INFORMATION SHEET

PRESIDING: Commissioner Kemerait, Presiding; Chair Mitchell, Commissioners Duffley, Hughes, McKissick, Jr., Brawley, and Tucker
PLACE: Dobbs Building, Raleigh, NC
DATE: Monday, June 10, 2024
TIME: 2:00 p.m. - 4:05 p.m.
DOCKET NO.: E-7, Sub 1304
COMPANY: Duke Energy Carolinas, LLC
DESCRIPTION: In the Matter of Application of Duke Energy Carolinas, LLC, Relating to Fuel and Fuel-Related Charge Adjustments for Electric Utilities Pursuant to N.C. Gen. Stat. § 62-133.2 and Commission Rule R8-55

VOLUME NUMBER:

APPEARANCES
See attached

WITNESSES
See attached

EXHIBITS
See attached

REPORTED BY: Kim Mitchell	TRANSCRIPT PAGES: 108
TRANSCRIBED BY: Kim Mitchell	PREFILED PAGES: 202
DATE FILED: June 28, 2024	TOTAL PAGES: 310

PLACE: Dobbs Building, Raleigh, North Carolina

DATE: Monday, June 10, 2024

TIME: 2:00 p.m. - 4:05 p.m.

DOCKET: E-7, Sub 1304

BEFORE: Commissioner Karen M. Kemerait
Chair Charlotte A. Mitchell
Commissioner Kimberly W. Duffley
Commissioner Jeffrey A. Hughes
Commissioner Floyd B. McKissick, Jr.
Commissioner William M. Brawley
Commissioner Tommy Tucker

IN THE MATTER OF:

Application of Duke Energy Carolinas, LLC,
Relating to Fuel and Fuel-Related Charge
Adjustments for Electric Utilities
Pursuant to N.C. Gen. Stat. § 62-133.2
and Commission Rule R8-55

NORTH CAROLINA UTILITIES COMMISSION

A P P E A R A N C E S:

FOR DUKE ENERGY CAROLINAS, LLC:

Ladawn Toon, Esq.

Duke Energy Corporation

Post Office Box 1551, NCRH 20

Raleigh, North Carolina 27602

Robert W. Kaylor, Esq.

Robert W. Kaylor, P.A.

Post Office Box 30036

Raleigh, North Carolina 27622

FOR CAROLINA UTILITY CUSTOMERS ASSOCIATION:

Matthew Tynan, Esq.

Brooks Pierce LLP

Post Office Box 26000

Greensboro, North Carolina 27420

FOR CAROLINA INDUSTRIAL GROUP FOR FAIR UTILITY RATES III:

Christina Cress, Esq.

Bailey & Dixon, LLP

Post Office Box 1351

Raleigh, North Carolina 27602

A P P E A R A N C E S (Cont'd.):

FOR THE USING AND CONSUMING PUBLIC:

William Freeman, Esq.

William E.H. Creech, Esq.

Public Staff - North Carolina Utilities Commission

4326 Mail Service Center

Raleigh, North Carolina 27699-4326

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NORTH CAROLINA UTILITIES COMMISSION

APPEARANCE SLIP

DATE: June 10, 2024 DOCKET NO.: E-7, Sub 1304, 1305, 1306, 1307

ATTORNEY NAME and TITLE: Lawrence Toon
Associate General Counsel

FIRM NAME: Duke Energy Corporation

ADDRESS: P.O. Box 1551 / NCRH 20

CITY: Raleigh STATE: NC ZIP CODE: 27602

APPEARANCE ON BEHALF OF: Duke Energy Carolinas, LLC

APPLICANT: ✓ COMPLAINANT: ___ INTERVENOR: ___

PROTESTANT: ___ RESPONDENT: ___ DEFENDANT: ___

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NORTH CAROLINA UTILITIES COMMISSION

APPEARANCE SLIP

DATE: June 10, 2024 DOCKET NOS: E-7, Sub 1304, 1306

ATTORNEY NAME and TITLE: Robert W. Kaylor

FIRM NAME: Law Firm of Robert W. Kaylor, P.A.

