

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1300

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Duke Energy Progress, LLC,)	
for Adjustment of Rates and Charges)	MOTION OF THE PUBLIC
Applicable to Electric Service in North)	STAFF TO COMPEL
Carolina and for Performance Based)	
Regulation)	

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and moves the North Carolina Utilities Commission (Commission) to compel Duke Energy Progress, LLC (DEP or Company) to fully and promptly respond to Public Staff Data Request No. 137. In support of this motion, the Public Staff respectfully shows the Commission the following:

1. On October 6, 2022, DEP filed an application with the North Carolina Utilities Commission (Commission) requesting approval to adjust and increase retail electric base rates and charges, and for approval of performance-based regulation (PBR).

2. On January 20, 2023, the Public Staff sent DEP its Data Request No. 137, titled “Capital Budgeting” (PS DR 137), consisting of 16 questions.¹ PS DR 137 requests a response by January 30, 2023, the deadline for responses

¹ Attachment A.

specified in the Commission's Order Scheduling Investigation and Hearings, Establishing Intervention and Testimony Due Dates and Discovery Guidelines, and Requiring Public Notice (Scheduling Order) issued in this docket on December 16, 2022.

3. PS DR 137-1 requests the Company provide a general narrative of the Company's current five-year capital plan. Requests 137-2 through 16 ask for the Company's five-year capital plans from 2014-2022, data that comprises the plans, and explanations of the implementation of those plans.

4. DEP objected to the set of requests, stating that they were "unduly burdensome to produce and irrelevant to this proceeding."² The Company explained that its five-year capital plan is a top-down financial planning tool and forecasts are intended to be an overview of the Company's projected capital investments. Further, the Company stated that it continuously evaluates and refines the five-year capital plan while balancing a variety of priorities including customer, operational, and regulatory needs. Lastly, DEP also stated that "the information concerning the development of the 5-year capital plan implicates attorney work product and attorney client privilege to the extent the development of the Company's plan is dependent upon legal analysis and input, e.g., regarding rate case timing and outcome."³

² Attachment B, page 1. DEP's Response to PS DR 137-1.

³ *Id.*

5. The Public Staff contends that the 5-year capital plan, the requests for information within the plan, and the narratives of the plan's implementation are directly relevant to this current proceeding, not overly burdensome, and do not ask for attorney client work product.

6. DEP also did not comply with the instructions set forth in PS DR 1 A(6) when objecting to the request, which states:

If any document or other information called for is withheld on a claim of privilege, identify the document or other information withheld, including its date and a description of the subject matter, and the full name, job title, and capacity of each and every person listed as an addressor, addressee, or indicated on blind copies; identify all persons to whom the document or other information was distributed, shown, or explained; and identify the nature and legal basis of the privilege asserted. Set forth the factual and legal predicates to any claim of privilege or other immunity from discovery in sufficient detail for the Public Staff to ascertain the Company's right to such treatment, and provide redacted copies of requested materials or information.⁴

7. DEP did not set forth the factual and legal basis of the attorney client privilege it asserted other than to state that answering the request would violate attorney work product. There is no way for the Public Staff or the Commission to ascertain whether the privilege asserted is legitimate based on the information provided by the Company.

8. Further, DEP did not adhere to the instructions set forth in PS DR 1, A(7) which states:

⁴ Attachment C. PS DR 1, page 2.

If you intend to withhold documents or other information on the basis that such documents or other information are “voluminous,” or object on the basis that the request is “overly broad,” “unduly burdensome,” or on a similar basis, provide information sufficient to enable the Commission, the Public Staff, and other parties to assess the true nature of the objection. Without limiting the foregoing, this information should include a description of the documents, the approximate number of pages, number and thickness of volumes, and other such identifying information. If you do provide certain information subject to and notwithstanding such objections, you should describe any information you have withheld sufficiently to enable the Commission, the Public Staff, and other parties to assess the true nature of the objection.⁵

9. DEP did not provide any reasonable basis for its objection to the DR as being overly burdensome. Further, it did not provide a description of the documents, the number of pages, number or thickness of the volumes, or any other such identifying information that would allow the Public Staff or the Commission to assess the true nature of the objection.

10. As to DEP’s relevancy assertion, the Public Staff submitted PS DR 137 after reviewing the responses to PS DR 75 and following a meeting that took place between the Public Staff and DEP on January 6, 2023. In its response to PS DR 75-2, in which the Public Staff asked for a comprehensive list of projects considered for the Company’s Multi-Year Rate Plan (MYRP) and a scoring of each project, DEP stated that “projects included in the MYRP are subset of our prioritized 5-year capital plan. The projects within the 5-year capital plan that were excluded from the MYRP did not meet the requirements of the rules laid out in

⁵ *Id.*

Session Law 2021-165 (House Bill 951 or HB 951), including projects that fell outside the in-service window.”

11. The Public Staff requires the information requested in PS DR 137 for its audit of the Company’s Multi-Year Rate Plan (MYRP), more specifically to determine how Duke Energy determines the capital budget for its subsidiary, and how that process may affect the ability of DEP to accurately propose the projects and then how will DEP be able to be complete those same projects in the proposed MYRP time span.

