

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
DOCKET NO. E-7, SUB 1228

In the Matter of:)
Application of Duke Energy Carolinas,)
LLC Pursuant to N.C. Gen. Stat. § 62-)
133.2 and Commission Rule R8-55) **POST-HEARING BRIEF**
Relating to Fuel and Fuel-Related) **OF THE SIERRA CLUB**
Charge Adjustments for Electric)
Utilities)

PURSUANT to NCUC Rule R1-25 and the directions of the North Carolina Utilities Commission (“Commission”) at the close of the June 9, 2020 evidentiary hearing in this matter, the Sierra Club respectfully submits this brief in the above-captioned docket.

LEGAL STANDARD

In this annual fuel charge adjustment proceeding, the Commission establishes a rider to allow Duke Energy Carolinas, LLC (“DEC” or “the Company”) to recover its reasonable and prudently incurred fuel and fuel-related costs from customers. N.C. Gen. Stat. § 62-133.2, NCUC Rule R8-55. N.C.G.S. § 62-133.2(a1) lays out specific fuel and fuel-related costs that are recoverable via this rider, including the cost of fuel transportation. Critically, only “reasonable and prudently incurred” costs are recoverable. NCUC Rule R8-55. Therefore, a thorough examination of DEC’s fuel procurement practices is a key part of the Commission’s review in this proceeding. Id. In order to make this determination, NCUC Rule R8-55(e) specifies the minimum disclosures required by DEC. Despite these required minimum disclosures, the burden of proof remains on DEC to show that any costs were “reasonably and prudently incurred” and

“the correctness and reasonableness” of any charge imposed as a result of this proceeding. N.C.G.S. § 62-133.2(d); NCUC Rule R8-55(k).

ARGUMENT

A. Duke Energy Carolinas’ long-term contracts for gas transportation create unreasonable risks for utility customers.

The Company currently has long-term contracts with the Transcontinental Gas Pipe Line Company (“Transco”) for 151,560 MMBtu/day of firm gas transportation service, as well as long-term contracts for firm storage service with Mississippi Hub Storage. Tr. p. 95, l. 7-8. These long-term commitments create an unreasonable risk to DEC customers.

These long-term contracts commit DEC to pay a fixed, monthly charge to reserve gas pipeline capacity over the entire term of the agreement. Tr. p. 97, l. 13-17. This fixed charge may either be based on a negotiated rate or on the tariff rate, which is approved by the Federal Energy Regulatory Commission and subject to change. *Id.* Once incurred, these fixed charges constitute a “fuel-related cost” under NCUC Rule R8-55 and N.C.G.S. § 62-133.2(a1). The cost of holding these long-term contracts for pipeline capacity may exceed the cost savings obtained if the value of the contracted capacity falls, either due to a shift in gas prices or an increase in the tariff rate. Tr. p. 97, l. 17-22. Some of DEC’s long-term contracts do not expire until 2031. Tr. p. 95, l. 10. In light of rapidly shifting nature of electricity generation in North Carolina and Duke Energy’s internal commitments to reduce reliance on fossil fuels, these long-term contracts create unreasonable risks to DEC’s ratepayers.

One clear example of this risk is the Atlantic Coast Pipeline (“ACP”) project. The Company entered into affiliate agreements with ACP in 2014.¹ During the pendency of this proceeding, the ACP project was cancelled after the expected cost for the project ballooned by over 50% and the expected start date was delayed by more than three years.² Despite these delays and uncertainty, DEC had already committed to purchasing 272,250 MMBtu/day of firm transportation service on the pipeline. Tr. p. 96, l. 4-5. The Company remained committed to this capacity, even as overall demand for gas failed to meet projections and no issues meeting demand were reported.³

B. The information provided by Duke Energy Carolinas in this proceeding is insufficient to determine the reasonableness and prudence of the Company’s fuel and fuel-related costs.

The Company’s fuel and fuel-related costs attributable to gas supply increased from \$50 million in 2011 to more than \$400 million in 2019. Tr. p. 90, l. 6-12. These costs now account for nearly of a quarter of DEC’s total fuel and fuel-related costs. Id. Nevertheless, the information provided to the Commission to justify those costs has remained the same. Even if it were deemed sufficient to satisfy the minimum requirements laid out by NCUC Rule R8-55(e), the information provided by DEC is insufficient to prove that any fuel and fuel-related costs were “reasonably and prudently incurred.” Again, DEC bears the burden of proof under N.C.G.S. § 62-133.2(d) and NCUC Rule R8-55(k).

¹ Order Accepting Affiliate Agreements, Allowing Payment Thereunder and Granting Limited Waiver of Code of Conduct, N.C.U.C. Docket No. E-2, Sub 1052 (October 29, 2014).

² Erin Cox and Gregory Schneider, *Energy companies abandon long-delayed Atlantic Coast Pipeline*, The Washington Post (July 5, 2020), available at https://www.washingtonpost.com/local/virginia-politics/atlantic-coast-pipeline-canceled/2020/07/05/da1c0f40-bef5-11ea-b178-bb7b05b94af1_story.html.

³ Cathy Kunkel and Lorne Stockman, *The Vanishing Need for the Atlantic Coast Pipeline* (Jan. 2019), available at https://ieefa.org/wp-content/uploads/2019/01/Atlantic-Coast-Pipeline_January-2019.pdf.

