



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

October 25, 2023

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

Re: Docket No. E-2, Sub 1300 – Application of Duke Energy Progress, LLC for Adjustment of Rates and Charges Applicable to Electric Service in North Carolina and Performance-Based Regulation

Dear Ms. Dunston:

On September 21, 2023, the Commission issued its Order Approving Revenue Requirement, Rate Schedules, and Notice to Customers of Change in Rates. On October 17, 2023, CIGFUR II filed its Notice of Appeal and Exceptions. Also on October 17, 2023, CIGFUR II filed a Motion for Stay Pending Appeal, requesting that the Commission, during the pendency of CIGFUR II's appeal: (1) maintain a 25% interclass subsidy reduction; (2) continue to use the equal percentage increase/decrease method for allocation of fuel and fuel-related costs among customer classes; and (3) delay implementation of the Customer Assistance Program (CAP). In its Motion for Stay Pending Appeal, CIGFUR II contends that no party to the proceeding would be prejudiced by the requested stay. In addition, CIGFUR II argues that moving forward with any changes to the status quo as to the three issues raised in its motion without first allowing for resolution of the pending appeal could create significant problems, as the appeal "could undo or otherwise contort one or more of the Commission's decisions regarding those issues."¹ Lastly, CIGFUR II states that in order to place customers in the same position that they would have been in the event the Commission's order is reversed or remanded as to the three issues raised by CIGFUR II, the

¹ "For example, if the Supreme Court finds that the Commission acted in excess of its statutory authority by approving the CAP and reverses the Commission's ruling on that issue, there would presumably be no way to reimburse customers for charges already paid to fund the CAP through both the CAP Rider and the Customer Assistance Recovery Rider (CAR Rider). Such an outcome would be unjust and would mean that customers had paid unlawful, unjust, and unreasonable rates during the interim." CIGFUR II Motion for Stay Pending Appeal, at 3.

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Commission should maintain the status quo during the pendency of the appeal as requested by CIGFUR II in its motion.

The Public Staff generally agrees with the arguments made by other parties to this docket who have opposed CIGFUR II's Motion to Stay. Specifically, the Public Staff opposes the Motion to Stay as to all three issues because the Movant has not sufficiently shown that there will be any irreparable harm to any party if the Commission's Order is put into effect as filed. In particular, the equal percentage method will continue to be used to calculate Duke Energy Progress, LLC's fuel rates until December of 2024 and the Commission could consider whether to stay the discontinuance in its 2024 DEP fuel rider order if a final determination of the issue has not been made prior to that time.

The Public Staff notes that the approved rate increase has already become effective and low-income customers should be able to utilize the CAP to mitigate the impact as soon as possible. Staying implementation of the CAP while the matter is appealed could result in irreparable harm to otherwise eligible low-income ratepayers. The Public Staff believes that the likelihood of reversal of this issue on appeal is remote and therefore the Motion should be denied. Additionally, under no circumstances should CAP recipients be obligated to return funds received from the program should the Supreme Court reverse the Commission's decision on the CAP.

By copy of this letter, I am serving a copy on all parties of record by electronic delivery.

Sincerely,

Electronically submitted
/s/ Robert B. Josey
Staff Attorney
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