

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-7, SUB 1276

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Duke Energy Carolinas, LLC,	)	ORDER DENYING MOTION TO
for Adjustment of Rates and Charges	)	STRIKE AND RECONVENING
Applicable to Electric Service in North	)	HEARING
Carolina and Performance-Based Regulation	)	

BY THE PRESIDING COMMISSIONER: For the reasons discussed herein, the Presiding Commissioner finds good cause to deny the joint motion of Blue Ridge EMC, Haywood EMC, Piedmont EMC, and Rutherford EMC (collectively, Blue Ridge et al.), and the Carolina Industrial Group for Fair Utility Rates III (CIGFUR, together with Blue Ridge et al., Joint Movants) to strike the supplemental testimony of Public Staff witness David Williamson (witness Williamson) but will reconvene the hearing for the purpose of allowing the Joint Movants and any other interested parties an opportunity to cross-examine witness Williamson regarding his supplemental testimony and exhibits as well as to allow Duke Energy Carolinas, LLC (DEC), to present supplemental expert witness testimony and exhibits for the purpose of rebutting witness Williamson's supplemental testimony and exhibits.

**PROCEDURAL HISTORY**

On January 19, 2023, DEC filed an application requesting the Commission's approval to adjust and increase its retail electric base rates and charges, and for approval of performance-based regulation.

On February 16, 2023, the Commission issued an Order Establishing General Rate Case and Suspending Rates. Pursuant to that order and N.C. Gen. Stat. § 62-133.16(d)(3), DEC's proposed rates are suspended until December 15, 2023, and the Commission will issue a final order in this proceeding on or prior to that date.

On March 16, 2023, the Commission issued an Order Scheduling Investigation and Hearings, Establishing Intervention and Testimony Due Dates and Discovery Guidelines, and Requiring Public Notice (Scheduling Order), which in pertinent part established discovery guidelines and established a deadline for intervening parties to prefile direct testimony and exhibits with the Commission. In particular, the Scheduling Order required "[t]hat the direct testimony and exhibits of intervenors and the Public Staff shall be filed on or before Wednesday, July 19, 2023[.]" Scheduling Order at 7. Further, the Scheduling Order established that "[f]ormal discovery requests related to the prefiled

direct testimony of the Public Staff or intervenors shall be served no later than five calendar days after the filing of that party's testimony." *Id.* at 4.

On July 19, 2023, consistent with the Scheduling Order, the Public Staff, along with certain other intervening parties, prefiled direct testimony and exhibits, including the direct testimony of witness Williamson. In particular, CIGFUR prefiled the direct testimony of one witness – Brian C. Collins. Blue Ridge et al. did not submit expert witness testimony.

Witness Williamson's prefiled direct testimony states

[d]ue to the ongoing updating of plant-in-service, expenses, and revenues by the Company, the Public Staff cannot yet determine a revenue requirement, and thus I am unable to provide a recommendation regarding revenue apportionment at this time. I intend to file supplemental testimony that will illustrate various approaches to revenue apportionment based on the Public Staff's recommended revenue change as updated through April 2023. However, I note that the Company plans to file its final update through June 2023 on July 18, 2023, and the Public Staff will complete its review of this update and make any necessary additional filings, including jurisdictional and class assignment of the updated Public Staff recommended revenue change, as soon as possible. Moreover, until the Public Staff can provide a final revenue requirement in this case, any class revenue apportionment should be considered preliminary and for illustrative purposes only and should only be viewed as one of many possible approaches to apportioning revenue using the approximate revenue requirement determined by the Public Staff and based on available data at that time.

Tr. vol. 13, 43-44.