ADDRESS: P.O. Box 30036

CITY: Raleigh STATE: NC ZIP CODE: 27622

APPEARANCE ON BEHALF OF: Duke Energy Carolinas, LLC

APPLICANT: ✓ COMPLAINANT: ___ INTERVENOR: ___

PROTESTANT: ___ RESPONDENT: ___ DEFENDANT: ___

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NORTH CAROLINA UTILITIES COMMISSION

APPEARANCE SLIP

DATE: 6-10-24 DOCKET NO.: E-7 Subs 1304, 1305

ATTORNEY NAME and TITLE: Matthew B. Tynan

FIRM NAME: Brooks Pierce LLP

ADDRESS: P.O. Box 26000

CITY: Greensboro STATE: NC ZIP CODE: 27420

APPEARANCE ON BEHALF OF: CUCA

APPLICANT: ___ COMPLAINANT: ___ INTERVENOR: X

PROTESTANT: ___ RESPONDENT: ___ DEFENDANT: ___

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X **Yes, I have signed the Confidentiality Agreement.**

Email: mtynan@brookspierce.com

SIGNATURE: Matthew B. Tynan

(Signature Required for distribution of CONFIDENTIAL information)

NORTH CAROLINA UTILITIES COMMISSION

APPEARANCE SLIP

DATE: 6/10/2024 **DOCKET NO.:** E-7, Subs 1304, 1305, 1306, 1307

ATTORNEY NAME and TITLE: Christina Cress

FIRM NAME: Bailey & Dixon, LLP

ADDRESS: PO Box 1351

CITY: Raleigh **STATE:** NC **ZIP CODE:** 27602

APPEARANCE ON BEHALF OF: CIGFUR III

APPLICANT: ___ **COMPLAINANT:** ___ **INTERVENOR:** ✓

PROTESTANT: ___ **RESPONDENT:** ___ **DEFENDANT:** ___

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Email: ccress@bdixon.com

SIGNATURE: 

(Signature Required for distribution of CONFIDENTIAL information)

NORTH CAROLINA UTILITIES COMMISSION
PUBLIC STAFF - APPEARANCE SLIP

DATE: June 10, 2024 DOCKET #: E-7, Sub 1304

PUBLIC STAFF ATTORNEYS: Zeke Creech &
William Freeman

TO REQUEST A **CONFIDENTIAL** TRANSCRIPT, PLEASE PROVIDE YOUR EMAIL ADDRESS BELOW:

ACCOUNTING_____
CONSUMER SERVICES_____
COMMUNICATIONS_____
ENERGY_____
ECONOMICS_____
LEGAL: William.freeman@psncuc.nc.gov;
zeke.creech@psncuc.nc.gov
TRANSPORTATION_____
WATER_____

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COUNSEL/MEMBER(s) REQUESTING A **CONFIDENTIAL** TRANSCRIPT WHO HAS SIGNED A CONFIDENTIALITY AGREEMENT WILL NEED TO SIGN BELOW.

/s/Zeke Creech
/s/Will Freeman

§ 62-133.2. Fuel and fuel-related charge adjustments for electric utilities.

(a) The Commission shall permit an electric public utility that generates electric power by fossil fuel or nuclear fuel to charge an increment or decrement as a rider to its rates for changes in the cost of fuel and fuel-related costs used in providing its North Carolina customers with electricity from the cost of fuel and fuel-related costs established in the electric public utility's previous general rate case on the basis of cost per kilowatt hour.

(a1) As used in this section, "cost of fuel and fuel-related costs" means all of the following:

(1) The cost of fuel burned.

(2) The cost of fuel transportation.

(3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.

(4) The total delivered noncapacity related costs, including all related transmission charges, of all purchases of electric power by the electric public utility, that are subject to economic dispatch or economic curtailment.

(5) The capacity costs associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in *16 U.S.C. § 796*, that are subject to economic dispatch by the electric public utility.

(6) Except for those costs recovered pursuant to *G.S. 62-133.8(h)*, the total delivered costs of all purchases of power from renewable energy facilities and new renewable energy facilities pursuant to *G.S. 62-133.8* or to comply with any federal mandate that is similar to the requirements of subsections (b), (c), (d), (e), and (f) of *G.S. 62-133.8*.

