

LAW OFFICE OF
ROBERT W. KAYLOR, P.A.
353 EAST SIX FORKS ROAD, SUITE 260
RALEIGH, NORTH CAROLINA 27609
(919) 828-5250
FACSIMILE (919) 828-5240

October 21, 2021

VIA ELECTRONIC FILING

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

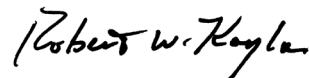
**Re: Joint Proposed Order of Duke Energy Progress, LLC and the Public
Staff
Docket No. E-2, Sub 1274**

Dear Ms. Dunston:

I enclose for filing the Joint Proposed Order of Duke Energy Progress, LLC and the Public Staff in connection with the referenced matter. An electronic copy is being emailed to briefs@ncuc.net.

If you have any questions, please let me know.

Sincerely,



Robert W. Kaylor, P.A.

Enclosure

cc: Reita Coxton
Munashe Magarira
Parties of Record


OFFICIAL COPY

Oct 21 2021

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Progress, LLC's Joint Proposed Order with the Public Staff, in Docket No. E-2, Sub 1274, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to the parties of record.

This the 21st day of October, 2021.



Robert W. Kaylor
352 E. Six Forks Rd., Ste. 260
Raleigh, North Carolina 27609
Tel 919-828-5250
bkaylor@rwkaylorlaw.com
North Carolina State Bar No. 6237

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1274

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Application by Duke Energy)
Progress, LLC for Approval of Joint)
Agency Asset Rider for Recovery of)
Costs Related to Facilities Purchased)
from Joint Power Agency Pursuant to)
N.C. Gen. Stat. § 62-133.14 and Rule)
R8-70)

**JOINT PROPOSED ORDER OF
DUKE ENERGY PROGRESS, LLC
AND THE PUBLIC STAFF**

HEARD: Tuesday, September 21, 2021 at 10:00 a.m. in the Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina (Public Witness Hearing, Hearing Examiner Erin Duffy, Presiding)

BEFORE: Chair Charlotte A. Mitchell, Presiding; and Commissioners ToNola D. Brown-Bland, Lyons Gray, Daniel G. Clodfelter, Kimberly W. Duffley, Jeffrey A. Hughes, and Floyd B. McKissick, Jr.

APPEARANCES:

For Duke Energy Progress, LLC:

Jack E. Jirak, Deputy General Counsel, Duke Energy Corporation,
NCRH 20/Post Office Box 1551, Raleigh, North Carolina 27602-1551

Robert W. Kaylor, Law Office of Robert Kaylor, 353 Six Forks Road,
Suite 260, Raleigh, North Carolina 27609

For Carolina Utility Customers Association, Inc.:

Marcus W. Trathen and Craig D. Schauer, Brooks, Pierce,
McLendon, Humphrey & Leonard, LLP, Suite 1700, Wells Fargo
Capitol Center, 150 Fayetteville Street, P.O. Box 1800 (zip 27602)
Raleigh, North Carolina 27601

For Carolina Industrial Group for Fair Utility Rates II:

Christina D. Cress, Bailey & Dixon, LLP, Post Office Box 1351,
Raleigh, North Carolina 27602

For the Using and Consuming Public:

Reita D. Coxton and Munashe Magarira, Staff Attorneys, Public
Staff, North Carolina Utilities Commission, 4326 Mail Service Center,
Raleigh, North Carolina 27699-4300

BY THE COMMISSION: On June 15, 2021, Duke Energy Progress, LLC (DEP or the Company) filed its application for Approval of Joint Agency Asset Rider (JAAR) to recover costs related to facilities purchased from the North Carolina Eastern Municipal Power Agency (NCEMPA) pursuant to N.C.G.S. § 62-133.14 and Commission Rule R8-70. DEP's application was accompanied by the testimony and exhibits of LaWanda M. Jiggetts – Rates and Regulatory Strategy Manager. In its application and prefiled testimony, DEP sought approval of the proposed rider, which incorporated the Company's proposed adjustments in its North Carolina retail rates.