On August 1, 2023, the Public Staff filed a letter with the Commission stating that it was "undertaking its investigation and audit of DEC's May 2023 and June 2023 updates as expeditiously as possible." August 1, 2023 Public Staff Letter at 1. However, the letter further explained that of DEC's May 2023 and June 2023 updates "comprise \$350 million and \$750 million of capital spend, respectively, for a total capital spend of \$1.1 billion for those two months." *Id.* "The magnitude of this spend requires thorough diligence on the part of the Public Staff. Therefore, the Public Staff anticipates filing its supplemental testimony on the Company's May 2023 and June 2023 updates after the start of the hearing, which is scheduled to begin on Monday, August 28, 2023." *Id.* at 1-2.

On August 22, 2023, DEC and the Public Staff filed the Agreement and Stipulation of Partial Settlement (Initial Revenue Requirement Stipulation), which enumerated the resolved and unresolved issues between the parties. The Partial Stipulation stated that it:

does not prevent the Public Staff from completing its audit of DEC's Second and Third Supplemental Updates filed in this docket or making proposed adjustments to the updated revenue requirements based on such audit, which will be presented in the Public Staff's Supplemental Testimony to be filed in this docket. The actual amount of the agreed-upon adjustments may differ due to the effects of the Unresolved Issues and the Public Staff's Supplemental Testimonies.

Tr. Ex. vol. 7.

Between August 28, 2023, and September 5, 2023, the Commission conducted a hearing for the purpose of receiving expert witness testimony regarding the application of DEC in the above-captioned docket.

During the hearing, on August 29, 2023, counsel for the Public Staff advised the Commission of its intent to file supplemental testimony – including but not limited to the testimony of witness Williamson – pertaining to its investigation of DEC's May and June update filings by October 13, 2023. Tr. vol. 8, 14-15.

On August 31, 2023, two days after the Public Staff provided notice of its intent for file supplemental testimony of witness Williamson on October 13, 2023, CIGFUR filed a motion to excuse its witness Brian C. Collins from appearing at the evidentiary hearing, which was granted orally by the Presiding Commissioner that same day. Tr. vol. 13, 12.

Also on August 31, 2023, after CIGFUR's motion to excuse its witness had been granted, counsel for the Joint Movants made an oral objection "to the Public Staff being allowed to file [witness Williamson's] supplemental testimony[.]" *Id.* at 69. The Joint Movant's counsel elaborated on her opinion that reconvening the hearing for the purpose of providing an opportunity for parties to cross-examine witness Williamson on supplemental testimony

does not make Blue Ridge or CIGFUR III, for that matter, whole because our – we will not have an opportunity to rebut that evidence through either our own witness or other parties' witnesses at that late stage in the game. And it, essentially, gives the Public Staff the final word, after having seen this issue be litigated during the evidentiary hearing and having the benefit of seeing the parties' proposed orders and briefs, and seeing the arguments that are taken throughout, and for those reasons, it, frankly . . . remains that this is a due process issue.

*Id.* at 72-73. Responding to a question from the Presiding Commissioner – "[w]hat CIGFUR witnesses do you still have that haven't been dismissed or released that would

be used to rebut Mr. Williamson's testimony?" – counsel for the Joint Movants stated that "if Mr. Williamson is going to be allowed to file supplemental testimony, then CIGFUR III does intend to request an opportunity to have our witness, who has previously filed testimony on this same issue, be heard at the same time that cross examination of Mr. Williamson, as to that supplemental testimony, occurs." *Id.* at 73-74.

At the close of the evidentiary hearing, the Presiding Commissioner stated

it's my understanding that the Public Staff intends to file supplemental testimony and schedules . . . resolving DEC's May and 17 June updates by October 13th, 2023. We will hold the record open for the purpose of receiving the late-filed exhibits that have been requested by the Commissioners and the supplemental testimony and schedules of the Public Staff on DEC's May and June updates. We will provide all of you with additional time to update your proposed Orders or provide supplemental proposed Orders on the items or matters addressed in the supplemental testimony.

Tr. vol. 16, 422-23. At this time, neither CIGFUR nor Blue Ridge et al., requested leave from the Commission to file testimony in rebuttal of witness Williamson's forthcoming supplemental testimony and exhibits.

