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May 18, 2023

VIA ELECTRONIC FILING

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

RE: Duke Energy Progress, LLC and the Public Staff's Joint Motion to Excuse Witnesses, Cancel Expert Witness Hearing and Admit Evidence Docket No. E-2, Sub 1311

Dear Ms. Dunston:

Please find enclosed for filing Duke Energy Progress, LLC and the Public Staff's Joint Motion to Excuse Witnesses, Cancel Expert Witness Hearing and Admit Evidence, in the above-referenced docket.

If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink that reads 'Jason Higginbotham' in a cursive script.

Jason A. Higginbotham

Enclosure

cc: Parties of Record

OFFICIAL COPY

May 18 2023

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1311

In the Matter of) Application of Duke Energy Progress,) LLC for a Certificate of Public) Convenience and Necessity to) Construct a Solar Generating Facility in) Buncombe County, North Carolina))	JOINT MOTION TO EXCUSE WITNESSES, CANCEL EXPERT WITNESS HEARING, AND ADMIT EVIDENCE
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Duke Energy Progress, LLC (“DEP”) and the Public Staff – North Carolina Utilities Commission (the “Public Staff”) (together, “Movants”) hereby jointly move the North Carolina Utilities Commission (“Commission”), for an order excusing DEP’s and the Public Staff’s expert witnesses from the expert witness hearing now scheduled for May 22, 2023 in Commission Hearing Room, 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, canceling the May 22 expert witness hearing, and admitting into evidence the following items:

- (1) The confidential and public versions of DEP’s Application for a Certificate of Public Convenience and Necessity (“CPCN”) to Construct the Asheville Plant Solar Generating Facility (“Asheville Facility” or “Facility”) including the attached exhibits pursuant to Commission Rule R8-61, and the Direct Testimony of Justin LaRoche, on behalf of DEP, filed in this docket on January 23, 2023 (“CPCN Application”);
- (2) DEP’s Affidavit of Publication for the Public Notice related to the DEP Application for a CPCN to Construct at 9.5 MW Solar Photovoltaic Generating

Facility in Buncombe County, North Carolina, filed in this docket on March 14, 2023;

- (3) DEP's Supplemental Information Regarding its Application for CPCN, filed in this docket on April 26, 2023;
- (4) The confidential and public versions of the Direct Testimony of Jeff Thomas, Public Staff, filed in this docket on May 5, 2023;
- (5) Corrections to the Testimony of Jeff Thomas, Public Staff, filed in this docket on May 9, 2023;
- (6) Consumer Statements of Position of Judy Mattox and Gray Jernigan, filed in this docket on May 9, 2023;
- (7) The Letter of Support of Asheville Area Chamber of Commerce and the Consumer Statement of Buncombe Co. Government, filed in this docket on May 12, 2023;
- (8) The confidential and public versions of the Rebuttal Testimony of Justin LaRoche, on behalf of DEP, filed in this docket on May 15, 2023;
- (9) The confidential and public versions of Corrections to the Testimony of Jeff Thomas, Public Staff, and corrected pages, filed in this docket on May 16, 2023; and
- (10) Consumer Statement of City of Asheville Government, filed in this docket on May 16, 2023 (items (1) through (10) collectively referred to as, the "Filings").

In support of their Motion, Movants state as follows:

1. On January 23, 2023, DEP filed the CPCN Application.

2. On February 2, 2023, the Commission issued an *Order Scheduling Hearings, Requiring Filing, Establishing Procedural Guidelines and Requiring Public Notice* (“Scheduling Order”), which scheduled the expert witness hearing in this matter for May 22, 2023. The Scheduling Order also scheduled a public witness hearing for April 5, 2023 but provided that the Commission could cancel the public witness hearing if no substantial written complaints regarding the Facility were received by the Commission on or before March 24, 2023. No such complaints were filed. Accordingly, on March 28, 2023, DEP filed a motion requesting that the Commission cancel the public witness hearing, and on March 29, 2023, the Commission granted DEP’s motion.

3. Under the Scheduling Order, any person having an interest in this proceeding was required to file a petition to intervene stating such interest on or before May 5, 2023. No parties have sought leave to intervene in the proceeding. Accordingly, Movants are the only parties to this proceeding.

4. Movants have conferred regarding this Motion, and both DEP and the Public Staff have agreed to waive cross-examination of the other party’s witness and excuse them from appearing at the expert witness hearing in this proceeding.

5. The Commission has previously found that, “paper hearings in the administrative agency context, where full documentation establishes a complete record, satisfy due process requirements . . . even when there are material issues of fact raised.”¹

¹ In the Matter of Application of Duke Energy Progress, LLC for a Certificate of Public Convenience and Necessity to Construct a 752 MW Natural Gas-Fired Electric Generation Facility in Buncombe County Near the City of Asheville, Docket No. E-2, Sub 1089, Order Granting Application in Part, with Conditions, and Denying Application in Part (Mar. 28, 2016) at 41-42 (citing San Diego Gas & Electric Co. vs. Sellers of Energy and Ancillary Services, 127 FERC ¶ 61, 269 (2009)).

6. Movants agree that, if the Filings are admitted into evidence, the record in this proceeding will be complete regarding DEP’s and Public Staff’s positions concerning DEP’s CPCN Application. Therefore, a “paper hearing” on DEP’s CPCN Application is appropriate.

WHEREFORE, Duke Energy Progress, LLC and the Public Staff – North Carolina Utilities Commission respectfully request that the Commission issue an Order excusing DEP’s and the Public Staff’s expert witnesses from the expert witness hearing now scheduled for May 22, 2023 in Commission Hearing Room, 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, canceling the May 22 expert witness hearing, admitting into evidence the Filings, as described in this Motion, and granting such further relief as the Commission deems just and proper.

Respectfully submitted, this the 18th day of May 2023.

/s/ Jason A. Higginbotham

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CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Progress, LLC and the Public Staff's Joint Motion to Excuse Witnesses, Cancel Expert Witness Hearing and Admit Evidence, in Docket No. E-2, Sub 1311, has been served by electronic mail, hand delivery, or by depositing a copy in the United States Mail, 1st Class Postage Prepaid, properly addressed to parties of record.

This the 18th day of May, 2023.



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