12. On January 31, 2023, DEP uploaded the responses to PS DR 137-16 to its Datasite, and the remaining responses with objections prepared by Joanna Cormier and signed by DEP counsel were uploaded to its Datasite on February 1, 2022, two days after the deadline set out in paragraph three of the Commission’s Scheduling Order. Consistent with normal practice, these responses were not filed with the Commission.

13. DEP references its objection to PS DR 137-1 as a basis for all other objections in PS DR 137-2 through 16. If the Commission grants the Public Staff’s Motion to Compel with respect to PS DR 137-1, the Public Staff respectfully requests that it likewise grant the Motion to Compel with respect to PS DR 137-2 through 16.

14. The outstanding responses to PS DR 137 are necessary for the Public Staff’s investigation of a number of key issues including, but not limited to, whether the Company can accurately project future capital expenditures, to what

extent those projections change over time, and for what reasons. The projected capital expenditures in the MYRP set the revenue requirements for rate years one through three and determine the percent increase of rates in those years. The Company in this proceeding is requesting to implement more than 1,000 projects in that time frame and the Public Staff, by law, is tasked with investigating to ensure that these projects and corresponding rate increases are in the best interest of the public and that the Company is not simply proposing projects that are seeking to meet a predetermined revenue requirement.

15. PS DR 137 seeks clarity on the Company's internal process with respect to the 5-year capital plan and, as stated above, was a follow-up to the January 6, 2023, meeting where the Company discussed this process. The questions were tailored to focus on key metrics that the Company discussed during the meeting and inform the Public Staff on DEP's corporate-to-regulated utility interface.

16. The Public Staff sees the 5-year capital plan as a budget approval process for each of Duke Energy's regulated subsidiaries, supporting this view is DEP's response to PS DR 75 that states the MYRP is a subset of the 5-year capital plan; therefore, the process in by which the capital plan is developed is directly relevant to this proceeding. The Public Staff is asking for specific capital data that should be readily available or easily summarized and therefore is not overly burdensome. These responses would allow the Public Staff to see how, as the Company's objectives change, the capital plan and plans based off of the capital plan may change as a result.

17. The Public Staff is also requesting this information to gather general budgeting and spending information that is not discernably different from what is required in the MYRP process. This information would aid the Public Staff's ability to evaluate the risk to ratepayers from paying for projects that may be postponed or cancelled. The Public Staff's understanding is that DEP has an approved capital budget, which is set out and approved in Duke Energy's capital plan. Without knowing how Duke Energy implements and changes the 5-year capital plan, the Public Staff cannot determine how DEP's own capital plan will be implemented throughout the duration of its MYRP.

18. DEP stated in response to PS DR 137-6 that the prioritization process for approving funds for DEP is managed within the confines of the capital targets set at the enterprise level (Duke Energy is the enterprise-level controlling entity) and based on cash flow and balance sheet needs. The Public Staff needs to understand how DEP's capital budget is set at the enterprise level and how deviations from that plan could affect DEP and its implementation of programs and projects proposed in the MYRP.

19. The Company has been granted a monopoly franchise to provide electric service in its assigned territory. It now seeks a substantial rate increase in a traditional rate case and an additional three increases over the term of the MYRP.

20. The Public Staff's discovery requests are authorized by and necessary under its investigative duties prescribed by N.C. Gen. Stat. § 62-15.

The Public Staff cannot fulfill its statutory duty to review and investigate the reasonableness of rates proposed to be charged by the Company or other requests made in the Company's application and make appropriate recommendations to the Commission with respect to those rates and requests, when the Company does not provide the Public Staff with the information and records necessary to conduct its investigation.

21. The Commission's investigative powers in N.C.G.S. §§ 62-30 to 62-36 are far more extensive than a civil litigant would have in Superior Court. For example, under N.C.G.S. § 62-36, the Commission may compel a utility to provide special reports. This additional burden on a utility is part and parcel of the regulatory compact. The Commission's investigative powers may be extended to the Public Staff in the exercise of its duties under N.C.G.S. § 62-15.

22. DEP made the decision to request PBR, which included a MYRP, and knew or should have known that this would necessitate an extensive investigation by the Public Staff, including extensive discovery. DEP has not met its requirement to comply with the Public Staff's investigation, which will be significantly impaired and delayed if the Commission does not compel the Company to produce the requested documents and information.

WHEREFORE, the Public Staff moves:

1. That the Commission direct DEP to fully and promptly respond to the Public Staff's Data Request No. 137 within a deadline the Commission deems reasonable.

2. For such other and further relief as the Commission may deem just and proper.

This the 3rd day of February, 2023.

PUBLIC STAFF
Christopher J. Ayers
Executive Director

Lucy E. Edmondson
Chief Counsel

Electronically submitted
/s/ Robert B. Josey
Staff Attorney

4326 Mail Service Center
Raleigh, North Carolina 27699-4300
Telephone: (919) 733-6110
Email: robert.josey@psncuc.nc.gov

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing Motion on all parties of record in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 3rd day of February, 2023.