(7) The fuel cost component of other purchased power.

(8) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of fuel and other fuel-related costs components.

(9) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.

(10) The total delivered costs, including capacity and noncapacity costs, associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in *16 U.S.C. § 796*, that are not subject to economic dispatch or economic curtailment by the electric public utility and not otherwise recovered under subdivision (6) of this subsection.

(11) All nonadministrative costs related to the renewable energy procurement pursuant to *G.S. 62-159.2* not recovered from the program participants.

(a2) For those costs identified in subdivisions (4), (5), (6), (10), and (11) of subsection (a1) of this section, the annual increase in the aggregate amount of these costs that are recoverable by an electric public utility pursuant to this section shall not exceed two and one-half percent (2.5%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. The costs described in subdivisions (4), (5), (6), (10), and (11) of subsection (a1) of this section shall be recoverable from each class of customers as a separate component of the rider as follows:

(1) For the noncapacity costs described in subdivisions (4), (10), and (11) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the method used in the electric public utility's most recently filed fuel proceeding commenced on or before January 1, 2017, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after January 1, 2017.

(2) For the capacity costs described in subdivisions (5), (6), (10), and (11) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the method used in the electric public utility's most recently filed fuel proceeding commenced on or before January 1, 2017, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after January 1, 2017.

(a3) Notwithstanding subsections (a1) and (a2) of this section, for an electric public utility that has fewer than 150,000 North Carolina retail jurisdictional customers as of December 31, 2006, the costs identified in subdivisions (1), (2), (6), (7), and (10) of subsection (a1) of this section and the fuel cost component, as may be modified by the Commission, of electric power purchases identified in subdivision (4) of subsection (a1) of this section shall be recovered through the increment or decrement rider approved by the Commission pursuant to this section. For the costs identified in subdivisions (6) and (10) of subsection (a1) of this section that are incurred on or after January 1, 2008, the annual increase in the amount of these costs shall not exceed one percent (1%) of the electric public utility's total North Carolina retail jurisdictional gross revenues for the preceding calendar year. These costs described in subdivisions (6) and (10) of subsection (a1) of this section shall be recoverable from each class of customers as a separate component of the rider. For the costs described in subdivisions (6) and (10) of subsection (a1) of this section, the specific component for each class of customers shall be determined by allocating these costs among customer classes based on the electric public utility's North Carolina peak demand for the prior year, as determined by the Commission, until the Commission determines how these costs shall be allocated in a general rate case for the electric public utility commenced on or after January 1, 2008.

(b) The Commission shall conduct a hearing within 12 months of each electric public utility's last general rate case order to determine whether an increment or decrement rider is required to reflect actual changes in the cost of fuel and fuel-related costs over or under the cost of fuel and fuel-related costs on a kilowatt-hour basis in base rates established in the electric public utility's last preceding general rate case. Additional hearings shall be held on an annual basis but only one hearing for each electric public utility may be held within 12 months of the last general rate case.

(c) Each electric public utility shall submit to the Commission for the hearing verified annualized information and data in such form and detail as the Commission may require, for an historic 12-month test period, relating to:

(1) Cost of fuel and fuel-related costs used in each generating facility owned in whole or in part by the utility.

(2) Fuel procurement practices and fuel inventories for each facility.

(3) Burned cost of fuel used in each generating facility.

(4) Plant capacity factor for each generating facility.

(5) Plant availability factor for each generating plant.

(6) Generation mix by types of fuel used.

(7) Sources and fuel cost component of purchased power used.

(8) Recipients of and revenues received for power sales and times of power sales.

(9) Test period kilowatt-hour sales for the utility's total system and on the total system separated for North Carolina jurisdictional sales.

(10) Procurement practices and inventories for: fuel burned and for ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.

(11) The cost incurred at each generating facility of fuel burned and of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.

(12) Any net gains or losses resulting from any sales by the electric public utility of fuel or other fuel-related costs components.

(13) Any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.

