

1 PLACE: Dobbs Building, Raleigh, North Carolina  
 2 DATE: Tuesday, May 30, 2023  
 3 TIME: 4:40 p.m. - 5:02 p.m.  
 4 DOCKET NO: E-7, Sub 1282  
 5 BEFORE: Karen M. Kemerait, Presiding  
 6 Chair Charlotte A. Mitchell  
 7 Commissioner ToNola D. Brown-Bland  
 8 Commissioner Daniel G. Clodfelter  
 9 Commissioner Kimberly W. Duffley  
 10 Commissioner Jeffrey A. Hughes  
 11 Commissioner Floyd B. McKissick, Jr.  
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 13  
 14 IN THE MATTER OF:  
 15 Application of Duke Energy Carolinas, LLC,  
 16 Pursuant to N.C.G.S. 62-133.2 and Commission Rule  
 17 R8-55 Relating to Fuel and Fuel-Related Charge  
 18 Adjustments for Electric Utilities  
 19  
 20 VOLUME 1  
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 22  
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1 A P P E A R A N C E S:  
2 FOR DUKE ENERGY CAROLINAS, LLC:  
3 Ladawn Toon, Esq., Associate General Counsel  
4 Duke Energy Corporation  
5 411 South Wilmington Street  
6 Raleigh, North Carolina 27601  
7  
8 Robert W. Kaylor, Esq.  
9 Law Office of Robert W. Kaylor  
10 353 East Six Forks Road, Suite 260  
11 Raleigh, North Carolina 27609  
12  
13 FOR CAROLINA INDUSTRIAL GROUP FOR FAIR UTILITY  
14 RATES III:  
15 Christina Cress, Esq., Partner  
16 Douglas D.C. Conant, Esq.  
17 Bailey & Dixon, LLP  
18 434 Fayetteville Street, Suite 2500  
19 Raleigh, North Carolina 27601  
20  
21  
22  
23  
24

1 A P P E A R A N C E S (Cont'd.):

2 FOR CAROLINA UTILITY CUSTOMERS ASSOCIATION:

3 Marcus W. Trathen, Esq.

4 Brooks, Pierce, McLendon, Humphrey & Leonard, LLP

5 150 Fayetteville Street, Suite 1700

6 Raleigh, North Carolina 27601

7

8 FOR SOUTHERN ALLIANCE FOR CLEAN ENERGY:

9 Thomas Gooding, Esq., Associate Attorney

10 Munashe Magarira, Esq., Staff Attorney

11 Southern Environmental Law Center

12 601 West Rosemary Street, Suite 220

13 Chapel Hill, North Carolina 27516

14

15 FOR THE USING AND CONSUMING PUBLIC:

16 William S.F. Freeman, Esq.

17 William E.H. Creech, Esq.

18 Public Staff - North Carolina Utilities Commission

19 4326 Mail Service Center

20 Raleigh, North Carolina 27699-4300

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NORTH CAROLINA UTILITIES COMMISSION

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T A B L E O F C O N T E N T S  
E X A M I N A T I O N S

|  | PAGE |
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| BETH MCKEE-HUGER                       |      |
| Direct Examination by Mr. Freeman..... | 11   |

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E X H I B I T S

IDENTIFIED/ADMITTED

(No exhibits were presented)

1 P R O C E E D I N G S

2 COMMISSIONER KEMERAIT: Good afternoon.

3 Let's come to order and go on the record. I am Karen  
4 Kemerait of the North Carolina Utilities Commission,  
5 and with me this afternoon are Chair Mitchell,  
6 Commissioners Brown-Bland, Clodfelter, Duffley,  
7 McKissick and Hughes.

8 I now call for hearing Docket No. E-7, Sub  
9 1282, In the Matter of Application of Duke Energy  
10 Carolinas, LLC, Pursuant to North Carolina General  
11 Statute Section § 62-133.2 and Commission Rule R8-55  
12 Relating to Fuel and Fuel-related Charge Adjustments  
13 estimates for Electric Utilities.

14 North Carolina General Statute § 62-133.2  
15 provides for annual fuel charge adjustment proceedings  
16 for electric utilities engaged in the generation or  
17 production of electricity by fossil or nuclear fuels.  
18 Commission Rule R8-55 provides that the fuel charge  
19 adjustment proceeding for Duke Energy Carolinas, LLC,  
20 that I'll refer to going forward as DEC, will be held  
21 the first Tuesday of June of each year and that DEC  
22 shall file its direct testimony and exhibits and shall  
23 publish notice prior to the hearing.