Electronically submitted
/s/ Robert B. Josey

**Duke Energy Progress
Docket No. E-2, Sub 1300
Public Staff Data Request No. 137
Date Sent: January 20, 2023
Date Requested: January 30, 2023**

Public Staff Technical Contact: Dustin Metz
Phone #: (919) 733-1513
Email: dustin.metz@psncuc.nc.gov

Public Staff Legal Contact: Robert Josey
Phone #: (919) 733-0976
Email: robert.josey@psncuc.nc.gov

Topic: Capital and O&M Budgeting

Please provide any available responses electronically in a searchable native electronic format. If in Excel format, be sure to include all working formulas. In addition, please include (1) the name and title of the individual who has the responsibility for the subject matter addressed therein, and (2) the identity of the person making the response by name, occupation, and job title.

1. Please provide a general narrative of the Company's five-year capital plan. The narrative should include, but not be limited to, the following topics: date of proposal; date of approval; why changes occurred from the proposal to the approval stages; how the Company evaluates spend per business unit; how the Company prioritizes capital projects in one business unit versus another; how Duke Energy Corporate interfaces in project review and the approval process; general annual timeline of the overall process; and how the five-year plan informs the annual capital spend in the most current calendar year in which it is in effect.
2. From 2014 through 2022, provide the Company's approved five-year capital plans.
 - a. By business unit and by year, provide the capital cost break down that was approved in each five-year capital plan.
3. Provide a general narrative of how the Company continually updates the five-year capital plan.
 - a. List and describe what other capital plans the Company approves and monitors. For example, does the Company have a less than five-year capital plan approval process (e.g., two-year or one-year)?
 - b. If the Company does have a less than five-year capital plan, please provide the approved capital plans by year from 2014 through 2022.

4. By year and by business unit, please provide the actual capital spend from 2014 through 2022.
 - a. For any cost deviations greater than 5% from the five-year capital plan versus actual spend, please provide a general narrative that explains the overall cost deviation and describe if other capital projects had to be shifted, postponed, or even canceled.
5. If the Company does not meet its five-year capital plan, please describe what actions the Company would take.
 - a. If the Company under spends, provide and describe examples of what actions the Company has historically taken.
 - b. If the Company over spends, provide and describe examples of what actions the Company has historically taken.
 - c. Describe whether actions taken historically would or would not be relevant as part of the MYRP and its multiple rate years.
6. Provide a general narrative of actions taken by the Company in the 2021, 2022, and 2023 five-year capital plans, given the passage of HB 951 and the Company requesting a MYRP.
7. Describe the impacts of the Company's originally proposed 10-year Power Forward/Carolinas initiative on the five-year capital plan.
 - a. Did the Company approve a five-year plan associated with the Power Forward/Carolinas programs?
 - i. If not, please describe why not.
 - ii. If so, please describe why the capital plan was approved prior to approval by either the NC or SC Commissions.
 - iii. If so, please describe how the Company adjusted its five-year capital plan once the Power Forward/Carolinas initiative was modified/canceled/reduced in scope?
8. Describe the impacts of the Company's originally proposed Grid Improvement Plan on the five-year capital plan.
 - a. Did the Company approve a five-year plan associated with the Grid Improvement programs?
 - i. If not, please describe why not.
 - ii. If so, please describe why the capital plan was approved prior to approval by either the NC or SC Commissions.
 - iii. If so, please describe how the Company adjusted its five-year capital plan once the Grid Improvement Plan was modified/canceled/reduced in scope?
9. List the year when DEP first identified and approved red zone upgrades in a five-year capital plan.

10. Provide a general narrative of whether, and if so, when, the Company included offshore wind and/or associated transmission work in a five-year capital plan.
11. Given the impacts of the Moore County substation attacks, please provide a narrative of how reactive/preventative measures may require a change in the current five-year capital plan?
 - a. When does the Company expect to update the current five-year capital plan to account for potential reactive/preventative measures to mitigate substation risks.
12. Given overall generating unit performance during December 2022 Winter Storm Elliot, please provide a narrative of how reactive/preventative measures to ensure unit availability and/or prevention of unit derates may impact the current five-year capital plan?
 - a. When does the Company expect to update the current five-year capital plan to account for potential reactive/preventative measures to prevent future occurrences of unit availability and prevention of unit derates during extreme weather events.
13. Describe and list all new changes/upgrades affecting Company-owned generating unit performance approved in the current five-year capital plan.
 - a. Include the generation type, expected/approved budget, estimated nameplate rating, and fuel type.
14. Describe how the five-year capital plan provides input to and/or considers annual operation and maintenance expenses.
 - a. Would the five-year capital plan inform, evaluate, require increases, or require decreases to annual O&M costs/expenditures? If so, please provide examples.
15. Provide a general narrative that describes the Company's annual O&M budgeting and approval process?
 - a. Does the Company have a five-year plan for O&M similar to the capital plan process, or is it a one- or two-year plan?
 - b. Please provide the O&M plan approvals from 2014-2022.
 - c. When are the O&M plans approved?
 - d. Who approves the O&M plans?
 - i. Include all layers of management approval required from plan development to final sign off.
16. Please provide a general narrative that describes how the Company evaluates non-fuel O&M monetary amounts included as line items in a general rate case versus what is actually spent in the following years after the general rate case.