(d) The Commission shall provide for notice of a public hearing with reasonable and adequate time for investigation and for all intervenors to prepare for hearing. At the hearing the Commission shall receive evidence from the utility, the Public Staff, and any intervenor desiring to submit evidence, and from the public generally. In reaching its decision, the Commission shall consider all evidence required under subsection (c) of this section as well as any and all other competent evidence that may assist the Commission in reaching its decision including changes in the cost of fuel consumed and fuel-related costs that occur within a reasonable time, as determined by the Commission, after the test period is closed. The Commission shall incorporate in its cost of fuel and fuel-related costs determination under this subsection the experienced over-recovery or under-recovery of reasonable costs of fuel and fuel-related costs prudently **incurred** during the test period, based upon the prudent standards set pursuant to subsection (d1) of this section, in fixing an increment or decrement rider. Upon request of the electric public utility, the Commission shall also incorporate in this determination the experienced over-recovery or under-recovery of costs of fuel and fuel-related costs through the date that is 30 calendar days prior to the date of the hearing, provided that the reasonableness and prudence of these costs shall be subject to review in the utility's next annual hearing pursuant to this section. The Commission shall use deferral accounting, and consecutive test periods, in complying with this subsection, and the over-recovery or under-recovery portion of the increment or decrement shall be reflected in rates for 12 months, notwithstanding any changes in the base fuel cost in a general rate case. The burden of proof as to the correctness and reasonableness of the charge and as to whether the cost of fuel and fuel-related costs were reasonably and prudently incurred shall be on the utility. The Commission shall allow only that portion, if any, of a requested cost of fuel and fuel-related costs adjustment that is based on adjusted and reasonable cost of fuel and fuel-related costs prudently incurred under efficient management and economic operations. In evaluating whether cost of fuel and fuel-related costs were reasonable and prudently incurred, the Commission shall apply the rule adopted pursuant to subsection (d1) of this section. To the extent that the Commission determines that an increment or decrement to the rates of the utility due to changes in the cost of fuel and fuel-related costs over or under base fuel costs established in the preceding general rate case is just and reasonable, the Commission shall order that the increment or decrement become effective for all sales of electricity and remain in effect until changed in a subsequent general rate case or annual proceeding under this section.

(d1) Within one year after ratification of this act, for the purposes of setting cost of fuel and fuel-related costs rates, the Commission shall adopt a rule that establishes prudent standards and procedures with which it can appropriately measure management efficiency in minimizing cost of fuel and fuel-related costs.

(e) If the Commission has not issued an order pursuant to this section within 180 days of a utility's submission of annual data under subsection (c) of this section, the utility may place the requested cost of fuel and fuel-related costs adjustment into effect. If the change in rate is finally determined to be excessive, the utility shall make refund of any excess plus interest to its customers in a manner ordered by the Commission.

(f) Nothing in this section shall relieve the Commission from its duty to consider the reasonableness of the cost of fuel and fuel-related costs in a general rate case and to set rates reflecting reasonable cost of fuel and fuel-related costs pursuant to *G.S. 62-133*. Nothing in this section shall invalidate or preempt any condition adopted by the Commission and accepted by the utility in any proceeding that would limit the recovery of costs by any electric public utility under this section.

(g) Repealed by Session Laws *2014-120, s. 10(d)*, effective September 18, 2014.

State of North Carolina
Utilities Commission
Raleigh

DOCKET NO. E-100, SUB 47

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Rulemaking Proceeding to Consider Annual Fuel Charge Adjustments to Electric Rates Pursuant to G.S. 62-133.2	)))	ORDER REVISING RULES AND PROCEDURES

BY THE COMMISSION: On May 1, 1984, the Commission issued its Order Adopting Revised Rules in this docket adopting Rules R8-52 through R8-55 as Rules of the Commission implementing G.S. 62-133.2, the statute dealing with annual fuel charge adjustments for electric utilities.

On October 24, 1985, the Public Staff filed a Motion asking the Commission to reopen this docket for the purpose of developing and establishing rules under which to apply an experience modification factor in fuel charge adjustment proceedings and general rate cases "on a reasonable, equitable, and consistent basis for all electric utilities." The Public Staff cited the Order issued by the Commission on September 18, 1985, in Docket No. E-2, Sub 503, an annual fuel charge adjustment proceeding for CP&L. By that Order the Commission approved a fuel factor composed of a preliminary fuel factor and an experience modification factor. Although the Public Staff has appealed that Order in order to challenge the Commission's authority to employ an experience modification factor, the Public Staff argued in its Motion that, pending judicial review, the Commission should revise its rules in order to provide for applying experience modification factors in a fair and consistent manner.