24 On February 28th, 2023, DEC filed its

NORTH CAROLINA UTILITIES COMMISSION

1 Application to adjust the fuel and fuel-related cost  
2 component of its electric rates along with the direct  
3 testimony and exhibits of Witnesses Sigourney Clark,  
4 Jeffrey Flanagan, John Swez, David Johnson, Kevin  
5 Houston, and Steven D. Capps.

6 On March 1, 2023, DEC filed a corrected  
7 application to replace the previously filed version.

8 On March 16, 2023, the Commission issued an  
9 Order Scheduling Hearing, Requiring Filing of  
10 Testimony, Establishing Discovery Guidelines, and  
11 Requiring Public Notice. The Order scheduled DEC's  
12 Fuel Charge Adjustment hearing for today, Tuesday,  
13 May 30, 2023, beginning at 2:00 p.m.

14 The following parties have petitioned to and  
15 have been allowed to intervene in this proceeding:  
16 Carolina Utility Customers Association, Inc., that  
17 I'll call CUCA going forward, Southern Alliance for  
18 Clean Energy, that I'll refer to as SACE going  
19 forward, Carolina Industrial Group for Fair Utility  
20 Rates, that I'll refer to as CIGFUR III going forward.

21 On May 4th, 2023, DEC filed the supplemental  
22 testimony and exhibits of Sigourney Clark.

23 On May 5, 2023, DEC filed the supplemental  
24 testimony of John Swez.

1           On May 9th, 2023, the Public Staff filed the  
2 joint testimony of Witnesses Darrell Brown, Public  
3 Utility Regulatory Analyst, Accounting Division, and  
4 Fenge Zhang, Public Utility Regulatory Manager,  
5 Accounting Division, and the confidential testimony  
6 and exhibits of Evan D. Lawrence, Engineer with the  
7 Energy Division.

8           Also, on May 9th, 2023, CIGFUR III filed the  
9 direct testimony and exhibits of Brian C. Collins.

10           On May 8th, of 2023, DEC filed the rebuttal  
11 testimony of Jeffrey Flanagan, some of which is  
12 confidential, and the testimony of John Swez as well  
13 as the joint rebuttal testimony of Witness Clark and  
14 Chris Bauer.

15           On May 9th, 2023, DEC filed the corrected  
16 exhibit and work papers for the rebuttal testimony of  
17 Witness Clark.

18           On May 23rd of 2023, CIGFUR III filed a  
19 motion to excuse its Witnesses Brian C. Collins --  
20 excuse me, brought a motion to excuse its Witness  
21 Brian C. Collins from attending the expert witness  
22 hearing.

23           On May 24 of 2023, DEC filed a motion to  
24 excuse its Witnesses David Johnson, Kevina Houston,



1 and Steven D. Capps from attending the expert witness  
2 hearing.

3 On May 25th of 2023, DEC filed the required  
4 Affidavits of Publication.

5 On May 26, of 2023, the Commission issued an  
6 Order excusing witnesses in accepting testimony. In  
7 that Order, the Commission excused CIGFUR Witness  
8 Collins and DEC Witnesses Johnson, Houston, and Capps  
9 from attending the expert witness hearing, and also to  
10 receive the testimony and exhibits of these witnesses  
11 into evidence, and to be made part of the record in  
12 this proceeding.

13 On May 26, of 2023, DEC filed the revised  
14 rebuttal testimony of John Swez, some of which is  
15 confidential, and the revised rebuttal testimony of  
16 Jeffrey Flanagan, some of which is confidential.

17 Also, on May 26, of 2023, DEC filed the  
18 joint revised rebuttal testimony and second revised  
19 exhibits of Witness Clark and Chris Bauer.

20 I now call for appearances of counsel  
21 beginning with DEC.

22 MR. KAYLOR: Good afternoon. Robert Kaylor,  
23 appearing on behalf of Duke Energy Carolinas.

24 COMMISSIONER KEMERAIT: Thank you.

1 MS. TOON: Good afternoon. Ladawn Toon,  
2 also appearing on behalf of the Applicant, Duke Energy  
3 Carolinas. Thank you.