- a. Provide examples per business unit, notably generation and T&D, of the amounts included as line items in the previous two general rate cases versus costs that were incurred following the general rate case.
- b. Describe whether the Company considers costs included as line items in a general rate case for non-fuel O&M costs as an absolute amount to spend, or whether the Company considers them to be a stochastic spend subject to dynamic and changing conditions.

DOCKET NO. E-2, SUB 1300
MOTION OF THE PUBLIC STAFF TO COMPEL
ATTACHMENT B

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-1, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

OFFICIAL COPY

Feb 03 2023

Request:

1. Please provide a general narrative of the Company's five-year capital plan. The narrative should include, but not be limited to, the following topics: date of proposal; date of approval; why changes occurred from the proposal to the approval stages; how the Company evaluates spend per business unit; how the Company prioritizes capital projects in one business unit versus another; how Duke Energy Corporate interfaces in project review and the approval process; general annual timeline of the overall process; and how the five-year plan informs the annual capital spend in the most current calendar year in which it is in effect.

Response:

DEP objects to this set of requests, including this particular request, on the grounds that the information sought is unduly burdensome to produce and is irrelevant to this proceeding. This set of requests appears to be premised upon the supposition that the five-year capital plan is a detailed project-by-project planning and project management tool, which decidedly is not the case. Rather, the Company's five-year capital plan is a top-down financial planning tool and forecast intended as an overview of the Company's projected capital investments. The Company continuously evaluates and refines the five-year capital plan while balancing a variety of priorities including customer, operational, and regulatory needs/commitments. This prioritization is managed within the confines of capital targets set at an enterprise level to optimize cash flow and balance sheet needs.

The detailed, project-by-project projection of multiyear rate year plan (MYRP) capital included as part of DEP's application in this case is substantially different in scope and purpose than the five-year capital plan. Because of this fundamental difference, the five-year capital plan is not relevant to this proceeding. Detailed information concerning the projects included in the Company's MYRP has been provided in connection with the Company's Application and direct testimony, as well as data requests propounded with respect to those projects. Finally, information concerning the development of the Company's five-year capital plan implicates attorney work product and the attorney client privilege to the extent the development of the Company's plan is dependent upon legal analysis and input, e.g., regarding rate case timing and outcome. DEP also objects to this set of requests, including particularly this request, on that basis.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-2, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

OFFICIAL COPY

Feb 03 2023

Request:

2. From 2014 through 2022, provide the Company's approved five-year capital plans.
 - a. By business unit and by year, provide the capital cost break down that was approved in each five-year capital plan.

Response:

Please refer to DEP's response to PS DR 137-1, including the objections thereto, which are incorporated into this response by reference. DEP also objects to this request on the basis that it seeks eight years of data, which is unduly burdensome. Notwithstanding these objections, and without waiver thereof, the Company provides responsive information for the last five years. Please refer to the following four attachments:

PS DR 137-2 – DUK_2018 Slides

PS DR 137-2 – DUK_2019 Slides

PS DR 137-2 – DUK_2020 Slides

PS DR 137-2 – DUK_2021 Slides

Specifically, please reference the Capital Expenditures by Utility slide in the Earnings Review and Business Update presentations for the last four years, which can be found on the following slides:

2018: Slide 28

2019: Slide 26

2020: Slide 28

2021: Slide 34

The Company's Q4/2022 presentation, containing information for 2022, will be available after the Company's earnings call on February 9, 2023. Once available, the presentation may be accessed at <https://investors.duke-energy.com/financials/quarterly-results/default.aspx>.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-3, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

OFFICIAL COPY

Feb 03 2023

Request:

3. Provide a general narrative of how the Company continually updates the five-year capital plan.
 - a. List and describe what other capital plans the Company approves and monitors. For example, does the Company have a less than five-year capital plan approval process (e.g., two-year or one-year)?
 - b. If the Company does have a less than five-year capital plan, please provide the approved capital plans by year from 2014 through 2022.

Response:

Please refer to DEP's response to PS DR 137-1, including the objections thereto, which are incorporated into this response by reference. Notwithstanding these objections, and without waiver thereof, the Company responds as follows:

The Company does not maintain a separate "less than five year" capital plan.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-4, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

OFFICIAL COPY

Feb 03 2023

Request:

4. By year and by business unit, please provide the actual capital spend from 2014 through 2022.
 - a. For any cost deviations greater than 5% from the five-year capital plan versus actual spend, please provide a general narrative that explains the overall cost deviation and describe if other capital projects had to be shifted, postponed, or even canceled.