Responses to the Public Staff's Motion were filed by CP&L on October 31, by Vepco on November 4, and by Duke Power Company on November 7, 1985. CP&L responded that the Commission had already held a lengthy rulemaking proceeding and that it would be unnecessarily burdensome to hold a new proceeding given the Public Staff's appeal of the Commission's Order in Docket No. E-2, Sub 503. Vepco responded that it did not oppose a new rulemaking proceeding but that the productivity of such a proceeding might be limited in light of the Public Staff's appeal. Duke responded that it supported the Public Staff's request because it believes that uniform standards should be established and applied in all proceedings pursuant to G.S. 62-133.2.

On January 14, 1986, the Commission issued its Order Reopening Rulemaking Proceedings to Consider Annual Fuel Adjustments to Electric Utility Rates Pursuant to G.S. 62-133.2. By this Order the Commission reopened the rulemaking proceeding and proposed certain modifications to its previous rules and procedures. The modifications called for determination of a preliminary fuel factor and an experience modification factor. The Commission invited comments on its proposed modifications and set deadlines for the filing for initial comments and reply comments. All parties of

record in the original rulemaking proceeding were continued as parties with full standing in the reopened proceedings. By subsequent motion and by Orders issued on March 19 and April 8, 1986, the deadlines for the filing of initial comments and reply comments were extended.

On May 19, 1986, a petition to intervene was filed by the North Carolina Industrial Energy Consumers (NCIEC). On May 19 and 20, 1986, a petition to intervene and an amended petition were filed by Champion International Corporation, Diamond Shamrock Chemicals Company, Federal Paper Board Company, Inc., Huron Chemicals of America, Inc., LCP Chemicals and Plastics, Inc., Monsanto Company, TexasGulf, Inc., Thorn Apple Valley, Inc., Weyerhaeuser Company, and Cape Industries, collectively known as CIGFUR II. The interventions were allowed by Orders issued by the Commission on May 21 and 22, 1986.

On May 19, 1986, initial comments were filed by the Public Staff, CP&L, Duke Power Company, Vepco, CIGFUR II, NCIEC, and the Kudzu Alliance. The initial comments took the form of responses to certain questions posed by the Commission in its Order of January 14, 1986.

The Commission invited comments as to whether use of an experience modification factor would result in a closer correlation between actual prudently incurred fuel costs and the fuel costs actually recovered. The Commission also invited comments as to whether an experience modification factor using a 90% co-efficient would provide sufficient incentive for efficiency. As to these questions, the Public Staff took the position that the experience modification factor would not insure a closer correlation between fuel costs and recovery of costs. For example, there may be an abnormal generation mix during the test year that does not reoccur in the future, or there may be a variation in the utility's sales. Further, the Public Staff pointed out that the experience modification factor would not provide a closer correlation if the fuel factors were in effect for less than 12 months or if there was a mismatch or overlapping of test periods used to set the fuel factors. The Public Staff asserted that the 90% co-efficient does not provide an incentive for efficiency and that the best incentive/penalty co-efficient that the Commission could adopt would be 100%. CP&L commented that the experience modification factor should continue for a 12-month period since the Commission's method of calculating the experience modification factor assumes a 12-month appliability. Duke took the position that the experience modification factor co-efficient should be 100% and that such a factor would result in a closer correlation if it were implemented along with consistent calendar test periods and appropriate deferred accounting procedures. Duke also suggested a "dead band" or prudency zone dealing with the utility's nuclear capacity factor and linked to the the 100% experience modification factor co-efficient. Duke asserted that the increment or decrement established in the fuel charge adjustment proceeding should run for a 12-month period and carry through any intervening general rate case. Vepco asserted that a utility should be allowed to recover 100% of its prudently incurred fuel expenses. It asserted that a co-efficient of 90% or higher should be used and that any greater deviation would result in rewards or penalties so great so as to be counter-productive. CIGFUR II asserted that neither the 90% co-efficient nor any other "formulistic" approach would result in a closer correlation between prudently incurred fuel costs and fuel costs recovered. It urged

the Commission to allow recovery of only actual prudently incurred fuel costs. NCIEC recommended an experience modification factor co-efficient of 100% so that utilities could, over the long run, break even on fuel costs.

