

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

In the Matter of
Joint Application of Duke Energy Progress,)
LLC, and North Carolina Electric Membership)
Corporation for a Certificate of Public)
Convenience and Necessity to Construct a)
1,360 MW Natural Gas-Fueled Combined)
Cycle Electric Generating Facility in Person)
County, North Carolina)

**TESTIMONY OF
DARRELL BROWN
PUBLIC STAFF –
NORTH CAROLINA
UTILITIES COMMISSION**

June 24, 2024

1 **Q. Please state your name, business address, and present**
2 **position.**

3 A. My name is Darrell Brown. My business address is 430 North
4 Salisbury Street, Raleigh, North Carolina. I am a Public Utility
5 Regulatory Analyst with the Accounting Division of the Public Staff –
6 North Carolina Utilities Commission (Public Staff). A summary of my
7 qualifications, duties, education, and experience is attached to this
8 testimony as Appendix A.

9 **Q. What is the mission of the Public Staff?**

10 A. The Public Staff represents the concerns of the using and consuming
11 public in all public utility matters that come before the North Carolina
12 Utilities Commission (Commission). Pursuant to N.C. Gen. Stat. §
13 62-15(d), it is the Public Staff's duty and responsibility to review,
14 investigate, and make appropriate recommendations to the
15 Commission regarding the following utility matters: (1) retail rates
16 charged, service furnished, and complaints filed, regardless of retail
17 customer class; (2) applications for certificates of public convenience
18 and necessity; (3) transfers of franchises, mergers, consolidations,
19 and combinations of public utilities; and (4) contracts of public utilities
20 with affiliates or subsidiaries. The Public Staff is also responsible for
21 appearing before State and federal courts and agencies in matters
22 affecting public utility service.

1 **Q. What is the purpose of your testimony in this proceeding?**

2 A. The purpose of my testimony is to present to the Commission the
3 Public Staff's recommendation concerning the recovery of
4 construction work in progress (CWIP) and potential cost
5 disallowances for the proposed facility in a future rate case
6 proceeding related to the joint application filed by Duke Energy
7 Progress, LLC (DEP or the Company), and the North Carolina
8 Electric Membership Corporation (NCEMC, and together with DEP,
9 the Joint Applicants) on March 28, 2024, in Docket Nos. E-2, Sub
10 1318, and EC-67, Sub 55 (Joint Application) for a certificate of public
11 convenience and necessity (CPCN) to construct and operate an
12 advanced-class, approximately 1,360 megawatt (MW) natural gas-
13 fired combined cycle (CC) electric generating facility in Person
14 County, North Carolina, at the site of its existing Roxboro Steam
15 Station (Proposed Facility).

16 **Q. What is your concern regarding CWIP in this proceeding?**

17 A. In the Joint Application, the Company states that the Proposed
18 Facility will operate as a baseload electric generating facility and the
19 Company may elect to seek CWIP cost recovery during the
20 construction period in a future rate case. However, as detailed in the
21 joint testimony of Public Staff witnesses Evan D. Lawrence and
22 Dustin R. Metz, due to the United States Environmental Protection
23 Agency's (EPA) recent rulemaking under Section 111(b) and (d) of

1 the Clean Air Act (CAA) entitled “New Source Performance
2 Standards for Greenhouse Gas Emissions from New, Modified, and
3 Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission
4 Guidelines for Greenhouse Gas Emissions from Existing Fossil Fuel-
5 Fired Electric Generating Units; and Repeal of the Affordable Clean
6 Energy Rule” (CAA Rule), the Proposed Facility may not be allowed
7 to operate as a baseload plant.

8 Should the Company request CWIP cost recovery for the proposed
9 facility in a future rate case, N.C.G.S. § 62-133(b)(1)(a) and (b) state
10 that CWIP may be included in the cost of the public utility’s property
11 for reasonable and prudent expenditures for baseload electric
12 generating facilities or if doing so is in the public interest and
13 necessary to the financial stability of the utility. The Public Staff notes
14 that inclusion of CWIP into rate base should be considered on a
15 case-by-case basis during a general rate case proceeding in which
16 the Company has provided necessary supporting documentation for
17 inclusion of the reasonable and prudent expenditures, and the Public
18 Staff and other intervenors have had the opportunity to audit such
19 documentation. Further, if CWIP cost recovery during construction is
20 allowed to be included in base rates in a future rate case proceeding,
21 the Company will be required per statute to discontinue capitalization
22 of the composite carrying cost of capital funds used to finance
23 construction (i.e., AFUDC) on the CWIP included in its rate base

1 upon the effective date of the first and each subsequent general rate
2 case order issued.