On October 11, 2023, parties, including CIGFUR, filed proposed orders and post-hearing briefs. Blue Ridge et al. filed a letter indicating support for the portions of CIGFUR's post-hearing brief pertaining to "the statutory mandate to allocate the Company's total revenue requirement in accordance with the cost-causation principle" and "the statutory mandate to minimize cross-subsidization to the greatest extent practicable by the conclusion of the MYRP period." October 11, 2023 Blue Ridge et al. Letter in lieu of Post-Hearing Order and Brief at 1.

On October 13, 2023, the Public Staff filed the supplemental testimony and exhibits of witness Williamson as well as other supplemental testimony and exhibits pertinent to its audit of DEC's May and June updates. No party has objected to the Public Staff's other supplemental testimony and exhibits pertinent to its audit of DEC's May and June updates. Also on October 13, DEC filed a Supplemental Revenue Requirement Stipulation between it and the Public Staff as well as Second Supplemental Settlement Testimony and Exhibits of Q. Bowman. No party has objected to DEC's October 13, 2023 filings.

### **Motion to Strike**

On October 17, 2023, the Joint Movants filed a motion to strike and request for relief (Motion). The Motion requests that "... the supplemental testimony of witness Williamson filed in the above-captioned docket on October 13, 2023 should be stricken from the record and should not be considered by the Commission in its deliberations in this matter." Motion at ¶ 27.

The Motion attacks witness Williamson's supplemental testimony on a procedural basis, alleging that "[t]he Public Staff did not first obtain leave from the Commission to file the Supplemental Testimony of Williamson." *Id.* at ¶ 19. "Indeed, instead of obtaining leave from the Commission, Williamson unilaterally declared pre-filed direct testimony that he would be submitting late-filed supplemental testimony." *Id.* The Motion further contends that witness Williamson's supplemental testimony was filed "without first seeking leave or permission from the Commission." *Id.* at ¶ 21. Also, the Motion asserts that the Williamson supplemental testimony violates Commission Rule R1-24(g).

The Motion also attacks witness Williamson's supplemental testimony on a substantive basis, contending that "[witness] Williamson's recommendations regarding revenue apportionment submitted as part of his supplemental testimony did not depend upon the Public Staff's completion of its audit of the Company's summer updates." *Id.* at ¶ 22.

The Joint Movants assert that the acceptance of witness Williamson's supplemental testimony into evidence "would cause undue prejudice to other parties who have already spent time and resources litigating an issue of great materiality and import: revenue apportionment among retail customer classes," and further "would violate the due process rights of other parties[.]" *Id.* at ¶¶ 25-26. In the alternative, the joint movants request the following relief:

- a. The opportunity to conduct additional discovery;
- b. The opportunity to present rebuttal evidence by way of leave to allow all other parties to file supplemental rebuttal testimony;
- c. Reconvening of the evidentiary hearing in this matter to allow for cross-examination of witness Williamson;
- d. The opportunity to supplement previously-filed proposed orders and briefs at least three weeks after the close of any reconvened hearing[.]

*Id.* at ¶ 28.

### **CUCA's Response**

On October 18, 2023, the Carolina Utility Customers Association (CUCA) filed a response in support of the Motion (CUCA's Response). CUCA's Response contends that it is "fundamentally unfair and improper for a single party to be permitted to submit arguments on their view of" the proper apportionment of any revenue change permitted by the Commission "after the hearing has been concluded and when other parties are not afforded the opportunity to examine, probe, and counter those views." CUCA's Response at 2. Like the Joint Movants, CUCA argues that the substantive issues addressed by witness Williamson's supplemental testimony "could, and should, have been presented

with his original testimony.” *Id.* More particularly, CUCA contends that witness Williamson’s supplemental testimony pertaining to revenue assignment principles, concerns with residential decoupling, and impacts on the lighting class attributable to the stipulated cost-of-service methodology was not dependent on the resolution of the Public Staff’s final recommendation on the total magnitude of the required revenue requirement increase and could have been filed in accordance with the dates directed in the Commission’s Scheduling Order. *Id.* CUCA also states that it requires workpapers to understand witness Williamson’s testimony and exhibits and has submitted discovery requests to the Public Staff seeking the same.