Response:

Please see DEP's response to DR 137-1, including the objections thereto, which are incorporated into this response by reference.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-5, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

Request:

5. If the Company does not meet its five-year capital plan, please describe what actions the Company would take.
 - a. If the Company under spends, provide and describe examples of what actions the Company has historically taken.
 - b. If the Company over spends, provide and describe examples of what actions the Company has historically taken.
 - c. Describe whether actions taken historically would or would not be relevant as part of the MYRP and its multiple rate years.

Response:

Please see DEP's response to PS DR 137-1, including the objections thereto, which are incorporated into this response by reference.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-6, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

Request:

6. Provide a general narrative of actions taken by the Company in the 2021, 2022, and 2023 five-year capital plans, given the passage of HB 951 and the Company requesting a MYRP.

Response:

Please see DEP's response to PS DR 137-1, including the objections thereto, which are incorporated into this response by reference. Notwithstanding these objections, and without waiver thereof, the Company responds as follows:

In connection with evaluation and refinement of the five-year capital plan, the prioritization process described in the response to DR 137-1 is managed within the confines of capital targets set at an enterprise level to optimize cash flow and balance sheet needs. The capital plan always considers new generation needs as typically dictated by the latest approved IRPs. With the passage of HB 951, estimated capital dollars have been allocated to fund future new generation to achieve carbon reduction targets. These capital dollars will continue to be refined and allocated to specific new generation projects based on outcomes and approvals in the Carbon Plan proceedings.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-7, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

Request:

7. Describe the impacts of the Company's originally proposed 10-year Power Forward/Carolinas initiative on the five-year capital plan.
 - a. Did the Company approve a five-year plan associated with the Power Forward/Carolinas programs?
 - i. If not, please describe why not.
 - ii. If so, please describe why the capital plan was approved prior to approval by either the NC or SC Commissions.
 - iii. If so, please describe how the Company adjusted its five-year capital plan once the Power Forward/Carolinas initiative was modified/canceled/reduced in scope?

Response:

Please see responses to PS DR 137-1 and PS DR 137-6, including the objections thereto, which are incorporated into this response by reference. Notwithstanding these objections, and without waiver thereof, the Company responds as follows:

This question does not accurately reflect how the Company develops its five-year capital plan. As described in response to previous questions, the capital plan results from a top-down approach based upon enterprise targets. Previous inclusions (or exclusions) of Power Forward/Carolinas projects, or projects resulting from other prior Company initiatives, are irrelevant to this case. The way the Company prioritizes and, as necessary, re-prioritizes, capital spending plans is described in responses to previous questions.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-8, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

OFFICIAL COPY

Feb 03 2023

Request:

8. Describe the impacts of the Company's originally proposed Grid Improvement Plan on the five-year capital plan.
 - a. Did the Company approve a five-year plan associated with the Grid Improvement programs?
 - i. If not, please describe why not.
 - ii. If so, please describe why the capital plan was approved prior to approval by either the NC or SC Commissions.
 - iii. If so, please describe how the Company adjusted its five-year capital plan once the Grid Improvement Plan was modified/canceled/reduced in scope?

Response:

Please see DEP's responses to PS DR 137-1, 137-6, and 137-7, including the objections thereto, which are incorporated into this response by reference.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-9, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

OFFICIAL COPY

Feb 03 2023

Request:

9. List the year when DEP first identified and approved red zone upgrades in a five-year capital plan.

Response:

Please see DEP's responses to PS DR 137-1 and DR 137-6, including the objections thereto, which are incorporated into this response by reference. Notwithstanding these objections, and without waiver thereof, the Company responds as follows:

In connection with the prioritization process described in the response to PS DR 137-6 and given the outcome of the Carbon Plan order issued on December 30, 2022, the Company will proceed with constructing the red zone upgrades and formally including the necessary funding in the five-year capital plan as of 2022.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-10, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

Request:

10. Provide a general narrative of whether, and if so, when, the Company included offshore wind and/or associated transmission work in a five-year capital plan.

Response:

Please see DEP's responses to PS DR 137-1 and DR 137-6, including the objections thereto, which are incorporated into this response by reference. Notwithstanding these objections, and without waiver thereof, the Company responds as follows:

In connection with the prioritization process described in the response to PS DR 137-6 and given the outcome of the Carbon Plan order issued on December 30, 2022, the Company will continue to study the three available offshore wind leases and related onshore transmission infrastructure and will formally include any necessary funding in the five-year capital plan at the appropriate time. Additional capital funding for offshore wind and the related onshore transmission will be evaluated and funded as determined, in part, by future Carbon Plan proceedings.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-11, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

Request:

11. Given the impacts of the Moore County substation attacks, please provide a narrative of how reactive/preventative measures may require a change in the current five-year capital plan?
 - a. When does the Company expect to update the current five-year capital plan to account for potential reactive/preventative measures to mitigate substation risks.

Response:

Please see DEP's responses to PS DR 137-1 and DR 137-6, including the objections thereto, which are incorporated into this response by reference. Notwithstanding these objections, and without waiver thereof, the Company responds as follows:

In connection with the prioritization process described in the response to PS DR 137-6, the Company is evaluating the need for reactive/preventative measures that may require capital investment in light of the Moore County substation attacks. The capital plan will be adjusted and reprioritized as necessary to fund any additional capital investment.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-12, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

Request:

12. Given overall generating unit performance during December 2022 Winter Storm Elliot, please provide a narrative of how reactive/preventative measures to ensure unit availability and/or prevention of unit derates may impact the current five-year capital plan?
 - a. When does the Company expect to update the current five-year capital plan to account for potential reactive/preventative measures to prevent future occurrences of unit availability and prevention of unit derates during extreme weather events.

Response:

Please see DEP's responses to PS DR 137-1 and DR 137-6, including the objections thereto, which are incorporated into this response by reference. Notwithstanding these objections, and without waiver thereof, the Company responds as follows:

In connection with the prioritization process described in the response to PS DR 137-6, the Company is evaluating the need for reactive/preventative measures that may require capital investment in light of the December 2022 Winter Storm Elliot. The capital plan will be adjusted and reprioritized as necessary to fund any additional capital investment.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-13, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

OFFICIAL COPY

Feb 03 2023

Request:

13. Describe and list all new changes/upgrades affecting Company-owned generating unit performance approved in the current five-year capital plan.
 - a. Include the generation type, expected/approved budget, estimated nameplate rating, and fuel type.

Response:

Please see DEP's responses to PS DR 137-1 and DR 137-6, including the objections thereto, which are incorporated into this response by reference. Notwithstanding these objections, and without waiver thereof, the Company responds as follows:

Certain new changes/upgrades affecting Company-owned generating unit performance have been included in the MYRP filing and are also included in the current five-year capital plan. For detail on these MYRP projects please see attachment "DEP DR 137-13 Support". Note these projects are expected to provide incremental increases in unit capacity; however, actual increases will be determined based on performance testing. The Tillery projects are expected to increase the nameplate rating and capacity by about 3-5 MW. The Smith CTs could increase capacity by about 5-10 MW but would likely not increase the nameplate rating.

Any additional forecasted capital projects not included in the MYRP filing are outside the scope of this rate case.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-14, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

OFFICIAL COPY

Feb 03 2023

Request:

14. Describe how the five-year capital plan provides input to and/or considers annual operation and maintenance expenses.
- a. Would the five-year capital plan inform, evaluate, require increases, or require decreases to annual O&M costs/expenditures? If so, please provide examples.

Response:

Please see DEP's response to PS DR 137-1, including the objections thereto, which are incorporated into this response by reference. Notwithstanding these objections, and without waiver thereof, the Company responds as follows:

The five-year capital plan can influence the annual O&M costs/expenditures as certain capital projects funded in the five-year capital plan could require incremental O&M either during construction or after in-service. For example, new generation assets could require incremental O&M after in-service to operate the asset. Each function is responsible for identifying any capital projects requiring incremental O&M and communicating the necessary O&M amounts to their respective Finance contacts. Incremental project O&M is evaluated and prioritized against other O&M to include in the O&M budget/five-year plan.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: February 1, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-15, was provided to me by the following individual(s): Joanna Cormier, Director of Carolinas Forecasting & Planning, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

Request:

15. Provide a general narrative that describes the Company's annual O&M budgeting and approval process?
- a. Does the Company have a five-year plan for O&M similar to the capital plan process, or is it a one- or two-year plan?
 - b. Please provide the O&M plan approvals from 2014-2022.
 - c. When are the O&M plans approved?
 - d. Who approves the O&M plans?
 - i. Include all layers of management approval required from plan development to final sign off.

Response:

Please see DEP's response to PS DR 137-1, including the objections thereto, which are incorporated into this response by reference. Like the previous questions, which are focused on DEP's capital planning process, this request appears to be premised upon the incorrect supposition that the Company's annual O&M budgeting and approval process is a project management tool. Rather, the Company's five-year O&M plan is a top-down financial planning and forecast tool that is continuously evaluated and refined. O&M is approved as a part of the overall financial plan by senior leadership (including the CEO and CFO) and the Board of Directors by the end of the year. There is no formal documentation of O&M approvals as the financial plan is approved during in-person meetings. As with any planning tool, the Company's O&M plans must be flexible so as to be able to deal with emergent events, which may require re-prioritization in order to align plans with Company objectives.

Accordingly, each subpart to this question begins from an inaccurate premise, and thus seeks information irrelevant to any issue in this case. Detailed information concerning O&M associated with the capital projects included in the Company's MYRP has been provided in connection with the Company's Application and direct testimony, as well as data requests propounded with respect to those projects.

**Duke Energy Progress
Response to
NC Public Staff Data Request
Data Request No. NCPS 137**

Docket No. E-2, Sub 1300

**Date of Request: January 20, 2023
Date of Response: January 31, 2023**

☐

CONFIDENTIAL

☒

NOT CONFIDENTIAL

Confidential Responses are provided pursuant to Confidentiality Agreement

The attached response to NC Public Staff Data Request No. 137-16, was provided to me by the following individual(s): Christine Perciaccante, CW-Professional, and was provided to NC Public Staff under my supervision.

Jack Jirak
Deputy General Counsel
Duke Energy Progress

Request:

16. Please provide a general narrative that describes how the Company evaluates non-fuel O&M monetary amounts included as line items in a general rate case versus what is actually spent in the following years after the general rate case.
- Provide examples per business unit, notably generation and T&D, of the amounts included as line items in the previous two general rate cases versus costs that were incurred following the general rate case.
 - Describe whether the Company considers costs included as line items in a general rate case for non-fuel O&M costs as an absolute amount to spend, or whether the Company considers them to be a stochastic spend subject to dynamic and changing conditions.

Response:

DEP objects to this request on the grounds that it is irrelevant to the issues in this case and on the grounds that, as stated, the request assumes an “either/or” approach to non-fuel O&M spend when neither of the stated options is applicable to the Company’s practice. Notwithstanding these objections, and without waiver thereof, DEP responds as follows:

The Company does not evaluate non-fuel O&M monetary amounts included as line items in a general rate case versus what is actually spent in the following years.

a. See response above. In addition, comparing Base Rate O&M to Actual Total O&M is an apples and oranges comparison, in that while a rate case revenue requirement starts with a historical per book test year and Cost of Service which is at a functional level, there are numerous proforma adjustments which are subsequently made, and those adjustments are not at a functional or business unit level. For example, one of the material adjustments to O&M in a rate case is to remove O&M recovered through non-fuel riders, and this results in the removal of over \$100 MM in O&M related to various riders.

b. DEP considers the indicated costs neither as an absolute amount to spend nor as stochastic spend. Such costs are incurred considering the prevailing conditions at the time.

**Duke Energy Progress, LLC
Docket No. E-2, Sub 1300
Public Staff Data Request No. 1
Date Requested: October 7, 2022
Date Due: As soon as possible after filing**

Public Staff Legal Contacts:

Robert Josey
Phone #: (919) 733-0973
Email: robert.josey@psncuc.nc.gov

Nadia Luhr
Phone #: (919) 733-0977
Email: nadia.luhr@psncuc.nc.gov

Topic: Instructions for responses to interrogatories, requests for production of documents, and other data requests (collectively, "Data Requests"), definitions, Data Requests from other parties, privilege logs, testimony, and exhibits in native format

1. In this proceeding, the Public Staff will be serving Data Requests on Duke Energy Progress, LLC (DEP or the Company), in order to investigate its application for a base rate increase. For all Data Requests, the following instructions and definitions apply:
 - A. Instructions
 - (1) In responding to any of the questions in the Data Requests, please answer each question on a separate sheet of paper, restating the question in full. Please provide the name and title of the individual who has the responsibility for the subject matter addressed therein. Also include with each response or group of contemporaneous responses the identity of the person making the response by name, occupation, and job title.
 - (2) The Data Requests should be regarded by you as continuing and requiring further and supplemental responses as any additional information within their scope is generated or becomes available to you.
 - (3) With respect to any document related to any matter addressed in the Data Requests, if the document is not in your possession, but you know or believe that it exists, you are requested to identify and indicate to the best of your ability the present or last known location of the document and its custodian.

- (4) If, to your knowledge, no documents containing the exact information exist, but documents exist that contain portions thereof or that contain substantially similar information, then the definition of “documents” to be identified shall include such documents.
- (5) For any information that you claim is unavailable, state the reason why it is unavailable, and provide any information that is available which is similar to the requested information.
- (6) If any document or other information called for is withheld on a claim of privilege, identify the document or other information withheld, including its date and a description of the subject matter, and the full name, job title, and capacity of each and every person listed as an addressor, addressee, or indicated on blind copies; identify all persons to whom the document or other information was distributed, shown, or explained; and identify the nature and legal basis of the privilege asserted. Set forth the factual and legal predicates to any claim of privilege or other immunity from discovery in sufficient detail for the Public Staff to ascertain the Company’s right to such treatment, and provide redacted copies of requested materials or information. If any document or other information called for is to be produced with a claim of confidentiality, please identify such document or information and provide it pursuant to the terms of the Comprehensive Confidentiality Agreement executed between DEP and Public Staff.
- (7) If you intend to withhold documents or other information on the basis that such documents or other information are “voluminous,” or object on the basis that the request is “overly broad,” “unduly burdensome,” or on a similar basis, provide information sufficient to enable the Commission, the Public Staff, and other parties to assess the true nature of the objection. Without limiting the foregoing, this information should include a description of the documents, the approximate number of pages, number and thickness of volumes, and other such identifying information. If you do provide certain information subject to and notwithstanding such objections, you should describe any information you have withheld sufficiently to enable the Commission, the Public Staff, and other parties to assess the true nature of the objection.
- (8) If you assert that any document related to any matter addressed in any question in the Data Requests has been destroyed or transferred beyond your control, please state the following: (a) identify by full name, official title and address(es), any person who destroyed the document and any person involved in ordering the destruction of the document; (b) state the time, place and method of, and reasons for,

the document's destruction, including any and all documents relating to the order or act of such destruction; (c) if destroyed or disposed of by operation of a document destruction program or retention policy, identify and produce a copy of the guideline, policy, or manual describing the document destruction program or retention policy; (d) if transferred, identify the person authorizing transfer, and state the time, place, and method of, and reason for, its transfer, and identify and produce any and all documents relating to the transfer; (e) identify each and every person listed as an addressor or addressee or indicated on blind copies, or to whom it was distributed, shown or explained; and (f) state or identify the date, subject matter, number of pages, attachments and appendices of the document.

