

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1219

In the Matter of)
)
Application of Duke Energy Progress, LLC)
For Adjustment of Rates and Charges Applicable)
to Electric Service in North Carolina)

BRIEF OF THE FAYETTEVILLE PUBLIC WORKS COMMISSION

The Fayetteville Public Works Commission (FPWC), an intervenor in this Duke Energy Progress, LLC (DEP) general rate case, is filing this Brief to request that the North Carolina Utilities Commission (Commission) order DEP to recompute and present to the Commission new depreciation rates after updating the 2018 Depreciation Study to: (1) adjust the life spans of the Mayo, Roxboro Unit 3, and Roxboro Unit 4 coal-fired generating plants (collectively, the Plants) to be consistent with the retirement dates in DEP's Integrated Resource Plan (Update Report) filed with the Commission on September 3, 2019 in Docket No. E-100, Sub 157 (the IRP); and (2) reduce the contingency allowance from 20% to 10% on the Burns and McDonnell dismantlement cost estimates prepared for DEP's non-nuclear production fleet of generating plants. Adopting the requested modifications and recomputing DEP's depreciation rates will, in FPWC's opinion, result in reasonable, rather than excessive, retail electric rates for DEP's North Carolina customers.

COAL UNIT LIFE SPANS

In this proceeding, DEP is seeking unilaterally to reduce the remaining life spans of the Plants from their life spans that were adopted in the IRP. The IRP,

in FPWC's opinion, "represents the Company's official generation expansion plan until modified or updated in subsequent years." (Tr. vol. 14, 53-54). According to FPWC witness Gary Brunault, the IRP "reflects expected retirement dates of 2035 for Mayo Unit 1 and 2033 for both Roxboro Units 3 and 4." (Id. at 52-53). DEP witness John Spanos disclosed that DEP has now accelerated the scheduled retirement of the Plants to occur in 2029, and he acknowledged that the Plants "have life spans that are planned to be shorter than currently approved" in the IRP. (Tr. vol. 16, 246).

Both witness Brunault and Public Staff witness Dustin Metz expressed significant concern about DEP's attempt to deviate from the Plant life spans adopted in the IRP. Witness Brunault explained that:

DEP's IRP is produced each year after a robust process involving sophisticated modeling of both demand-side and supply-side resource alternatives, taking into account many different scenarios and assumptions about the future. The plans produced from such analyses should represent the Company's official plans and as such, depreciation rates should be established based on life spans that are consistent with the planned retirement dates of DEP's generating units. (Tr. vol. 14, 54-55).

Witness Metz voiced similar reservations, elaborating that an integrated resource planning proceeding:

is the appropriate venue for a thorough evaluation of early, or any, generation retirements. The IRP optimizes future generation additions and minimizes production costs across a robust variety of portfolios generated by the Company's capacity expansion model. The IRP modeling process seeks the optimal expansion plan for meeting customer needs given the load, planned unit retirements and uprates, inputs to the electrical system, and imposed constraints. While the IRP does not solely focus on the economics of retiring an asset early, it does evaluate various scenarios in more detail than is possible in the context of a general rate case. (Tr. vol. 15, 832).

In this rate proceeding, DEP nevertheless allegedly decided for public policy reasons, rather than engineering or operational reasons or actual savings for ratepayers, to reduce the Plants' life spans. As DEP witness Stephen De May explained, DEP is "actively working towards achieving a lower carbon future" and DEP "concluded that making shifts in the expected remaining depreciable lives of some of our coal-fired assets is a reasonable action to take now" (Tr. vol. 11, 755). While that conclusion may seem reasonable at first blush, it has real consequences for the DEP ratepayers who would be forced to bear the cost of the resulting increased depreciation expenses. DEP's proposed reduced Plant life spans were in fact incorporated by DEP witness Spanos in the computation of DEP's proposed depreciation rates, (Tr. vol. 16, 246-47), which in fact increased DEP's annual depreciation expense significantly, (Tr. vol 14, 68). Consequently, FPWC believes that if DEP is going to deviate from the Plant life spans adopted in the IRP and impose a significant additional expense on ratepayers, DEP needs to demonstrate a more substantial and thorough justification than generalized public policy concerns.