CUCA further contends that witness Williamson’s supplemental exhibits fail to meet the standard for the admittance of expert witness testimony pursuant to the North Carolina Rules of Evidence, Rule 702(a), because the exhibits “are not ‘based upon sufficient facts or data,’ are not ‘the product of reliable principles and methods,’ and do not involve the applications of ‘principles and methods reliably to the facts of the case.’” *Id.* at 2-3. CUCA alleges inconsistencies amounting to “more than a \$100 million difference in revenue requirement between Mr. Williamson’s exhibits and the revenue amounts indicated in the text of his testimony and supported by the supplemental testimony of and exhibits of witnesses Zhang, Boswell, and Metz.” *Id.* at 4. Accordingly, even if the Commission accepts witness Williamson’s supplemental testimony, CUCA argues that the supplemental exhibits should not be accepted into the record.

Finally, CUCA objects to outcome of witness Williamson’s revenue apportionment contending that witness Williamson’s exhibits “result in a suggestion that the OPT class should bear even more of the revenue requirement, while the Residential class bears proportionately less. As a result, Mr. Williamson’s calculations propose to exacerbate interclass subsidization while claiming to do the opposite.” *Id.* at 5.

In concluding, CUCA argues that “it is inappropriate and ultimately unfair to the parties to these proceedings to allow open-ended and unilateral submission of additional materials relating to disputed and material issues after the close of the rate case.” *Id.* Looking to future proceedings, CUCA recommends that the Commission “provide procedural guidance to prevent a recurrence of this issue in future rate cases. For example, the Commission may wish to create a presumption that any updates or MYRP project substitutions after a date certain would be ineligible for consideration in the rate proceeding.” *Id.* at 5-6.

## **Public Staff’s Response**

The Public Staff opposes Joint Movant’s contention that witness Williamson’s supplemental testimony did not depend upon the Public Staff’s completion of its audit and could have been filed prior to his testimony at the evidentiary hearing. More particularly, the Public Staff contends “[t]his argument is without merit because rate and revenue apportionment are dependent on a revenue requirement . . . It is a fact that rates cannot be apportioned until there is a final revenue requirement.” Public Staff’s Response at 3. “Only after the Public Staff determines its final recommendation on the revenue

requirement can it use its rate apportionment principles to appropriately recommend just and reasonable rates for each customer class.” *Id.* at 4.

Regarding Joint Movant’s allegation that the Public Staff filed witness Williamson’s supplemental testimony and exhibits without leave, the Public Staff contends that it is not “in violation of any Commission order, rule, or directive of Commission staff when it filed witness Williamson’s supplemental testimony because the Public Staff was complying with a directive of the Commission to file supplemental testimony and exhibits on or before October 13, 2023.” *Id.* at 5-6. The Public Staff’s Response further states “Commission Rule R1-30 allows the Commission to deviate from the strict application of its rules when compliance is “impossible or impracticable.” *Id.* at 6. The Public Staff states that on several occasions, including while under oath before the Commission at the hearing, it “explained the unprecedented difficulty in auditing updates by [DEC] with a combined ‘total capital spend of \$1.1 billion’ while also simultaneously preparing for and participating in a performance-based regulation rate case.” *Id.* According to the Public Staff, such circumstances “made strict compliance with Commission Rule R1-24 impossible or impracticable.” *Id.*

Responding to the due process violations and allegations of unfair prejudice complained of by the Joint Movants, the Public Staff argues that “those allegations do not depend on the admission of that testimony into the record alone, but rather the denial of an opportunity to respond, rebut, or otherwise develop the evidentiary record further in response to the admission of this evidence.” *Id.* at 7.