3 **Q. Does your testimony address whether the Proposed Facility**
4 **might qualify as a baseload facility under the CAA Rule?**

5 A. No. The joint testimony of Public Staff witnesses Lawrence and Metz
6 addresses the Public Staff's concerns regarding the impact of the
7 CAA Rule and whether the Proposed Facility might qualify as a
8 baseload plant.

9 **Q. What is the Public Staff's position regarding costs assigned or**
10 **allocated to DEP ratepayers for the Proposed Facility in a future**
11 **cost recovery proceeding?**

12 A. The joint testimony of Public Staff witnesses Lawrence and Metz
13 discusses how DEP ratepayers may be impacted as to their
14 responsibility for the total costs of the project if and when the Joint
15 Applicants reach an agreement. In addition to the potential
16 assignment or allocation to DEP ratepayers based on an agreement
17 between the Joint Applicants, the Public Staff would, as required by
18 the public interest, seek a corresponding disallowance, or removal,
19 of any unreasonable or imprudent costs in future cost recovery
20 proceedings.

21 **Q. Does this conclude your testimony?**

22 A. Yes, it does.

QUALIFICATIONS AND EXPERIENCE

DARRELL BROWN

I graduated from North Carolina State University with a Bachelor of Science degree in Accounting.

Prior to joining the Public Staff, I was employed by Lumen (FKA CenturyLink, Inc.) as a Regulatory Operations Manager. My duties included preparation and review of federal and state regulatory financial and compliance report filings; analyzing and interpreting federal and state commission and legislative policies, rulemakings, and statutes; providing analytical support and guidance necessary for federal and state regulatory policy development, investigations, and internal and external audit requests; coordination of regulated accounting and reporting policy changes; and managing accounting and pricing functions.

I joined the Public Staff in May 2021 as a Public Staff Accountant. Since joining the Public Staff, I have performed investigations and prepared testimony and exhibits in support of electric, natural gas, and water utility rate cases and performed various other investigations and compliance reviews related to electric, natural gas, telecommunications, and water utilities.

CERTIFICATE OF SERVICE

I certify that I have caused to be served a copy of the foregoing on all the parties of record on the date set forth below in the manner set forth below on the person(s) set forth below and in accordance with the applicable jurisprudence, especially Commission Rule R1-39.

Served on June 24, 2024, via email electronic delivery by agreement of the receiving party, upon those persons identified in the filed documents or in the Commission's online docket's service list at the following addresses:

Anne.Keyworth@psncuc.nc.gov
bbreitschwerdt@mcguirewoods.com
bfranklin@mcguirewoods.com
bkaylor@rkwaylorlaw.com
bsmith@kilpatricktownsend.com
ccress@bdixon.com
cdodd@brookspierce.com
charles.bayless@ncemcs.com
dconant@bdixon.com
dneal@selcnc.org
gina.freeman@duke-energy.com
Jack.Jirak@duke-energy.com
jason.higginbotham@duke-energy.com
jason.higginbotham@duke-energy.com
kathleen.richard@duke-energy.com

kmartin@cucainc.org
lucy.edmondson@psncuc.nc.gov
mmagarira@selcnc.org
mmaney@mcguirewoods.com
michael.youth@ncemcs.com
morphis@broughlawfirm.com
mtrathen@brookspierce.com
mtynan@brookspierce.com
nadia.luhr@psncuc.nc.gov
pbuffkin@gmail.com
robert.josey@psncuc.nc.gov
sharon.craft@ncemcs.com
tgooding@selcnc.org
tim.dodge@ncemcs.com

/s/ William Freeman, by electronic filing
William S. F. Freeman
Staff Attorney