Moreover, the IRP actually already took into account DEP's expectation that carbon emissions would have to be reduced, so the generalized public policy concerns that DEP is now articulating in this rate proceeding regarding a "lower carbon future" have already been largely reflected in the Plant life spans adopted in the IRP. As witness Brunault pointed out in his testimony:

. . . DEP states (on page 8 of their 2019 IRP) their commitment to reducing their carbon emissions, and that:

"over the next decade, we are on track in the Carolinas to reduce carbon emissions by over 50%

relative to a 2005 baseline level. Beyond 2030 even further reductions are attainable with continued technology development in the areas of carbon free generation and energy storage.”

Also on page 8 of DEP’s 2019 IRP, DEP reports that their “Base Case” includes the expectation of future carbon legislation, and accordingly has modeled carbon costs starting in 2025 (see page 11 of DEP’s 2019 IRP) in arriving at their proposed 15-year generation expansion plans. (Id. at 54).

The fact that the IRP already incorporated carbon emission reduction plans further highlights the need for DEP to provide more than just generalized public policy concerns as a justification for unilaterally reducing the Plant life spans.

When DEP was pressed by FPWC in discovery for the justification for the proposed early Plant retirements, DEP claimed that a Present Value of Revenue Requirements (PVRR) analysis showed that “the impact of early retirement of these units would be better than, or near, break-even versus continuing to run to the original retirement dates for these units in the majority of the scenarios analyzed.” However, DEP’s contention that the early Plant retirements would save money failed to withstand any reasonable scrutiny, as detailed in witness Brunault’s testimony. (Id. at 56-63). In summary, witness Brunault found that the PVRR analysis was “significantly flawed” and was not “an accurate analysis of the impact on revenue requirements that would result from the early retirements.” (Id. at 59).

Witness Metz reached a similar conclusion, stating that “the cost analysis performed and used by [DEP] . . . is too narrow and not sufficient to support the decision to accelerate retirement.” (Tr. vol. 15, 833). He also expressed concern about “the potential impacts of early retirement on [DEP’s] electrical system . . . ,

which I believe are not adequately captured by the analysis.” (Id.) DEP’s PVRR analysis was apparently so clearly inadequate that DEP did not even attempt to support its PVRR analysis in its rebuttal testimony.

Instead, DEP offered further broad, unsupported assertions as the bases for the proposed early retirements, such as failing to accelerate depreciation would possibly burden future DEP ratepayers or shareholders and the early retirements are consistent with an alleged national trend toward shorter life spans for coal-fired power plants. (Tr. vol. 16, 280, 299-303). However, DEP’s assertions ignore the fact that any unjustified retirement acceleration unfairly burdens current ratepayers with excessive costs and creates intergenerational inequities. In addition, even if DEP’s assertion about national trends is accurate, capturing such trends should be addressed in the IRP process, not interjected into a rate proceeding, especially when the proposed change is unsupported by any financial analyses that hold up to scrutiny and a full evaluation of system impacts. DEP witness De May reasserted in his rebuttal testimony that North Carolina’s current efforts to be a leader on climate policy justify “accelerating the depreciable lives of some of the Company’s coal-fired plants to foster more rapid plant closures.” (Tr. vol. 11, 771-72, 776-77). However, his contention is unavailing for many of the reasons already addressed above.

The adverse financial impact on current DEP ratepayers of accelerating the depreciable lives of the Plants, as DEP proposes, are real and significant. Witness Brunault found that “[r]educing the life spans increases the total annual depreciation expense of the three units by almost 50%.” (Tr. vol. 14, 68). The

increase in the total annual depreciation expense of the Plants, if accelerated depreciation is allowed, would exceed \$48 million. (Id.)

