

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-7, SUB 1259  
DOCKET NO. E-2, SUB 1283

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Joint Petition of Duke Energy Carolinas, LLC,	)	
and Duke Energy Progress, LLC, to Request	)	ORDER DENYING JOINT
the Commission to Hold a Joint Hearing with	)	MOTION FOR EXTENSION
the Public Service Commission of South	)	OF TIME
Carolina to Develop Carbon Plan	)	

BY THE CHAIR: On November 9, 2021, Duke Energy Carolinas, LLC (DEC), and Duke Energy Progress, LLC (DEP, together with DEC, Duke), filed a Joint Petition to Request the Commission to Hold a Joint Hearing with the Public Service Commission of South Carolina to Develop Carbon Plan (Petition). In the Petition, Duke requests that the Commission and the Public Service Commission of South Carolina (PSCSC) conduct a joint proceeding to consider the impact on generation planning and related issues resulting from the requirement of S.L. 2021-165 for the Commission to develop a Carbon Plan by December 31, 2022. The Petition further proposed a “procedural schedule for expedited Commission exploration of undertaking a joint Carbon Plan proceeding with the PSCSC.” Petition at 16. Particularly, the Petition proposed that initial comments on the Petition be filed with the Commission no later than December 3, 2021, and that reply comments be filed on or before December 17, 2021. Duke’s companion petition filed with the PSCSC sought approval of an identical procedural schedule for consideration of a joint proceeding. Also, the Petition proposed that, if North Carolina and South Carolina were to agree to conduct a joint proceeding on the Carbon Plan, for the purposes of the joint proceeding “[a]ll filings would be simultaneously made in both states.” Petition at 19.

On November 18, 2021, the PSCSC issued Directive Order No. 2021-763 (Directive Order), which instructed its Chief Clerk to set a deadline for intervention and dates by which comments on Duke’s South Carolina petition must be filed. The Directive Order specified that the due date for initial comments should fall 30 days following the deadline for intervention and the due date for any reply comments should be 20 days thereafter. On November 22, 2021, the PSCSC Chief Clerk issued a Notice setting December 31, 2021, as the deadline to intervene, January 31, 2022, as the initial comment deadline, and February 22, 2022, as the reply comment deadline.

On November 22, 2021, Duke filed a letter in these dockets proposing to modify the procedural schedule initially proposed by its Petition (November 22, 2021 Letter). The November 22, 2021 Letter requested that the Commission set a deadline for initial comments of December 20, 2021, and reply comments of January 10, 2022. In support

of its revised proposal, Duke states that “[t]his proposed schedule would maintain more close procedural alignment of the [North Carolina and South Carolina] proceedings, while allowing the North Carolina process to move forward expeditiously given the accelerated statutory deadlines under which the Commission and the Companies must develop the Carbon Plan pursuant to HB 951.” November 22, 2021 Letter at 2 (pages unnumbered).

On November 23, 2021, the Commission issued an Order Requesting Comments on Petition for Joint Proceeding (November 23, 2021 Order) which provided that “intervenors may file comments on or before December 20, 2021,” and that “all parties may file reply comments on or before January 10, 2022[,]” consistent with the amended procedural schedule proposed by Duke’s November 22, 2021 Letter. November 23, 2021 Order at Ordering Paragraph Nos. 2-3.

By various orders dated November 23, 2021, November 29, 2021, and December 1, 2021, the Commission granted the intervention of the North Carolina Sustainable Energy Association (NCSEA), the Fayetteville Public Works Commission (FPWC), the Carolina Industrial Groups for Fair Utility Rates II and III (CIGFUR II and CIGFUR III, respectively, and collectively CIGFUR), and the Carolina Utility Customers Association, Inc. (CUCA). The intervention of the Public Staff is recognized pursuant to Commission Rule R1-19(e).

On December 7, 2021, NCSEA, CUCA, and CIGFUR filed a Joint Motion for Extension of Time (Joint Motion) requesting that the Commission alter the procedural schedule set forth in the November 23, 2021 Order to mirror deadlines set by the PSCSC. In support of the Joint Motion the movants maintain that

Because the questions presented by the Petition and the South Carolina Petition are identical, NCSEA and CIGFUR’s respective comments to the Commission and the PSCSC are likely to be substantively identical. Therefore, in the interests of efficiency, and to prevent a party from seeking to “game” the comment cycle to a party’s perceived advantage, the Joint Movants believe it is appropriate to file comments and reply comments in both states on the same date.

Joint Motion at ¶ 8. Movants further state that NCSEA and CIGFUR have requested to intervene in the South Carolina proceeding. Also, movants state that they have contacted counsel for all parties to this proceeding regarding the Joint Motion and that FPWC does not oppose the Joint Motion, the Public Staff takes no position on the Joint Motion, and Duke opposes the Joint Motion.

As an initial matter, the Chair notes that, at this stage, neither North Carolina nor South Carolina have agreed to a joint proceeding and the respective proceedings to consider Duke’s Petition are each independent of its counterpart. The Chair acknowledges that, should the PSCSC allow the interventions of NCSEA and CIGFUR, their comments as well as Duke’s in the respective proceedings will likely contain some overlap; there will also be state-specific issues. The varying procedural schedules

between the states are unlikely to unfairly advantage or disadvantage any particular party participating in both proceedings. Therefore, the Chair does not find that a reasonable basis exists to vacate the existing schedule set by the November 23, 2021 Order. Accordingly, the Joint Motion is denied.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of December, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Erica N. Green". The signature is written in black ink and is positioned above the printed name.

Erica N. Green, Deputy Clerk