Finally, the Public Staff states that it “generally does not object to parties submitting discovery or cross-examining witness Williamson on his supplemental testimony. The Public Staff is working diligently to respond to data requests already received from CIGFUR on the supplemental testimony of Mr. Williamson.” *Id.* at 8.

## **DEC’s Response**

On October 19, 2023, DEC filed a response to the Motion to Strike (DEC’s Response). DEC states that it “takes no position as to Joint Movants’ motion to strike Mr. Williamson’s supplemental testimony and exhibits,” however, if the Commission denies the Motion, DEC states that it supports in part the Joint Movants’ alternative requests for relief and also requests leave to file supplemental rebuttal testimony in response to witness Williamson’s late-filed testimony. DEC’s Response at 1.

DEC states that witness Williamson’s supplemental testimony and exhibits explain for the first time witness Williamson’s proposed rate design and recommended spread of the revenue requirement among DEC’s customer classes. Similar to the arguments asserted by the Joint Movants and CUCA, DEC states that “it is not necessary to wait until a final revenue requirement is determined in order to recommend an apportionment methodology.” See Tr. vol. 10, 226. DEC asserts that witness Williamson stated in his prefiled direct testimony that he agreed with DEC’s proposal to use a 10% variance reduction to mitigate rate shock in this case; however, later changed his position by

recommending in his supplemental testimony apportioning the revenue requirement differently than DEC's recommended apportionment. See Tr. vol. 13, 51. DEC contends that the revenue requirement apportionment recommended by witness Williamson "results in substantially different percentage increases to the various customer classes than any of the rate design approaches litigated during the course of the hearing." DEC's Response at 2. DEC further objects to witness Williamson's recommendation stating "the apportionment methodology recommended by Mr. Williamson relies on subjective determination of optimal rate increase percentages by the Public Staff, independently for each customer class. As such, the Company has no clear guidance on how to apply this methodology to any other revenue requirement amount that the Commission may approve." *Id.*

Accordingly, DEC requests that if the Commission denies the Motion, that it grant alternative relief including allowing the parties to conduct discovery on witness Williamson's supplemental testimony and exhibits, reconvening the evidentiary hearing to allow for the cross-examination of witness Williamson on his supplemental testimony and exhibits, and allowing the parties to supplement their proposed orders and briefs – limited in scope to witness Williamson's supplemental testimony and exhibits – following the reconvened hearing.

Finally, DEC states its opposition to Joint Movants' request that all parties should have the opportunity to present rebuttal evidence contending that "[i]n a general rate case, only the applicant is permitted – and in fact, as the party with the ultimate burden of proof, is entitled – to file rebuttal testimony." DEC's Response at 2. DEC requests however that it be permitted to file supplemental rebuttal testimony and exhibits from its witnesses Byrd and Beveridge responsive to the supplemental testimony and exhibits of witness Williamson.

### **Corrections to witness Williamson's Prefiled Supplemental Exhibits**

On October 20, 2023, the Public Staff filed an errata sheet and corrections to witness Williamson's Supplemental Exhibits 1 and 2 (Corrected Supplemental Exhibits).

### **Second Joint Motion to Strike and Request for Relief**

On October 23, 2023, the Joint Movants filed a Second Joint Motion to Strike and Request for Relief (Second Motion). The Presiding Commissioner intends to address the Second Motion in a subsequent order as soon as practicable.

## **DISCUSSION AND CONCLUSIONS**

First, Joint Movants' contention that the Public Staff unilaterally filed witness Williamson's supplemental testimony without leave from the Commission is wholly without merit given the Presiding Commissioner's directive on September 5, 2023, to hold the record open for the purpose of receiving the supplemental testimony and schedules of the Public Staff on DEC's May and June updates. The Commission clearly held the



evidentiary record in this proceeding open for the limited purpose of receiving testimony regarding the Public Staff's audit of DEC's May and June updates.

