

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1293

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 TESTIMONY,
Energy Efficiency Portfolio Standard Cost) ESTABLISHING DISCOVERY
Recovery Rider Pursuant to N.C.G.S.) GUIDELINES, AND REQUIRING
§ 62-133.8 and Commission Rule R8-67) 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 14, 2022, Duke Energy Progress, LLC (DEP or Applicant), filed its application for approval of REPS cost recovery and 2021 REPS compliance report pursuant to N. C. Gen. Stat. § 62-133.8 and Commission Rule R8-67, along with direct testimony and exhibits supporting its cost recovery application and 2021 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, 2022: a \$1.55 charge for residential customers; a \$8.41 charge for general service and lighting

customers; and a \$57.34 charge for industrial customers. DEP's proposed new monthly REPS rates, if approved, will result in the following increases to DEP's current monthly REPS rates, not including regulatory fee: \$0.14 for residential customers; \$1.02 for general service and lighting customers; and \$7.98 for industrial customers.

The Commission finds good cause to issue the present Order scheduling this matter for public hearing, establishing discovery guidelines, and providing for public notice of the hearing. The guidelines regarding discovery in this docket, subject to modification for good cause shown, are as follows:

1. Any deposition which a party desires to take shall be taken before the deadline for filing of Public Staff and 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 evidentiary hearing shall be filed with the Commission before the deadline for filing of Public Staff and intervenor testimony, shall be served by hand delivery or facsimile to 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 24 hours after such motion is filed.

3. Formal discovery requests related to the application and the Applicant's prefiled direct testimony shall be served on the Applicant not later than fourteen days prior to the deadline for filing of Public Staff and 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 days prior to the deadline for filing of Public Staff and intervenor testimony.

4. Formal discovery requests of the Public Staff or intervenors shall be served not later than three 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 five days after that party's testimony was filed.

5. Formal discovery requests related to the Applicant's prefiled rebuttal testimony shall be served on the Applicant not later than two days after such testimony is filed. The party served shall have up to two 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 days after the 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 from the Applicant.

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 days to file a motion to compel with the Commission, and the party objecting to discovery shall have one 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 because of 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 put all interested persons on notice that attorneys and witnesses will be expected to attend and participate in person rather than by remote means.

IT IS, THEREFORE, ORDERED as follows:

1. That a public hearing shall be, and is hereby, scheduled to begin immediately following the hearing in Docket No. E-2, Sub 1292, which is scheduled to begin at 10:00 a.m. on Wednesday, September 14, 2022, in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, for the purpose of considering the annual REPS cost recovery and compliance proceeding for DEP;

2. That any person having an interest in this proceeding may file a petition to intervene stating such interest on or before Wednesday, August 24, 2022;

3. That the direct testimony and exhibits of the Public Staff and interveners shall be filed on or before Wednesday, August 24, 2022;

4. That DEP may file rebuttal testimony and exhibits on or before Thursday, September 1, 2022;

5. 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;

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

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

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of July, 2022.

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, stylized "D" at the end.

A. Shonta Dunston, Chief Clerk

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1293

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 immediately following the hearing in Docket No. E-2, Sub 1292, which is scheduled to begin at 10:00 a.m., on Wednesday, September 14, 2022, in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina. This 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 2021 calendar year. Public witness testimony will be received in accordance with Commission Rule R1-21(g).

On June 14, 2022, Duke Energy Progress, LLC, filed its application for approval of REPS cost recovery and 2021 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, 2022: a \$1.55 charge for residential customers; an \$8.41 charge for general service and lighting customers; and a \$57.34 charge for industrial customers. DEP's proposed new monthly REPS rates, if approved, will result in the following increases to DEP's current monthly REPS rates, not including regulatory fee: \$0.14 for residential customers; \$1.02 for general service and lighting customers; and \$7.98 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.net.

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 Wednesday, August 24, 2022. 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 Wednesday, August 24, 2022.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of July, 2022.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "A. Shonta Dunston".

A. Shonta Dunston, Chief Clerk