On July 7, 2021, the Commission issued an *Order Scheduling Hearing, Requiring Filing of Testimony, Establishing Discovery Guidelines, and Requiring Public Notice*, in which the Commission set this matter for public witness and expert witness hearings, established discovery guidelines, and provided for public notice of the hearings.

On July 8, 2021, Carolina Industrial Group for Fair Utility Rates II filed its petition to intervene. The Commission granted the petition on July 9, 2021. On July 19, 2021, Carolina Utility Customers Association, Inc. filed its petition to intervene. The Commission granted the petition on July 19, 2021. The

intervention and participation by the Public Staff is recognized pursuant to N.C.G.S. § 62-15(d) and Commission Rule R1-19(e).

To assist in preventing the spread of COVID-19, on August 31, 2021, the Commission issued an order scheduling a remote hearing for expert witness testimony and requiring parties to file written statements of consent by September 7, 2021. All parties filed statements of consent.

On August 31, 2021, the Public Staff filed the affidavit of Michelle M. Boswell – Manager of the Accounting Division – Electric Section of the Public Staff.

No other party pre-filed testimony in this docket.

On September 8, 2021, DEP and the Public Staff filed a Joint Motion to Excuse Witnesses from Appearance at the September 21, 2021 expert witness hearing in this proceeding. The Commission granted this motion on September 13, 2021, cancelled the expert witness hearing, and required that proposed orders be filed by October 21, 2021. The order also received the witnesses' prefiled testimony, exhibits, and affidavits into the record. The Commission's Order also excused the appearance of counsel.

On September 20, 2021, DEP filed its affidavits of publication for the public notice, as required by the July 7, 2021 order.

The matter came on for the public witness hearing as scheduled on September 21, 2021. No public witnesses appeared.

On October 21, 2021, DEP and the Public Staff filed a Joint Proposed Order.

Based upon the foregoing, DEP's verified application, the testimony, exhibits, and affidavits received into evidence prior to the hearing, and the entire record in this proceeding, the Commission makes the following:

FINDINGS OF FACT

1. DEP is a duly organized corporation existing under the laws of the State of North Carolina, engaged in the business of developing, generating, transmitting, distributing, and selling electric power to the public in North Carolina and South Carolina, and is subject to the jurisdiction of the North Carolina Utilities Commission as a public utility. DEP is lawfully before this Commission based upon its application filed pursuant to N.C.G.S. § 62-133.14 and Commission Rule R8-70.

2. On July 31, 2015, DEP acquired NCEMPA's undivided ownership interests of 18.33% in the Brunswick Steam Electric Plant (Brunswick Units 1 and 2), 12.94% in Unit No. 4 of the Roxboro Steam Electric Plant (Roxboro Unit 4), 3.77% in the Roxboro Plant Common Facilities, 16.17% in the Mayo Electric Generating Plant (Mayo Unit 1), and 16.17% in the Shearon Harris Nuclear Power Plant (Harris Unit 1) (collectively, Joint Units). On May 12, 2015, the Commission issued an Order Approving Transfer of Certificate and Ownership Interests in Generating Facilities in Docket No. E-2, Sub 1067 and Docket No. E-48, Sub 8, which approved the transfer of NCEMPA's ownership interests in the Joint Units to DEP.

3. N.C.G.S. § 62-133.14 allows DEP to recover the North Carolina retail portion of all reasonable and prudent costs incurred to acquire, operate, and

maintain the proportional interest in the generating facilities purchased from NCEMPA. Commission Rule R8-70(c) provides for an annual proceeding to establish the JAAR and requires the electric public utility to submit an application at the same time that it files the fuel proceeding information required by Commission Rule R8-55.