As to whether witness Williamson's recommendations regarding revenue apportionment were or were not dependent on completion of the Public Staff's audit of DEC's May and June updates is a topic of dispute between the parties. Given the lack of consensus on this issue, the Presiding Commissioner finds that it is appropriate to err on the side of allowing the testimony into evidence subject to the cross-examination of the opposing parties. The Commission will give witness Williamson's supplemental testimony and exhibits as well as any rebuttal evidence presented the appropriate weight they are due during its deliberations.

While Joint Movants assert that the acceptance of witness Williamson's supplemental testimony into evidence will unfairly prejudice the other parties and will violate the parties' due process rights, the Joint Movants fail to explain with any particularity or detail how the parties will be unfairly prejudiced or how their due process rights will be violated. The Presiding Commissioner is unpersuaded by the Joint Movants' assertions on August 31, 2023, that the supplemental testimony denies other parties "an opportunity to rebut that evidence through either our own witness or other parties' witnesses at that late stage in the game" and "essentially, gives the Public Staff the final word, after having seen this issue be litigated during the evidentiary hearing and having the benefit of seeing the parties' proposed orders and briefs, and seeing the arguments that are taken throughout." *Id.* at 72-73. First, it is not accurate for the Joint Movants to contend that they are being denied an opportunity to rebut witness Williamson's supplemental testimony through their own witnesses when Blue Ridge et al. presented no witness testimony and CIGFUR sought its witness' excusal from appearing at the hearing with knowledge of the date certain of witness Williamson's anticipated supplemental testimony. CIGFUR's August 31, 2023, Motion to Excuse Witness Brian C. Collins in no way forecasted or sought to reserve the right to call witness Collins at a later date. As earlier explained, that motion was granted by the Presiding Commissioner.

Regarding CUCA's contention that witness Williamson's supplemental exhibits fail to meet the standard for the admittance of expert witness testimony pursuant to the North Carolina Rules of Evidence, Rule 702(a) as well as its alleged inconsistencies amounting to "more than a \$100 million difference in revenue requirement between Mr. Williamson's exhibits and the revenue amounts indicated in the text of his testimony and supported by the supplemental testimony of and exhibits of witnesses Zhang, Boswell, and Metz." CUCA's Response at 4. The Presiding Commissioner, within the Presiding Commissioner's discretion, disagrees that witness Williamson's exhibits should be stricken; CUCA may focus its cross-examination on probing the reliability of witness Williamson's supplemental exhibits and the Commission will give all evidence regarding witness Williamson's supplemental exhibits the appropriate weight it is due during its deliberations.

As to CUCA's objection to the outcome of witness Williamson's revenue apportionment and contention that witness Williamson's calculations propose to exacerbate interclass

subsidization while claiming to do the opposite, such arguments are more appropriately registered through witness examination and in CUCA's supplemental post-hearing filing.

For the foregoing reasons and based upon the entire record, the Presiding Commissioner finds good cause to deny Joint Movant's Motion to Strike. Nonetheless, the North Carolina Supreme Court has held that where the Commission permits a late-filed exhibit, opposing parties have the right to demand that the hearing be reopened to allow for cross-examination of witnesses regarding the information presented by the late-filed exhibit or to present rebuttal evidence. *State ex rel. Utils. Comm'n v. Carolina Tel. & Tel. Co.*, 267 N.C. 257, 269, 148 S.E.2d 100, 109-10 (1966). Based on the foregoing, the Presiding Commissioner finds good cause to reconvene the hearing for the purpose of allowing the parties to cross-examine witness Williamson on his October 13, 2023 supplemental testimony and exhibits.