4 COMMISSIONER KEMERAIT: Good afternoon.

5 MS. CRESS: Good afternoon. Christina  
6 Cress, appearing on behalf of CIGFUR III.

7 MR. TRATHEN: Good afternoon. Marcus  
8 Trathen for Carolina Utility Customers Association.

9 MR. MAGARIRA: Good afternoon. Munashe  
10 Magarira, from Southern Environmental Law Center,  
11 appearing on behalf of SACE. Appearing with me is  
12 co-counsel Thomas Gooding.

13 MR. FREEMAN: Good afternoon. I am Will  
14 Freeman, and beside me is Zeke Creech of the Public  
15 Staff, on behalf of the Using and Consuming Public.

16 COMMISSIONER KEMERAIT: Good afternoon to  
17 all counsel. And I'll now ask the Public Staff  
18 whether there are any public witnesses who wish to be  
19 heard regarding this matter this afternoon?

20 MR. FREEMAN: Commissioner, we have  
21 identified one witness who is with us now.

22 COMMISSIONER KEMERAIT: Okay. Good  
23 afternoon.

24 MS. MCKEE-HUGER: Good afternoon.

1                   BETH MCKEE-HUGER;  
2                   being duly sworn,  
3                   testified as follows:

4                   COMMISSIONER KEMERAIT: Can you begin by  
5 stating your name and address for the record.

6                   THE WITNESS: Yes. I am Beth McKee-Huger,  
7 and I live at 6017 Bush Road in Brown Summit, North  
8 Carolina 27214.

9                   COMMISSIONER KEMERAIT: You may proceed.

10 DIRECT-EXAMINATION BY MR. FREEMAN:

11 Q Thank you, Reverend. If you could please tell  
12 the Commission and everyone in this room the  
13 reason for your visit and your thoughts.

14 A Yes. I have been, all my life, an advocate for  
15 people with lower incomes, and the additional  
16 fuel cost is going to be a substantial burden on  
17 people trying to pay their utility bills. I am  
18 also a solar producer. My family has a small  
19 solar installation and a contract with Duke  
20 Energy to sell that power.

21                   I'm really concerned about paying  
22 extra for the fuel cost for fossil fuel where you  
23 have to pay, pay them for the fuel and for the  
24 transportation when you can get free fuel from

1 the sky for solar and for wind. Obviously,  
2 because we've got our own experience with it, you  
3 pay the capital for the solar installation, you  
4 pay for the maintenance, we pay for the  
5 interconnection cost with Duke Energy every  
6 month, but the fuel itself is free. And not only  
7 is the fuel free but it is clean, and the heat,  
8 heat-trapping gases from burning fossil fuel are  
9 contributing to climate change. And the methane  
10 from natural gas, both in fracking that's out of  
11 the ground and transporting it, and things like  
12 that, are very powerful heat-trapping gas that  
13 are significantly increasing the temperature of  
14 the earth. We see the damage from the severe  
15 storms in our country, whether it's -- the  
16 weather severity around the world is even  
17 greater, especially in the tropics where drought  
18 and floods from the -- from climate change. I  
19 know that's a little bit far from the fuel cost,  
20 but the point is as the cost of all of that  
21 damage to the world is not even factored down,  
22 I'm sure, as you're figuring out the fuel cost,  
23 but there's no point of paying for fuel when you  
24 can get it free.



1           COMMISSIONER KEMERAIT: Are there any -- for  
2 the Public Staff, are there any additional public  
3 witnesses present this afternoon?

4           MR. FREEMAN: We're unaware of any,  
5 Commissioner.

6           COMMISSIONER KEMERAIT: Since there are no  
7 additional public witnesses, I'll close the public  
8 witness portion of the hearing at this time. And are  
9 there any preliminary matters that need to be  
10 addressed prior to the beginning of the hearing?

11           MR. FREEMAN: Yes, Commissioner. The Public  
12 Staff filed a motion to compel on Friday as part of a  
13 settlement that has been reached with the Company. We  
14 would like to withdraw that, please.