The Commission invited comments as to whether the experience modification factor should be used in general rate cases as well as fuel charge proceedings. Most parties who responded to this issue took the position that it would be illogical to treat fuel differently in general rate cases than in fuel charge adjustment proceedings; however, they recognized that the legal justification for the experience modification factor might be different for the two different types of proceedings. The Public Staff took the position that the experience modification factor should be used in both types of proceedings or not used at all. The Public Staff asserted its belief (which is the basis of its appeal of the CP&L Order) that the experience modification factor methodology constitutes prospective ratemaking of the kind forbidden by Utilities Commission v. Edmisten, 291 N.C. 451 (Prospective rate making to recover unexpected past expense, or to refund expected past expense which did not materialize, is as improper as is retroactive rate making. Id at 469). However, the Public Staff acknowledged that the Commission has authority to set provisional rates subject to a subsequent true-up. CP&L asserted that G.S. 62-133.2 authorizes a true-up in general rate cases as well as fuel charge adjustment proceedings and, alternatively, that traditional ratemaking procedures in general rate cases permit a true-up or experience modification factor through the use of provisional rates. Duke took the position that G.S. 62-133.2 authorizes an experience modification factor in fuel proceedings and that the Commission has authority to make a "known and measurable" cost of service adjustment in general rate cases based upon the over-collection or under-collection of prudently incurred fuel costs. Vepco responded that the experience modification factor should be used in both types of proceedings and that if the methodolgy is illegal in general rate cases, its use in fuel proceedings alone might be insufficient. CIGFUR asserted that the Commission should determine actual prudently incurred fuel costs allowable for rate-making purposes in both general rate cases and fuel proceedings and that the Commission should not use a formalistic approach such as the experience modification factor at all. Kudzu asserted that the Commission lacks authority to implement an experience modification factor.

As to the proper accounting period to determine over- and under-collections of fuel costs, all parties asserted that a 12-month test period should be used and most parties pointed out that consecutive test periods should be used to prevent over-lapping test periods or gaps in test periods. The Public Staff asserted that the test period should be updated through the time of the hearing if possible, but that the results would be improved if the test period extended back to the end of the former test period to eliminate gaps. CP&L recommmended that each experience modification factor have a pre-determined 12-month life. Duke suggested that the calendar year should be used as the test period for all utilities. NCIEC suggested that the test period should be left flexible to respond to rapid changes in fuel prices. As to use of deferred accounting methods, the Public Staff opposed this while CP&L, Duke and Vepco supported deferred accounting.

The Commission also invited comments as to what nuclear capacity factor should be used in developing the fuel factor. The Public Staff opposed

lifetime nuclear capacity factors. The Public Staff urged the Commission to conduct detailed investigations and to correct lifetime capacity factors for imprudency and abnormal lengthy outages. CP&L supported use of average historical lifetime nuclear capacity factors for each unit. Duke supported system-average nuclear capacity factors with adjustments for new units and known major outages. Vepco found historical lifetime nuclear capacity factors acceptable if allowances were made for unusual events. CIGFUR asserted that historical capacity factors may not be accurate indicators of future performance and that capacity factors should be based on the evidence in each case. NCIEC asserted that the unit lifetime average approach rewards the poor performer and penalizes good performance. It asserts that such an average is not proper since nuclear performance tends to improve with the age of a unit. It suggested that fuel cost be calculated using the greater of either the utility's own experience over the life of the plant or the national average capacity factor for plants of comparable vintage.

On June 9, 1986, reply comments were filed by CP&L, Duke Power Company, and NCIEC.