One of the key sources of information provided to the Commission regarding DEC's gas usage is the monthly "Fuel and Fuel Related Cost Report," which provides a breakdown of the cost of fuel purchased at each generating facility. NCUC Rule R8-52 lays out the information that must be included in the monthly fuel report, including "[d]etails of fuel burned," "[d]etails of cost of fuel transportation," and "[d]etails of fuel consumption and inventories." However, the fuel reports submitted by DEC do not break down the cost of fuel purchased or show any difference between the cost of gas purchases and the cost of gas burned. Without this detailed breakdown of transportation and fuel costs, the Commission cannot evaluate the reasonableness or prudence of the long-term contracts for fixed pipeline capacity, and the filings are deficient under NCUC Rule R8-55.

The fuel reports also provide no information describing the gas transportation and storage services under contract, the fixed and variable costs paid for gas transportation and storage, and gas storage balances. Additionally, DEC failed to provide details on how costs were allocated between DEC and Duke Energy Progress, LLC ("DEP") under their "Asset Management and Delivered Supply Agreement" entered into in January 2013. Under that agreement, DEC acts as the Asset Manager, managing short-term gas supply resources and optimizing the value of gas supply resources under contract and the costs are divided between the two companies. Tr. p. 94, l. 7-11. In the current filings, DEC only reports gas use and gas supply costs for DEC-owned plants, but fails to show whether those resources were needed. As stated above, NCUC Rule R8-52 not only requires the cost of fuel transportation, consumption, and inventories, but *details* of those costs and amount. These are all details necessary under NCUC Rule R8-52. Without

providing these details, DEC has not met its burden of proving that these costs related to its gas generation were reasonable and prudently incurred.

There are three mechanisms used by electric utilities that can help mitigate the risks to ratepayers caused by long-term contracts for fixed pipeline capacity: third-party sales, capacity releases, and asset management arrangements. Tr. pp. 97-98. NCUC Rule R8-55(e)(7) requires DEC to report “[a]ny net gains or losses resulting from any sales by the electric public utility of fuel or other fuel-related costs components.” As described above, long-term contracts for firm capacity on interstate pipelines constitute a fuel-related cost component. Nevertheless, DEC failed to provide details on sales of gas, including total revenues or net margins, and revenue from gas transportation capacity releases. Without a filing breaking out the proceeds from capacity release contracts, the Commission cannot accurately determine to what extent DEC is protecting its ratepayers against the risks inherent in long-term contracts for firm pipeline capacity and to what extent the Company is oversubscribing to firm capacity.

Finally, DEC does not provide the daily gas use for each generating plant. In fact, DEC Witness McGee testified that the Company does not maintain an inventory of gas at the plant level and instead records all gas received by each plant as burned. Tr. p. 39, l. 18-21. In order to know whether additional firm capacity is actually necessary, DEC needs to record data on both average and peak daily use. For example, the value of firm gas transportation capacity is higher for baseload generating plants than at dual-fueled peak generating plants. Tr. p. 103, l. 7-10. Without additional details on gas usage at the individual plant level, the Commission cannot effectively evaluate whether DEC’s contracted firm capacity is necessary or beneficial to ratepayers.

In a May 29, 2020 *Joint Motion for Witnesses to Be Excused From Appearing at Hearing* filed in the above-captioned docket, the Company agreed to provide the Sierra Club with much of the above information in future proceedings under NCUC Rule R8-55, including:

- Volumetric third party gas supply
- Fixed reservation charges paid for third party gas supply
- Financial hedges of third party gas supply
- Fixed and variable storage charges
- Variable and fixed transportation charges for inter- and intra-state pipelines
- Monthly gas sales by counterparty
- Daily storage injections and withdrawals for contracted Saltville Storage and Mississippi Hub Storage
- Transportation costs details by supply vendor of both fixed and variable transportation
- Third party sales, including balancing with the pipeline
- Revenues from capacity releases and asset management agreement transactions
- Daily gas consumption by plant

The above-listed information is required to satisfy the Company's obligations to show that its fuel and fuel-related costs were reasonable and prudent. NCUC Rule R8-55(e) requires certain minimum disclosures that are necessary for the Commission to thoroughly review DEC's fuel and fuel-related costs, but those required minimum

disclosures are not always sufficient to satisfy DEC's burden to prove that any costs were "reasonably and prudently incurred." As the Company's gas procurement becomes a larger share of its fuel and fuel-related costs and the complexity of its gas procurement practices increase as a result, the depth of reporting required on those practices increases as well. The information laid out above is critical for the Commission's review of DEC's procurement of fixed gas pipeline capacity, a key fuel-related cost at issue in this proceeding.

CONCLUSION

For the foregoing reasons, the Sierra Club respectfully requests that the Commission determine whether additional reporting would aid the Commission in determining whether the Company's fuel and fuel-related costs were reasonably and prudently incurred. To the extent any additional reporting would aid the Commission's review, the Sierra Club respectfully requests the information be required in subsequent filings made pursuant to N.C. Gen. Stat. § 62-133.2 and NCUC Rule R8-55.

Respectfully submitted this the 24th day of July, 2020.

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CERTIFICATE OF SERVICE

I certify that the parties of record on the service list have been served with Post-Hearing Brief of the Sierra Club either by electronic mail or by deposit in the U.S. Mail, postage prepaid.

This the 24th day of July, 2020.

s/ Tirrill Moore
Tirrill Moore