15           COMMISSIONER KEMERAIT: I assume you're  
16 making a motion?

17           MR. FREEMAN: I apologize. A motion to  
18 withdraw the Public Staff's motion to compel.

19           COMMISSIONER KEMERAIT: Okay. Your motion  
20 is allowed.

21           MR. FREEMAN: Thank you.

22           COMMISSIONER KEMERAIT: Are there any  
23 additional matters that need to be addressed?

24           MS. TOON: Yes, Commissioner Kemerait. If I

1 may. Again, Ladawn Toon on behalf of the Applicant.  
2 If I may speak to the fact that the Company and Public  
3 Staff have reached an alignment on a partial  
4 settlement, and if it be to your pleasure, I can give  
5 you some of the core terms of that settlement. We  
6 have made the other parties, counsel, aware and we'll  
7 work towards formalizing the settlement agreement, to  
8 submit it for review. But if it works for you,  
9 Commissioner Kemeraït, I can give you some of the core  
10 terms.

11 COMMISSIONER KEMERAÏT: Yes, please.

12 MS. TOON: And, of course, the Public Staff,  
13 please, could add context applied to the case, maybe.  
14 So the Company and Public Staff have come to an  
15 agreement on a 16-month mitigant, and so recovery  
16 would take place over 16 months. As a part of that,  
17 there would be a 4 percent interest, and that interest  
18 would be on the Delta between what we would recover  
19 through the statutory 12-month period versus what we  
20 will cover over the six-month period, so the 16-month  
21 mitigant. And then in terms of the prospective rate,  
22 we are going to use an updated forecast, the spring  
23 forecast. Originally, the Company used the January  
24 forecast and then updated it, and then withdrew it as

1 a part of the partial settlement. And with Public  
2 Staff, we will update, use the most recent forecast  
3 and send the prospectus based off of that. And so  
4 those are the core components of the partial  
5 settlement agreement, and the parties will -- and I  
6 apologize. Am I missing anything?

7 MR. FREEMAN: I was just going to add to  
8 that a teeny bit but I didn't want to cut you off.

9 MS. TOON: Please.

10 MR. FREEMAN: We estimated that the dollar  
11 value of the interest, the incremental interest, is  
12 \$6.656 million approximately.

13 MS. TOON: Approximately.

14 MR. FREEMAN: And that the impact -- it'll  
15 be an equal percentage impact, each of the customer  
16 classes of 13.3 -- was it three one, three seven  
17 percent, after the under-recovery and prospective  
18 amounts are included.

19 MS. TOON: And the Company will make sure  
20 that the core papers to support those number are  
21 reviewed by Public Staff and submitted along with the  
22 partial settlement agreements.

23 COMMISSIONER KEMERAIT: And this is a  
24 partial settlement between DEC and the Public Staff



1 only. Is that correct?

2 MS. TOON: That is correct.

3 COMMISSIONER KEMERAIT: Okay. And when do  
4 DEC and the Public Staff anticipate preparing the  
5 partial settlement agreement and filing it in the  
6 Docket?

7 MR. FREEMAN: Soon.

8 MS. TOON: I think we can file it by  
9 tomorrow, end of day, Thursday end of day, if that's  
10 possible, Commissioner?

11 COMMISSIONER KEMERAIT: Okay. So by  
12 Wednesday, end of day, or Thursday, end of the day.  
13 Is that correct?

14 MS. TOON: That's correct. Thank you.

15 COMMISSIONER KEMERAIT: Thank you. Are  
16 there any additional preliminary matters?

17 MS. CRESS: Yes. Presiding Commissioner  
18 Kemerait, Christina Cress for CIGFUR III. CIGFUR III,  
19 as I shared with counsel for the Company, has not been  
20 able to consider the terms of the stipulation between  
21 the Company and the Public Staff. And, in fact, as I  
22 understand it, some of those terms continue to evolve  
23 throughout the day, and we are still wrapping our  
24 hands around what is contained within that

1 stipulation. So, at this juncture, I have not had an  
2 opportunity to brief my clients on the terms of this  
3 stipulation or to get directive from them on how to  
4 proceed, you know, at this hearing. And so for those  
5 reasons, CIGFUR III would request that this hearing be  
6 in recess for enough time so as to allow both the  
7 stipulation to actually be filed and for my client to  
8 have an opportunity to meaningfully consider it, and  
9 also for some potential other conversations with other  
10 parties to occur.

