



Jason A. Higginbotham  
Associate General Counsel

525 S. Tryon Street, ECA3  
Charlotte, NC 28202

o: 704.731.4015

Jason.Higginbotham@duke-energy.com

May 10, 2024

**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 North Carolina Electric Membership Corporation's Joint Motion for Limited Amendment to Procedural Schedule to Allow Reasonable Period for Discovery  
Docket Nos. E-2, Sub 1318 and EC-67, Sub 55**

Dear Ms. Dunston:

Please find enclosed for filing the Joint Motion for Limited Amendment to Procedural Schedule to Allow Reasonable Period for Discovery of Duke Energy Progress, LLC and North Carolina Electric Membership Corporation in the above proceedings.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jason A. Higginbotham', written in a cursive style.

Jason A. Higginbotham

Enclosure

cc: Parties of Record

OFFICIAL COPY

May 10 2024

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-2, SUB 1318  
DOCKET NO. EC-67, SUB 55

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

	)	
In the Matter of	)	
Joint Application of Duke Energy Progress, LLC and North Carolina Electric Membership Corporation for a Certificate of Public Convenience and Necessity to Construct a 1,360 MW Natural Gas-Fueled Combined Cycle Electric Generating Facility in Person County, North Carolina	)	<b>JOINT MOTION FOR LIMITED AMENDMENT TO PROCEDURAL SCHEDULE TO ALLOW REASONABLE PERIOD FOR DISCOVERY</b>
	)	
	)	

---

NOW COME Duke Energy Progress, LLC and North Carolina Electric Membership Corporation (together the “Joint Movants”), by and through counsel and pursuant to North Carolina Utilities Commission (“Commission”) Rule R1-7, and move the Commission to amend the procedural schedule set forth in its April 10, 2024, *Order Scheduling Hearings, Establishing Procedural and Filing Requirements, and Requiring Public Notice* (“Procedural Order”) by allowing the Joint Movants additional time to propound discovery related to the pre-filed direct testimony of the Public Staff – North Carolina Utilities Commission (“Public Staff”) and other intervenors through and including July 5, 2024, which is 11 calendar days before the Joint Movants’ rebuttal testimony is due on July 16, 2024.

In support of this Motion, the Joint Movants show the Commission the following:

1. Public Staff and Intervenors will have had a total of 70 calendar days to propound discovery on the Joint Movants’ Application for a Certificate of Public

Convenience and Necessity to construct a 1,360 MW natural gas-fueled combined cycle electric generating facility in Person County, North Carolina (“Application”).<sup>1</sup> The Procedural Order directs the Public Staff and intervenors to file their pre-filed direct testimony no later than June 20, 2024, and to serve any discovery on the Joint Movants’ pre-filed direct testimony no later than 14 days before that deadline (June 6, 2024).<sup>2</sup>

2. In contrast to this discovery window, the Commission’s Procedural Order directs the Joint Movants to serve “[f]ormal discovery requests related to the Public Staff and other intervenors prefiled direct testimony . . . *no later than five calendar days after such testimony is filed.*”<sup>3</sup> In other words, while the Public Staff and intervenors are granted 70 calendar days from the filing of the Application to thoroughly examine it and propound extensive discovery, the Joint Movants will have just five (5) calendar days—and only three (3) business days<sup>4</sup>—to assess the parties’ testimony *and* propound discovery.

3. The Joint Movants believe they should also be afforded a reasonable amount of time to sufficiently examine other parties’ filings such that they can propound all necessary and important discovery. Currently, it is unreasonable and wholly asymmetrical (relative to the discovery period allotted to all other parties) for the Joint Movants to have only five (5) calendar days to review and assess the likely-complex filings by the Public Staff and other parties and subsequently issue discovery, given both the volume and the complex and technical nature of the information the Joint Movants will be required to

---

<sup>1</sup> Filed on March 28, 2024.

<sup>2</sup> Procedural Order at 2 (Discovery Guideline No. 3), 4 (Ordering Paragraph No. 7).

<sup>3</sup> *Id.* at 2 (Discovery Guideline No. 4) (emphasis added).