4. Commission Rule R8-70 schedules an annual adjustment hearing for DEP and requires that the Company use a test period of the calendar year that precedes the end of the test period used for purposes of Commission Rule R8-55. The test period covered by the proposed rates in this proceeding is January 1, 2020 through December 31, 2020. Pursuant to Commission Rule R8-70, each annual filing will provide for the recovery of costs expected to be incurred in the rate period (prospective component), including the levelized annual cost of the plant initially acquired and appropriate annual portions of the cost of other assets acquired (excluding construction work in progress), as well as ongoing annual non-fuel operating costs, reduced by the annual effects of the acquisition on North Carolina retail allocation factors. Commission Rule R8-70(b) provides for an over- or underrecovery component as a Rolling Recovery Factor or a Joint Agency Asset RRF and requires the Company to use deferral accounting and maintain a cumulative balance of costs incurred but not recovered through the JAAR. This cumulative balance will accrue a monthly return as prescribed by the Rule.

5. DEP's proposed rates consist of a prospective component related to the future billing period December 2021 through November 2022, and a Joint

Agency Asset RRF component that accomplishes the true-up of costs incurred through the test year ended December 31, 2020.

6. In its testimony in this proceeding, DEP requested a total of \$157.913 million for the prospective component of its North Carolina retail revenue requirement, for the period December 1, 2021, through November 30, 2022, associated with the acquisition and operating costs of NCEMPA's undivided ownership interest in the Joint Units.

7. The annual levelized costs associated with the acquisition of the Joint Units at the time of purchase were \$56.044 million. DEP also requested an additional \$7.769 million in annual pre-tax costs associated with the acquisition costs not included in the levelized costs. The acquisition costs underlying these amounts are deemed reasonable and prudent under N.C.G.S. § 62-133.14(b)(1).

8. DEP requested an additional \$22.033 million in annual financing and operating costs relating to estimated capital additions during the rate period. The Commission finds it reasonable for the Company to recover these estimated costs during the rate period, subject to true-up through the Joint Agency Asset RRF.

9. DEP estimates the annual non-fuel operating costs from December 1, 2021, to November 30, 2022, to be \$71.861 million. The Commission finds it

reasonable for the Company to recover these estimated costs during the rate period, subject to true-up through the Joint Agency Asset RRF.

10. DEP requested \$0.205 million for incremental regulatory fees. The Commission finds it reasonable for the Company to recover these estimated costs during the rate period, subject to true-up through the Joint Agency Asset RRF.

11. The prospective annual revenue requirement of \$157.913 million resulting from the summing of the amounts set forth in Findings of Fact Nos. 7 through 10 has not been reduced by the annual effects of the acquisition on North Carolina retail allocation factors. This credit is no longer applicable in the JAAR since North Carolina retail base rates approved in Docket No. E-2, Sub 1142 reflect that more costs are being allocated to wholesale customers, because the Company is now supplying the entire electric requirements for NCEMPA.

12. In addition to the prospective components, DEP requests to collect \$6.128 million through the Joint Agency Asset RRF component of its North Carolina retail revenue requirement charged during the period December 1, 2021, through November 30, 2022, related to the underrecovery of financing and non-fuel operating costs experienced through the test year ended December 31, 2020. The Commission finds the actual costs and credits underlying this true-up amount to be reasonable and prudent for purposes of this proceeding, and return of this amount to be reasonable and appropriate.

13. Under N.C.G.S. § 62-133.14(b)(5), the prospective components and Joint Agency Asset RRF have been allocated under the customer allocation methodology approved by the Commission in Docket No. E-2, Sub 1219, DEP's

most recent general rate case, to produce the following rates by customer class, which rates the Commission finds to be just and reasonable.

Rate Class	Applicable Schedule(s)	Prospective Rate	Rolling Recovery Factor	Combined Rate*
Non-Demand Rate Class (dollars per kilowatt-hour)				
Residential	RES, R-TOUD, R-TOUE, R-TOU	0.00473	0.00009	0.00482
Small General Service	SGS, SGS-TOUE	0.00516	(0.00054)	0.00462
Medium General Service	CH-TOUE, CSE, CSG	0.00441	(0.00033)	0.00408
Seasonal and Intermittent Service	SI	0.00543	0.00108	0.00651
Traffic Signal Service	TSS, TFS	0.00261	0.00016	0.00277
Outdoor Lighting Service	ALS, SLS, SLR, SFLS	-	-	-
Demand Rate Classes (dollars per kilowatt)				
Medium General Service	MGS, GS-TES, AP-TES, SGS-TOU	1.42	0.09	1.51
Large General Service	LGS, LGS-TOU	1.42	0.15	1.57

*Incremental Rates, shown above, include North Carolina regulatory fee of 0.13%.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

This Finding of Fact is essentially informational, procedural, and jurisdictional in nature and is uncontroverted.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 2-4

The evidence for these Findings of Fact can be found in DEP's application, N.C.G.S. § 62-133.14, and Commission Rule R8-70.