On that same date, June 9, 1986, the Public Staff filed a Motion for Hearing, opining that it would be advantageous for the Commission to hold an evidentiary hearing. On June 17, 1986, CP&L filed a Response Opposing the Public Staff's Motion. The Commission is of the opinion that the Motion for Hearing should be denied. The Commission has already held lengthy evidentiary hearings in the original rulemaking proceeding, and the Commission takes judicial notice of the record of those hearings. Furthermore, the Commission has before it the detailed comments and reply comments filed by the parties in this reopened proceeding responding to the proposal made by the Commission in its Order of January 14, 1986. The Commission concludes that the record is more than sufficient for the Commission to proceed without further evidentiary hearings.

On the basis of the comments filed herein and the other proceedings judicially noticed, the Commission makes the following:

FINDINGS OF FACT

1. G.S. 62-133.2 should be implemented by means of annual hearings scheduled by the Commission. Commission Rule R8-54, providing for fuel charge adjustment proceedings to be initiated by application of the utility, should be rescinded.

2. For each utility subject to G.S. 62-133.2, the annual hearing should be held at the same time each year, and the test period for each such hearing should be a 12-month test period uniform over time.

3. In establishing fuel costs, the capacity factor for nuclear production facilities should be normalized based generally on an equally weighted average of each nuclear unit's actual lifetime operating experience and the national average for nuclear production facilities as reflected in the most recent North American Electric Reliability Council's Equipment Availability Report, giving due consideration to new plants and certain unusual events. This normalization requirement assumes that the Commission

finds an abnormality having a probable impact on the utility's revenues and expenses existed during the test period.

4. The increment or decrement rider provided for by G.S. 62-133.2 should consist of a primary fuel cost rider, which will reflect the difference between the reasonable and prudent pro forma level of fuel costs based upon the adjusted test year level of operations and the base fuel cost component of rates then in effect, and an experience modification factor (EMF) rider, which will reflect the difference between actual reasonable and prudently incurred fuel costs and the fuel-related revenues that were realized during the test year under the fuel cost component of rates then in effect.

5. The EMF rider should incorporate a 100 percent over- or under-collection co-efficient.

6. The EMF rider will remain in effect for a fixed 12-month period following its establishment and will carry through as a rider to rates established in any intervening general rate case proceedings.

7. Each utility should follow deferred accounting procedures with respect to the difference between actual reasonable and prudently incurred fuel costs and fuel-related revenues realized under the fuel cost component of rates in effect.

CONCLUSIONS

It is a well established fundamental principle of regulation that public utility rates should be established in a manner so as to be representative of the total level of costs a utility can reasonably be expected to experience on an ongoing basis. In other words, prospective rates cannot reasonably be based totally upon a historical test year. Test year data must be normalized so as to reflect anticipated levels of revenues and costs. This normalization concept is one of the most basic concepts of ratemaking. It is a concept which arises out of the statutory requirement that a test year be used as the basis for estimating a public utility's cost of providing public utility service in the near future. Clearly, to the extent that the test year reflects an abnormality, such as an abnormally low level of nuclear generation, then the use of such information will not result in a reasonably accurate estimate of what may be anticipated in the near future unless an appropriate adjustment is made to "normalize" the abnormality. The Supreme Court of this State has recognized or applied this proposition in numerous decisions. State ex rel. Utilities Commission v. City of Durham, 282 N.C. 308, 193 S.E. 2d 95 (1973); State ex rel. Utilities Commission v. Edmisten, 291 N.C. 327, 230 S.E. 2d 651 (1976); State ex rel. Utilities Commission v. Duke Power Company, 305 N.C. 1, 287 S.E. 2d 786 (1982); and State ex rel. Utilities Commission v. Thornburg, 316 N.C. 238, ___ S.E. 2d ___ (1986). The rate-making process, thus, inherently requires the forecasting of reasonable and proper levels of revenues and costs for some limited but indefinite time period into the future. The individual revenues and costs items may, in fact, not occur. However it is anticipated that in the aggregate they will approximate the total revenues and expenses of the company, assuming good management.