<sup>4</sup> Since intervenor testimony is due on June 20 (Thursday) and the fifth calendar day thereafter falls on June 25 (Tuesday), the Joint Movants will have only three business days to propound discovery.

digest. It will likely take the Joint Movants several days to digest all of the information and a week or more to ensure that they have comprehensively assessed all information filed in the docket and prepare initial discovery. Under the current schedule, the Joint Movants are also effectively precluded from even the remotest possibility of follow up discovery, which has the potential to result in either discovery disputes or limiting access to information the Joint Movants can present to the Commission in rebuttal testimony.

4. Accordingly, the Joint Movants respectfully request that the Commission amend its Procedural Order to allow them through and including July 5, 2024, to propound discovery, and correspondingly allow the Public Staff and intervenors an additional two business days (for a total of five business days instead of three) to respond to Joint Movants' discovery requests. This minor procedural modification will allow the Joint Movants a much more feasible timeframe<sup>5</sup> to digest the parties' testimony and serve discovery without any impact to the testimony or hearing schedule. In light of the more extensive period for discovery afforded to other parties and recognizing the need of this case, the Joint Movants requested extension is reasonable and will not prejudice any party.

5. The Joint Movants have contacted counsel for parties of record regarding this Motion and are authorized to state that neither the Public Staff nor any intervenors object to the relief requested.

WHEREFORE, the Joint Movants respectfully request that the Commission grant this Motion and amend Discovery Guideline No. 4 set forth in the Commission's Procedural Order to allow the Joint Movants through and including July 5, 2024, to issue discovery related to the pre-filed direct testimony of the Public Staff and intervenors.

---

<sup>5</sup> July 5 is 15 calendar days and 10 business days after June 20, the date intervenor testimony is due.

Respectfully submitted, this the 10th day of May, 2024.

/s/ Jason A. Higginbotham

Jack E. Jirak  
Jason A. Higginbotham  
Duke Energy Corporation  
P.O. Box 1551/NCRH 20  
Raleigh, North Carolina 27602  
JEJ Telephone: (919) 546-3257  
JAH Telephone: (704) 731-4015  
Jack.Jirak@duke-energy.com  
Jason.Higginbotham@duke-energy.com

E. Brett Breitschwerdt  
Brian L. Franklin  
Mason E. Maney  
McGuireWoods LLP  
501 Fayetteville Street, Suite 500  
PO Box 27507 (27611)  
Raleigh, North Carolina 27601  
EBB Telephone: (919) 755-6563  
BLF Telephone: (919) 835-5963  
MEM Telephone: (919) 835-5958  
bbreitschwerdt@mcguirewoods.com  
bfranklin@mcguirewoods.com  
mmaney@mcguirewoods.com

*Attorneys for Duke Energy Progress, LLC*

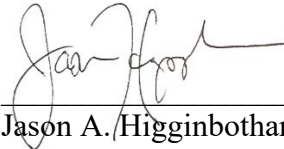
Charles Bayless  
Timothy R. Dodge  
Michael Youth  
North Carolina Electric Membership  
Corporation  
3400 Sumner Boulevard  
Raleigh, NC 27616  
Telephone (CB): (919) 875-3085  
Telephone (TRD): (919) 875-3111  
Telephone (MY): (919) 875-3060  
charlie.bayless@ncemcs.com  
tim.dodge@ncemcs.com  
Michael.youth@ncemcs.com

*Counsel for North Carolina Electric  
Membership Corporation*

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Progress, LLC and North Carolina Electric Membership Corporation 's Joint Motion for Limited Amendment to Procedural Schedule to Allow Reasonable Time for Discovery, in Docket Nos. E-2, Sub 1318 and EC-67, Sub 55, has been served by electronic mail, hand delivery, or by depositing a copy in the United States Mail, 1<sup>st</sup> Class Postage Prepaid, properly addressed to parties of record.

This the 10<sup>th</sup> day of May, 2024.



---

Jason A. Higginbotham  
Associate General Counsel  
Duke Energy Corporation  
525 S. Tryon Street, ECA3  
Charlotte, NC 28202  
Tel 704.731.4015  
[Jason.Higginbotham@duke-energy.com](mailto:Jason.Higginbotham@duke-energy.com)