Under N.C.G.S. § 62-133.14(a), upon the filing of a petition of an electric public utility and a public hearing, the Commission is required to approve an annual rider to the utility's rates for the North Carolina retail portion of reasonable and prudent costs incurred to acquire, operate, and maintain the Joint Units. The acquisition costs shall be deemed reasonable and prudent and shall be levelized over the useful life of the Joint Units at the time of acquisition. Financing costs shall be included and shall be calculated using the weighted average cost of capital as authorized in the utility's most recent general rate case.

The utility may recover an estimate of operating costs based on the experience of the test period and the costs projected for operation of the Joint Units for the next twelve months, subject to the filing of an annual adjustment including any under- or overrecovery, any changes necessary to recover costs for the next twelve-month period, or any changes to the cost of capital or customer allocation methodology occurring in a general rate case after the establishment of the initial rider. Commission Rule R8-70(c) requires the Company to propose annual updates to its JAAR in order for the hearing to be held as soon as practicable after the hearing held by the Commission under Rule R8-55.

The Commission concludes that DEP's application is in compliance with N.C.G.S. § 62-133.14 and Commission Rule R8-70.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 5-7

The evidence for these Findings of Fact can be found in the direct testimony of DEP witness LaWanda M. Jiggetts and in the affidavit of Public Staff witness Michelle M. Boswell.

DEP witness Jiggetts' exhibits reflect that DEP's annual levelized cost associated with the acquisition price of the Joint Units was \$56.044 million. In her direct testimony, DEP witness Jiggetts explained that the Company seeks to recover its acquisition costs, which are the amounts DEP paid to NCEMPA to acquire the proportional ownership interest in the joint agency assets, including the amount paid above the net book value of the facilities. Within this first category of acquisition costs, there are also two subgroups: costs for which the recovery is levelized and costs for which the recovery is not levelized. In general terms, the levelized revenue requirement represents recovery of the acquisition cost for the NCEMPA assets, spread evenly over the remaining life of the assets at the time the Joint Units were purchased. DEP witness Jiggetts also included additional financing and operating costs of \$7.769 million associated with assets purchased that were not included as part of the levelized costs. In her direct testimony, DEP witness Jiggetts described these costs as including inventory amounts that are part of the asset acquisition costs, nuclear fuel inventory, dry cask storage, and materials and supplies inventory. Because these assets are not depreciated, the

financing costs for these amounts are calculated on the basis of the average investment for the rate period.

N.C.G.S. § 62-133.14(b)(2) provides that the JAAR shall include financing costs equal to the weighted average cost of capital as authorized by the Commission in the electric public utility's most recent general rate case. DEP witness Jiggetts' exhibits reflect that the Company computed the debt and equity rate of return and the Company's weighted average net-of-tax cost of capital as authorized by the Commission in DEP's most recent general rate case.

In her affidavit, Public Staff witness Boswell stated that the Public Staff's investigation included a review of DEP's application, testimony, and exhibits filed in this docket, as well as the JAAR monthly reports. Additionally, the Public Staff's investigation included the review of responses to written data requests. She further stated that the Public Staff performed a limited review of the underlying capital additions and operating costs added to the calculation of the rider in this proceeding and did not perform a full-scale review of the prudence and reasonableness of all such additions or expenses. She stated that Commission Rule R8-70(b)(4) provides that the Commission is to determine the reasonableness and prudence of the cost of capital additions or operating costs incurred related to the acquired plant in a general rate proceeding. However, should the Public Staff discover imprudent or unreasonable costs in a JAAR proceeding, it will recommend an adjustment in that proceeding and also recommend that the impact of any disallowance also be reflected in the Company's cost of service in a general rate case. She stated the Public Staff did not find any

adjustments that should be made to the calculations of either the prospective or Joint Agency Asset RRF revenue requirements.