With regard to the Joint Movant's request for alternative relief that the parties be permitted to present rebuttal evidence by way of leave to allow all other parties to file supplemental rebuttal testimony, the Presiding Commissioner is unpersuaded that such relief is appropriate. Had witness Williamson's prefiled direct testimony been complete when filed on July 19, 2023, only DEC would have had the opportunity for rebuttal. Joint Movant's request to file supplemental rebuttal is inconsistent with the testimony scheme permitted by the Scheduling Order; therefore, this request for relief is denied. However, the Presiding Commissioner is in agreement with DEC that in a general rate case, the applicant, as the party with the burden of proof, is permitted to file rebuttal testimony. Accordingly, the Presiding Commissioner deems it appropriate to permit DEC to file supplemental rebuttal testimony and exhibits from its witnesses Byrd and Beveridge responsive to the supplemental testimony and exhibits of witness Williamson.

As to the Joint Movant's request for alternative relief that the parties be given the opportunity to conduct additional discovery, the Presiding Commissioner notes that discovery on witness Williamson's supplemental testimony was already provided for in the Commission's discovery guidelines in its Scheduling Order. Paragraph No. 4 of the discovery guidelines provide that parties may make formal discovery requests on the testimony of the Public Staff "five calendar days after such testimony is filed." Under the existing discovery guidelines, discovery requests on witness Williamson's supplemental testimony should have been served by Wednesday, October 18, 2023. Due to the limited timeframe remaining for the Commission to complete its adjudication of this matter, the Presiding Commissioner will allow discovery on DEC's supplemental rebuttal testimony on an abbreviated basis as further ordered herein.

Finally, with regard to the Joint Movant's request for alternative relief that the parties be permitted to supplement previously filed proposed orders and briefs at least three weeks after the close of any reconvened hearing, the Presiding Commissioner notes that the Presiding Commissioner already ruled on September 5, 2023, that the parties will be provided an opportunity to provide supplemental proposed orders and post-hearing briefs. See Tr. vol. 16, 422-23. However, the Presiding Commissioner determines that Joint Movants' request for at least three weeks to file supplemental post-hearing filings is

unreasonable in light of the Commission's statutory deadline of Friday, December 15, 2023, to issue a final order in this matter. Accordingly, the Presiding Commissioner finds it reasonable to require that all supplemental post-hearing filings be filed with the Commission within four business days from the notice of transcript for the reconvened hearing.

IT IS, THEREFORE, ORDERED as follows:

1. That Joint Movant's Motion to Strike is denied;
2. That DEC shall file the supplemental rebuttal testimony and exhibits of its witnesses Byrd and Beveridge responsive to the supplemental testimony and exhibits of witness Williamson by no later than Tuesday, October 24, 2023;
3. That formal discovery requests related to DEC's prefiled supplemental rebuttal testimony of its witnesses shall be served no later than 1:00 p.m. on Thursday, October 25, 2023. The party served shall have up to noon on Friday, October 26, 2023, to file with the Commission objections to the discovery requests on an item-by-item basis. Discovery related to rebuttal testimony shall be limited to new material introduced in such rebuttal testimony and will be carefully scrutinized upon objection that such discovery should have been sought during the initial period of discovery;
4. That the hearing in this proceeding shall be reconvened on Monday, October 30, 2023, at 1:00 p.m. for the limited purposes of (1) accepting the Public Staff's supplemental testimonies and exhibits filed on October 13, 2023, into the record; (2) accepting the Commissioner's requested late-filed exhibits into the record; (3) accepting the October 13, 2023 Supplemental Revenue Requirement Stipulation into the record; (4) accepting DEC's supplemental rebuttal testimony and exhibits from its witnesses Byrd and Beveridge responsive to the supplemental testimony and exhibits of witness Williamson into the record; and (5) allowing for cross-examination and Commissioner questions on witness Williamson's supplemental testimony and exhibits and witnesses Byrd and Beveridge supplemental rebuttal testimony and exhibits; and
5. That all supplemental post-hearing filings shall be filed with the Commission within four business days from the conclusion of the reconvened hearing.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of October 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, appearing to read "Tamika D. Conyers", is written over a light blue horizontal line.

Tamika D. Conyers, Deputy Clerk