Since it is, in FPWC's opinion, "premature [at this time] to assume that the [Plants] will be retired earlier than their planned retirement dates" (Id. at 66), FPWC recommends that the Commission, for rate setting purposes, find in this proceeding that life spans of the Plants must be consistent with the IRP, (Id. at 67). In addition, if the Plants are in fact retired before the life spans established in the IRP, FPWC recommends that DEP be required to wait for the actual retirement of the Plants, at which point DEP can seek to establish regulatory assets to recover any undepreciated net book investment and associated costs of removal and to amortize those remaining costs over some reasonable period. (Id. at 68). FPWC's recommendation is consistent with the manner in which DEP's Asheville Coal Facility and several of its coal-fired generating units, including generation at its Cape Fear, Lee, Robinson, Sutton, and Weatherspoon plants, were handled. (Id. at 67-68).

Notably, the Public Staff also opposes DEP's proposal to accelerate the retirement of the Plants, (Tr. vol. 15, 833), and to accelerate depreciation expense recovery, (Tr. vol. 15, 734-35). According to Public Staff witness Shawn Dorgan:

the Public Staff has consistently recommended leaving the depreciation rates set at the original retirement date of the plant, and, at the date of actual physical retirement, any remaining net book value be placed in a regulatory asset account and amortized over an appropriate period, which is to be determined in a future general rate case. The Public Staff believes it is appropriate to continue this consistent treatment of retired plants in the present case." (Id.)

For all of the foregoing reasons, FPWC asks the Commission to adjust the life spans of the Plants in this proceeding to be consistent with the retirement dates in the IRP and to order DEP to recompute and present to the Commission new depreciation rates after updating the 2018 Depreciation Study.

THE CONTINGENCY ALLOWANCE

FPWC also recommends that the contingency allowance be reduced from 20% to 10% on the Burns and McDonnell dismantlement cost estimates prepared for DEP's non-nuclear production fleet of generating plants and reflected in the 2018 Depreciation Study. In DEP's last general rate case in Docket No E-2, Sub 1142, the Commission determined that a 10% contingency factor (which was agreed to by DEP) was reasonable and appropriate for use. (Tr. vol. 14, 70). In addition, in the recent Duke Energy Carolinas LLC rate proceeding in Docket No. E-7, Sub 1146, the Commission adopted a 10% contingency factor "[a]fter considering . . . the possibility that scrap prices may increase or that the production plant may be repurposed or sold . . ." among other factors. (Id. at 70-71). All of the considerations identified by the Commission then in support of a 10% contingency factor remain in place now. Public Staff witness Roxie McCullar also recommended reducing the contingency allowance from 20% to 10% for much the same reasons. (Tr. Vol. 15, 789-791).

DEP failed to provide sufficient evidence in this proceeding to justify a deviation from the existing 10% contingency factor. In fact, DEP cited testimony given in Docket No. E-2, Sub 1142 by "DE Progress witness Kopp" as a basis for adopting a 20% contingency factor, (Tr. vol. 16, 283, 295), despite the fact that a

10% contingency factor was actually agreed to and adopted in that proceeding. FPWC therefore asks that the Commission reduce the contingency allowance from 20% to 10% on the Burns and McDonnell dismantlement cost estimates prepared for DEP's non-nuclear production fleet of generating plants and to order DEP to recompute and present to the Commission new depreciation rates after updating the 2018 Depreciation Study.

CONCLUSION

WHEREFORE, FPWC requests that the Commission enter an order requiring DEP to recompute and present to the Commission new depreciation rates that would become effective upon a final rate order after updating the 2018 Depreciation Study to: (1) adjust the life spans of the Mayo, Roxboro Unit 3, and Roxboro Unit 4 coal-fired generating plants to be consistent with the retirement dates in DEP's Integrated Resource Plan (Update Report) filed with the Commission on September 3, 2019 in Docket No. E-100, Sub 157; and (2) reduce the contingency allowance from 20% to 10% on the Burns and McDonnell dismantlement cost estimates prepared for DEP's non-nuclear production fleet of generating plants.

Respectfully submitted this the 4th day of December, 2020.

FAYETTEVILLE PUBLIC WORKS COMMISSION

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the foregoing Brief was served on the parties via email transmitted to their legal counsel of record.

This the 4th day of December, 2020.

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