Based on the evidence on the record, the Commission concludes that pursuant to N.C.G.S. § 62-133.14(b)(1), DEP is allowed to recover the following costs in this annual JAAR proceeding: (1) the financing and depreciation costs associated with the acquisition costs of the Joint Units on a levelized basis in the amount of \$56.044 million annually and (2) the annual non-levelized amount of \$7.769 million of financing and operating costs associated with acquisition costs. To the extent the costs underlying these amounts are acquisition costs, such costs are deemed reasonable and prudent under N.C.G.S. § 62-133.14(b)(1). The Commission further finds it reasonable for the Company to recover the remainder of these estimated costs during the rate period, subject to true-up through the Joint Agency Asset RRF.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 8-9

The evidence for these Findings of Fact can be found in DEP's application, the testimony of DEP witness LaWanda M. Jiggetts, and the affidavit of Public Staff witness Michelle M. Boswell.

The Company requested annual costs of \$22.033 million to be included in the JAAR for financing and operating costs related to estimated capital additions to be incurred during the period December 1, 2021, through November 30, 2022, and an estimated \$71.861 million for annual non-fuel operating costs over the period December 1, 2021, to November 30, 2022. Under N.C.G.S. § 62-133.14(b)(3), the Commission shall include in the rider an estimate of operating

costs based on the prior year's experience and the costs projected for the next twelve months, and shall include the annual financing and operating costs for any proportional capital investments in the acquired electric generation facility. Public Staff witness Boswell did not oppose the recovery of these cost components in her affidavit filed in this proceeding and stated that the Public Staff recommended approval of the Company's proposed JAAR rates. The Commission concludes that it is reasonable for the Company to recover these estimated costs during the rate period, subject to true-up through the Joint Agency Asset RRF.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence for this Finding of Fact can be found in the testimony of DEP witness LaWanda M. Jiggetts.

Witness Jiggetts' exhibits reflected an increase in DEP's regulatory fee to \$0.205 million based on the increase in the regulatory fee for the period of December 1, 2021, through November 30, 2022. The Commission concludes that the calculation of the regulatory fee is just and reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The evidence for this Finding of Fact can be found in DEP's application and the testimony of DEP witness LaWanda M. Jiggetts, as well as the affidavit of Public Staff witness Michelle M. Boswell.

Under N.C.G.S. § 62-133.14(b)(4), the JAAR shall include adjustments to reflect the North Carolina retail portion of financing and operating costs related to the electric public utility's other used and useful generating facilities owned at the time of the acquisitions to properly account for updated jurisdictional allocation

factors. This adjustment benefits DEP customers by reducing DEP's annual retail revenue requirement. DEP witness Jiggetts testified that the revenue reductions reflect changes in jurisdictional allocation factors resulting from the additional NCEMPA load that will be served by the Company's portfolio of generating facilities owned at the time of the acquisition. As a consequence, a greater portion of the cost of the Company's other generating facilities will be allocated to its wholesale jurisdiction, while a lesser portion will be allocated to its retail jurisdictions. In her direct testimony, witness DEP Jiggetts testified that the reallocation between retail and wholesale jurisdictions is reflected in the base rates approved by the Commission in Docket No. E-2, Sub 1142. Therefore, the reduction will not be included in JAAR revenue requirements from March 16, 2018 forward (effective date for those base rates). In this filing, the jurisdictional reallocation credit (revenue reduction) is not applicable for the test period of January 2020 through December 2020, nor the prospective period of December 2021 through November 2022.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The evidence for this Finding of Fact can be found in DEP's application, the direct testimony of DEP witness LaWanda M. Jiggetts, DEP's exhibits to its application, and the affidavit of Public Staff witness Michelle M. Boswell.