11 COMMISSIONER KEMERAIT: And will provide a  
12 response from DEC, please.

13 MS. TOON: Yes. I -- respectfully, we'd  
14 like to object and offer as an option, if we could  
15 put -- to provide counsel with maybe a summary, some  
16 numbers and exhibits that you can be able to review  
17 instead of calling this an evidentiary hearing to  
18 recess. We do have witnesses here who have traveled,  
19 and I think that would just be a challenge in terms of  
20 their schedule, and so we would be able to maybe do  
21 something tonight or even early in the morning, at  
22 least to have some actual numbers you can review, as  
23 impact of your clients. You could share with your  
24 clients, if that would be an option, Ms. Cress, and --

1           COMMISSIONER KEMERAIT: Okay. Mr. Kaylor,  
2 did you have something you wanted to say as well?

3           MR. KAYLOR: No, no thanks.

4           COMMISSIONER KEMERAIT: And does the Public  
5 Staff wish to respond?

6           MR. FREEMAN: The Public Staff is ready to  
7 proceed but we don't have a strong opinion, one way or  
8 the other, so we defer to the Commissions' wisdom.

9           COMMISSIONER KEMERAIT: Okay.

10          MR. TRATHEN: If I could speak briefly,  
11 Presiding Commissioner.

12          COMMISSIONER KEMERAIT: Yes, Mr. Trathen.

13          MR. TRATHEN: Marcus Trathen for CUCA. We  
14 find ourselves in several positions. With CIGFUR, you  
15 know, as I'm looking, we're prepared to proceed,  
16 certainly, but as I'm looking at my cross-examination,  
17 I think this settlement potentially impacts what I  
18 might ask and what I might want to develop in terms of  
19 the record. It would certainly aid in the -- I'm  
20 appreciative and sensitive to the fact we have  
21 witnesses here, but just in general, in terms of an  
22 efficient proceeding, it would be helpful to have some  
23 time to evaluate the settlement that is on the table.

24          COMMISSIONER KEMERAIT: Is there anyone else

1 who wishes to be heard on this motion?

2 MR. MAGARIRA: If I may, Presiding Officer,  
3 Munashe Magarira on behalf of SACE. We'd sort of  
4 reiterate the same objections lodged by counsel for  
5 CIGFUR III and also counsel for CUCA. Obviously,  
6 we're appreciative of DEC's willingness to provide  
7 some written work product that sort of lays out at a  
8 higher level, kind of, what the parties have agreed  
9 to. I think given sort of the timeline, I don't know  
10 if it would necessarily address sort of our core  
11 issues with respect to not feeling prepared to really  
12 kind of cross-examine or otherwise sort of develop the  
13 record in light of, sort of, what issues our clients  
14 see as being live in the proceeding. And so, I think  
15 similarly, appreciative of what DEC has offered, but I  
16 don't know if it really addresses some of our core  
17 issues with respect to not really being prepared.  
18 Obviously, understanding of the fact that this is an  
19 evolving settlement agreement, and obviously  
20 appreciative of the fact that, you know, there might  
21 be some things that need to be papered out, but we'd  
22 also request that the Commission be wanting to, I  
23 guess, continue or hold a hearing in recess until  
24 parties have had the opportunity to actually see and

1 review a papered or written either summary or  
2 settlement agreement so that we can sort of prepare  
3 ourselves and also kind of advise our clients  
4 accordingly.

5 COMMISSIONER KEMERAIT: Okay. Anyone else  
6 who wishes to be heard?

7 (No response)

8 COMMISSIONER KEMERAIT: Okay. So what we  
9 are going to do is we are going to hold this hearing  
10 in recess until 1:00 tomorrow. And during that time  
11 period, I would ask that Duke and the Public Staff  
12 provide as much information as possible, hopefully  
13 this evening, to all of the parties, so that they can  
14 talk to their clients, review the information, and  
15 then be in a position to have whatever position from  
16 their clients, and we will resume again at 1:00  
17 tomorrow.

18 MR. KAYLOR: Thank you.

19 MS. TOON: Thank you.

20 MS. CRESS: Thank you.

21 COMMISSIONER KEMERAIT: And so the hearing  
22 is now in recess until 1:00 tomorrow. Thank you.

23 MS. TOON: Thank you.

24 COMMISSIONER KEMERAIT: We'll go off the

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record.

(Whereupon, the hearing is adjourned at 5:02 p.m. and set to reconvene at 1:00 p.m. on May 31, 2023.)

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C E R T I F I C A T E

I, TONJA VINES, DO HEREBY CERTIFY that the proceedings in the above-captioned matter were taken before me, that I did report in stenographic shorthand the Proceedings set forth herein, and the foregoing pages are a true and correct transcription to the best of my ability.

*Tonja Vines*  
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Tonja Vines