

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
DOCKET NO. E-2, SUB 1250

In the Matter of:)
Application of Duke Energy Progress,)
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”) in its September 11, 2020 Order Excusing Witnesses, Accepting Testimony, Canceling Expert Witness Hearing, and Requiring Proposed Orders, 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 Progress, LLC (DEP 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 DEP’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 DEP. Despite these required minimum disclosures, the burden of proof remains on DEP 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 Progress’ long-term contracts for gas transportation create unreasonable risks for utility customers.

Under Duke Energy Carolinas, LLC (DEC) and DEP’s “Asset Management and Delivered Supply Agreement” entered into in January 2013, DEC acts as the Asset Manager, managing short-term gas supply resources and optimizing the value of gas supply resources under contract on behalf of both companies. The costs are then divided between the two companies. Direct Testimony of John A. Rosenkranz, Docket No. E-2, Sub 1250 at 6 (Aug. 27, 2020) (“Rosenkranz Testimony”). DEC and DEP currently have long-term contracts with the Transcontinental Gas Pipe Line Company (“Transco”) for 434,450 MMBtu/day of firm gas transportation service. Id. In addition, DEP holds transportation contracts with several other pipelines. Id. at 8. These long-term commitments create an unreasonable risk to DEP customers.

These long-term contracts for firm gas transportation service commit DEP to pay a fixed, monthly charge to reserve gas pipeline capacity over the entire term of the agreement. Rosenkranz Testimony at 8. 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. 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. Id. Some of DEP’s long-term contracts do not expire until 2032.

Rosenkranz Testimony at 7. In light of the 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 DEP's ratepayers.

B. The information provided by Duke Energy Progress 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 amounted to \$623 million during the test period. Rosenkranz Testimony at 5. These costs account for approximately 40 percent of DEP's total fuel and fuel-related costs. *Id.* The information provided to the Commission to justify the large costs is insufficient. Even if it were deemed sufficient to satisfy the minimum requirements laid out by NCUC Rule R8-55(e), the information provided by DEP is insufficient to prove that any fuel and fuel-related costs were "reasonably and prudently incurred." Again, DEP bears the burden of proof under N.C.G.S. § 62-133.2(d) and NCUC Rule R8-55(k).

One of the key sources of information provided to the Commission regarding DEP'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 DEP do not report gas purchase and hedging costs separately from transportation and storage costs. Without a more 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. 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, DEP has not met its burden of proving that these costs related to its gas generation were reasonable and prudently incurred.

In fact, there are several indicators that suggest that the Company does not require all of the firm capacity that it has contracted for. The Company has contracted with Transco for additional firm transportation services despite there being an active market for gas at the Transco delivery points that serve their generating facilities. Rosenkranz Testimony at 9-10. With an active market, the Company has the ability to purchase gas from third parties rather than contracting for additional firm capacity. This increase in firm capacity is especially troubling when compared to a trend of decreasing gas use at DEP's generating facilities. Id. During the test period, DEP purchased 166,567.4 BBtu of gas compared to 182,376.6 BBtu in the previous year, which is a nine percent decrease. Direct Testimony of Brett Phipps, Docket No. E-2, Sub 1250 at Exhibit 2, p. 2 (June 9, 2020).

NCUC Rule R8-55(e) requires certain minimum disclosures that are necessary for the Commission to thoroughly review DEP's fuel and fuel-related costs, but those required minimum disclosures are not always sufficient to satisfy DEP'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 DEP'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 find that additional information is necessary in order for the Commission to determine whether the fuel and fuel-related costs that the Company seeks to recover in this docket were reasonably and prudently incurred. This additional information should include reporting gas purchase and hedging costs separately from transportation and storage costs in both Monthly Fuel Reports and annual filings, descriptions of gas transportation and storage services under contract, the fixed and variable costs paid for gas transportation and storage, and gas storage balances. The Commission should order the Company to file the requested information within 30 days. To the extent any additional reporting is determined to be necessary for the Commission's review, the Sierra Club also 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 16th day of October, 2020.

s/ Tirrill Moore
N.C. Bar No. 52299
tmoore@selcnc.org

Gudrun Thompson
N.C. Bar No. 28829
gthompson@selcnc.org

Southern Environmental Law Center
601 West Rosemary Street, Suite 220
Chapel Hill, NC 27516
Telephone: (919) 967-1450
Fax: (919) 929-9421

Attorneys for the Sierra Club

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 16th day of October, 2020.

s/ Tirrill Moore
Tirrill Moore