The Company requested a Joint Agency Asset RRF increment adjustment of \$6.128 million related to the underrecovery of costs incurred through the test year ended December 31, 2020. The Commission notes that DEP should file a Joint Agency Asset RRF adjustment rider to include a true-up between estimated

and actual costs incurred during the test period under N.C.G.S. § 62-133.14(c). The deferred costs related to any true-up are to be recorded as a regulatory asset or regulatory liability, including a return on the deferred balance each month. Public Staff witness Boswell did not oppose the return on this rate component in her affidavit. The Commission finds the actual costs and credits underlying this true-up amount to be reasonable and prudent, and that the return of this amount is reasonable and appropriate.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The evidence for this Finding of Fact can be found in DEP's application, the direct testimony and exhibits of DEP witness LaWanda M. Jiggetts, and the affidavit of Public Staff witness Michelle M. Boswell.

Pursuant to N.C.G.S. § 62-133.14(b)(5), the costs of the rider shall be allocated utilizing the cost allocation methodology approved in DEP's last general rate case, Docket No. E-2, Sub 1219. In her direct testimony, witness Jiggetts testified that the Company's filing used the customer allocation methods approved in DEP's last general rate case. The North Carolina retail revenue requirement was allocated among customer classes using the production demand allocation factors. The allocated revenue requirement for each North Carolina retail customer class was then divided by estimated billing units, either kilowatt-hour (kWh) or kilowatt (kW), to produce the rates reflected for each rate class, as shown in the table below.

Rate Class	Applicable Schedule(s)	Prospective Rate	Rolling Recovery Factor	Combined Rate*
Non-Demand Rate Class (dollars per kilowatt-hour)				
Residential	RES, R-TOUD, R-TOUE, R-TOU	0.00473	0.00009	0.00482
Small General Service	SGS, SGS-TOUE	0.00516	(0.00054)	0.00462
Medium General Service	CH-TOUE, CSE, CSG	0.00441	(0.00033)	0.00408
Seasonal and Intermittent Service	SI	0.00543	0.00108	0.00651
Traffic Signal Service	TSS, TFS	0.00261	0.00016	0.00277
Outdoor Lighting Service	ALS, SLS, SLR, SFLS	-	-	-
Demand Rate Classes (dollars per kilowatt)				
Medium General Service	MGS, GS-TES, AP-TES, SGS-TOU	1.42	0.09	1.51
Large General Service	LGS, LGS-TOU	1.42	0.15	1.57

*Incremental Rates, shown above, include North Carolina regulatory fee of 0.13%.

Public Staff witness Boswell stated that based on its investigation of the Company's filing, the Public Staff found no adjustments that should be made to the calculations of either the prospective or RRF revenue requirement. The Public

Staff, therefore, recommended that the rates requested by the Company be approved and become effective for the rate period. In light of the foregoing, the Commission finds that the rates calculated by the Company, which were recommended by the Public Staff, are just and reasonable and should be approved.

IT IS, THEREFORE, ORDERED, as follows:

1. That DEP shall be allowed to charge in a rider \$164.041 million (\$157.913 million as the prospective component and \$6.128 million in the Joint Agency Asset RRF) on an annual basis to recover the costs in relation to the acquisition and operation of the Joint Units;
2. That the costs shall be allocated using the customer allocation methodology used in DEP's last general rate case as shown in DEP's application and the testimony of DEP witness Jiggetts;
3. That DEP shall file appropriate rate schedules and riders with the Commission in order to implement these approved rate adjustments to be effective for service rendered on and after December 1, 2021 as soon as practicable, but not later than ten (10) days after the date that the Commission issues orders in this docket as well as in Docket No. E-2, Subs 1272, 1275 and 1276; and
4. That DEP shall work with the Public Staff to jointly prepare a proposed notice to customers of the rate adjustment ordered by the Commission in this Docket, as well as in Docket No. E-2, Subs 1272, 1275 and 1276, and shall file the proposed notice to customers for Commission approval as soon as practicable.

ISSUED BY THE ORDER OF THE COMMISSION.

This the ____ day of _____, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk