

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-7, SUB 1304

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

|  |   |                       |
|--|---|-----------------------|
| In the Matter of                               | ) |                       |
| Application of Duke Energy Carolinas, LLC,     | ) | ORDER SCHEDULING ORAL |
| Relating to Fuel and Fuel-Related Charge       | ) | ARGUMENTS             |
| Adjustments for Electric Utilities Pursuant to | ) |                       |
| N.C.G.S. § 62-133.2 and Commission Rule        | ) |                       |
| R8-55  | ) |                       |

BY THE PRESIDING COMMISSIONER: On February 27, 2024, Duke Energy Carolinas, LLC (DEC) filed its initial application for approval of the Fuel Program rider (Application) pursuant to N.C. Gen. Stat. § 62-133.2 and Commission Rule R8-55. In its Application, DEC initially requested Commission approval for a temporary increase in its fuel and fuel-related costs currently in effect, with the changes being effective for service rendered on and after September 1, 2024.

The Commission granted the interventions of the Carolina Utility Customers Association, Inc. (CUCA), and the Carolina Industrial Group for Fair Utility Rates III (CIGFUR) by respective orders dated March 7, 2024. The intervention of the Public Staff – North Carolina Utilities Commission is recognized as of right pursuant to N.C.G.S. § 62-15(d)(3).

On May 8, 2024, DEC filed the Supplemental Testimony and Exhibits of Sigourney Clark (Supplemental Filing). In pertinent part, DEC’s Supplemental Filing requests “a new EMF increment factor” to recover a cumulative net under-recovery originally resulting from the 2022 test period fuel balance. See Supplemental Testimony of Sigourney Clark at 5.

On May 9, 2024, the Public Staff filed a letter (Letter) in the above-captioned docket responding to DEC’s Supplemental Filing. The Letter briefly stated the Public Staff’s opposition to the Supplemental Filing:

DEC requests, inter alia, that the Commission allow it to recover funds that were already addressed in the prior fuel rider (Docket No. E-7, Sub 1282). The methodology of recovery was set forth in an Agreement and Stipulation of Partial Settlement between DEC and the Public Staff filed May 31, 2023. Essentially, DEC is requesting that the Commission create, out of whole cloth, a new, potentially perpetual, rolling true-up mechanism that is not supported by the law or Commission Rules.

Letter at 1.

On May 14, 2024, the Public Staff filed a Motion for Oral Argument and Leave to File Supporting Briefs (Motion for Leave). The Public Staff's Motion for Leave requests that the Commission permit the parties to file prehearing legal briefs on the limited issue of the legality of DEC's proposed new EMF factor and schedule the issue for oral argument. In support of the Motion for Leave, the Public Staff states:

DEC's request presents a legal issue of first impression (in a supplemental filing) that will have a substantial impact on this fuel rider proceeding, but is not well-suited for an evidentiary hearing where expert witnesses testify with respect to factual issues underlying determination of the actual costs to be recovered and resulting rate calculation. Factual witnesses for DEC, the Public Staff, and intervenors will be unable to discuss the legal issues inherent in DEC's new statutory interpretation and regulatory application. An oral argument limited to the discrete legal issue underlying DEC's request to true-up the true-up would allow the parties to efficiently put the issue before the Commission for decision and allow the Commission to put questions directly to the parties' attorneys. Confining this issue to post-hearing proposed orders and briefs would limit the extent to which the legal issue can be fully vetted.

Motion for Leave at 2.

On May 20, 2024, the Commission issued an Order Granting Extension of Time to File Expert Witness Testimony and Permitting Prehearing Legal Briefs (Order), which in pertinent part permitted the parties to file prehearing legal briefs on the discrete issue of whether DEC's proposed new EMF factor conforms to the legal perimeters governing the fuel rider. Further, the Order took the Public Staff's request for oral argument under advisement.

On May 29, 2024, DEC and the Public Staff each filed legal briefs pertaining to DEC's EMF proposal.

Upon review of these legal briefs and the entire record herein, the Presiding Commissioner finds that oral arguments and an opportunity for Commissioner questions will assist the Commission in evaluating the legal arguments raised by the parties.

IT IS, THEREFORE, ORDERED as follows:

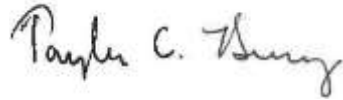
1. That the Commission will hear oral arguments on the discreet issue of DEC's EMF proposal as a preliminary matter during the evidentiary hearing previously noticed for 2:00 p.m. on Monday, June 10, 2024, in Commission Hearing Room 2115, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina; and

2. That DEC and the Public Staff shall each be limited to 20 minutes, exclusive of Commissioner question time, to make their oral arguments to the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of June, 2024.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Taylor C. Berry". The signature is written in a cursive style with a large initial 'T'.

Taylor C. Berry, Deputy Clerk