS rates, not including regulatory fee: \$(0.26) for residential customers; \$(1.47) for general service customers; and \$(10.92) for industrial customers.

Further information may be obtained from the Office of the Chief Clerk, North Carolina Utilities Commission, 430 North Salisbury Street, Raleigh, North Carolina, where a copy of DEP's application is available for review by the public. Also, documents may be viewed on the Commission's website at [www.ncuc.gov](http://www.ncuc.gov).

The Public Staff is authorized by statute to represent consumers in proceedings before the Commission. Written statements to the Public Staff should include any information that the writers wish to be considered by the Public Staff in its investigation of

the matter. Such statements should be addressed to Christopher J. Ayers, Executive Director, Public Staff, 4326 Mail Service Center, Raleigh, North Carolina 27699-4300.

The Attorney General is also authorized by statute to represent consumers in proceedings before the Commission. Statements to the Attorney General should be addressed to The Honorable Josh Stein, Attorney General, c/o Consumer Protection-Utilities, 9001 Mail Service Center, Raleigh, North Carolina, 27699-9001. Written statements may be e-mailed to utilityAGO@ncdoj.gov.

Written statements are not evidence unless the writers appear at a public hearing and testify concerning the information contained in their written statements.

Persons desiring to intervene in this proceeding as formal parties should file a petition to intervene pursuant to Commission Rules R1-5 and R1-19 on or before Tuesday, August 29, 2023. Such petitions should be filed with the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4300. The direct testimony and exhibits of expert witnesses to be presented by intervenors should also be filed with the Commission on or before Tuesday, August 29, 2023.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of June, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "A. Shonta Dunston". The signature is written in a cursive, flowing style.

A. Shonta Dunston, Chief Clerk