- (9) In responding to each question in the Data Requests, please provide all information available to you or in your possession, including information possessed by any agent, consultant, or employee.
- (10) If a response to any of the Data Requests requires any calculations, analyses, assumptions or studies, please identify and provide copies of such calculations, analyses, assumptions or studies, and include all workpapers relating thereto.
- (11) Whenever specific information, such as a date or figure, is requested and you are unable to provide the exact information, provide your best estimate thereof and indicate that it is an estimate.
- (12) To the extent DEP asserts that any requested information is not relevant or not material to any issue in the above-captioned matter (such as an assertion that the Company is only providing information pertinent to North Carolina), DEP, in its written response, should indicate a specific basis for said assertion in the context of any issues arising in this proceeding, and provide information sufficient to enable the Commission, the Public Staff, and other parties to assess the true nature of the objection. Without limiting the foregoing, this information should include a description of the documents deemed not relevant or not material.
- (13) Please provide notification via electronic mail to the following when each response to a Data Request has been uploaded by the Company to the Public Staff's FTP site:

Robert Josey

robert.josey@psncuc.nc.gov

Nadia Luhr

nadia.luhr@psncuc.nc.gov

Lucy Edmondson
Lucy.edmondson@psncuc.nc.gov

B. Definitions

- (1) “You” and “your” refers to the Company or any of its affiliates, employees, agents, consultants or experts.
- (2) “DEP” or “Company” refers to Duke Energy Progress, LLC.
- (3) When capitalized, “Commission” refers to the North Carolina Utilities Commission.
- (4) “Document” includes any written, recorded or graphic matter, however produced or reproduced, including, but not limited to, correspondence, telegrams, contracts, agreements, notes in any form, memoranda, charts, diaries, reports, books, ledgers, diaries, voice recording tapes, microfilms, microfiche, pictures, data processing cards or discs, computer tapes and other computer-generated and stored information or data base, workpapers, calendars, minutes of meetings or any other writings or graphic matter, including copies containing marginal notes or variations of any of the foregoing, now or previously in your possession.
- (5) “Identify,” “identity,” or “identification,” when used in reference to an individual person, means to state that person’s full name, business position, and business address, including zip code and phone number, if known, and, if not known, the last known business position, duties and business address, if known.
- (6) “Identify,” “identity,” or “identification,” when used in reference to a business organization, means to state the corporate name or other names under which said organization does business, and the location of its principal place of business.
- (7) “Identify,” “identity,” or “identification,” when used in reference to a document, means to state the type of document (e.g., computer-stored information, microfilm, letter, memorandum, policy circular, minute book, telegram, chart, etc.), or some other means of identifying it, and its present location and custodian. If any document was, but is no longer, in your possession or subject to your control, state what disposition was made of it, and, if destroyed or disposed of by operation of a retention policy, state the retention policy. For any Data Requests that request identification of documents, you

may, in lieu of identification, provide copies of the requested documents. Each document so produced shall be identified by the number of the data request to which it is purportedly responsive.

- (8) The terms “describe,” “describe in detail,” “explain,” and “explain in detail” mean describe and explain in detail each and every basis for the position taken or statement made and identify each and every statement, study, and document relied on by you and provide a copy of all such identified studies and documents.
2. The Public Staff adopts as its own all of the Data Requests (individually or collectively) of all other parties, whether written or oral, formal or informal, propounded to the Company in this proceeding. All such requests should be treated by the Company as being independently asked by the Public Staff as of the date such requests are received by the Company, and the Company’s initial and revised responses to such formal or informal Data Requests should be provided accordingly. This request applies to any Data Requests that have been propounded to the Company since the commencement of this proceeding as well as going forward.
3. Please provide copies of all Data Requests from other parties in this proceeding when they are received by the Company.
4. Please provide copies of all the Company’s responses to Data Requests from other parties in this proceeding as soon as they are transmitted by the Company to the party making the request.
5. Please provide all Data Requests issued by DEP to other parties in this proceeding as soon as they are submitted to the party.
6. Please provide all responses received by DEP to Data Requests issued by the Company to other parties as soon as the responses are received by DEP.
7. Please provide the Company’s rate case filings (including testimony, exhibits, and G-1) in native format (Word, Excel (with formulae intact and working macros)). Please consider this an ongoing request, and applicable to any revised, additional, supplemental, rebuttal, etc., rate case filings.
8. Please identify and provide copies of all documents and workpapers (including all related Excel files with working formulas and links intact) supporting and/or underlying all testimony, exhibits (including initial, revised, additional, supplemental, updated, rebuttal, etc.) filed by the Company in this proceeding. Please consider this request ongoing.