For good cause, the legislature of this State, and every other state that the Commission knows about, has singled out fuel related revenues and costs for different treatment from that accorded to other items of revenue and expense; the reason being that fuel costs account for 30 to 40 percent of the total cost of providing electric utility service for most utilities. Therefore, small variances in fuel costs can place a utility in a position to realize substantial over- or undercollection of costs which can result in significant fluctuations in earnings. Earnings fluctuations adversely affect bond ratings which in turn increase the cost of capital to the utility and ultimately result in higher public utility rates to consumers. When a utility has a large percentage of nuclear power, the variations can be exacerbated even further because of the vast differences between nuclear fuel costs and fossil fuel costs. No doubt, for these reasons, the North Carolina General Assembly enacted the existing statute requiring the Commission to hold annual hearings to determine the degree of change, if any, to be made to the level of fuel costs reflected in the existing rates of each electric utility.

Consistent with the foregoing and absent a showing of imprudence, inefficiency, unreasonableness or malfeasance, it is the objective of this Commission to adopt rules and employ procedures whereby an electric utility will lawfully be permitted a reasonable opportunity to recover all reasonable and prudently incurred fuel costs. To achieve this objective, the Commission must exercise its discretionary authority in a responsible and consistent manner so as to facilitate accomplishment of this purpose. As indicated earlier, fuel cost is by far the major component of the total operating costs of a typical electric utility. It is also the most variable. The circumstances and events underlying this variability are to a large extent beyond the control of company management and this Commission. Moreover, given the number and nature of the parameters influencing its widely ranging variability, the reasonable level of fuel costs that a company can be expected to incur prospectively is exceedingly difficult to predict, within reasonable bounds, over relatively short periods of time. Again, due to the magnitude of the costs in question, relatively small variances in fuel costs included in prospective rates from the level of fuel costs actually incurred during the period the rates are in effect will have a significant impact on a company's financial viability. This further magnifies the need for an effective and fair means of determining the level of fuel cost to be included in rates on a representative or prospective (these words are used interchangeably in this Order) basis. Therefore, the Commission believes, in determining the level of fuel costs to be reflected in future rates, that it is necessary to carefully consider the efficacy of past fuel cost determinations. The Commission's authority in this regard is clearly reflected by the unencumered language of G.S. § 62-133(d). Specifically, this subsection of the statute states in pertinent part:

> The Commission may also consider, but is not bound by, the fuel costs incurred by the utility and the actual recovery under the rate in effect during the test period as well as any and all other competent evidence that may assist the Commission in reaching its decision... (Emphasis added)

There are, perhaps, several techniques that the Commission could employ in seeking to accomplish its objective of allowing the Company a reasonable

opportunity to recover its prudently incurred fuel cost. All such techniques rely to a great extent on historical circumstances and events, and properly so, for past events and historical data are clearly the keys to the future. However, the Commission wishes to made it clear that it firmly believes that any prudent procedure used to set the fuel cost component of prospective rates will take into account past under- and overcollection of reasonable and prudently incurred fuel costs. The Commission further believes that the most appropriate fuel costing methodology is the one that will minimize the variability of recovery of prudently incurred fuel costs in the short-run while maximizing the company's potential for recovery of such costs in the long-run. Therefore, in its determination of the reasonable and prudent level of fuel costs to be included in rates prospectively, the Commission will incorporate an actual experience modification factor (EMF) based upon the variance of the forecasted level of reasonable and prudently incurred fuel cost from that actually experienced. In reaching this conclusion the Commission has been particularly diligent in studying the issues and has considered the evidence and arguments of the companies and all of the intervenors regarding true-ups and retroactive ratemaking. The EMF is not and will not function as a mechanism to automatically and indiscriminately pass through increases or decreases in fuel costs; nor will it operate in any way so as to permit the company to recover costs arising from imprudence or malfeasance. The EMF will minimize, and over time eliminate, cumulative under- and overcollection of reasonable and prudently incurred fuel costs; thereby, enhancing the financial well being of the utility while protecting the interest of the using and consuming public.

The experience modification factor will incorporate a 100 percent over- or undercollection co-efficient. This consideration of total over- or undercollection of actual reasonable and prudently incurred fuel cost will not serve as an impediment to the incentive for efficiency. If fuel costs are increased due to management inefficiency such cost responsibility shall be assigned to the shareholders of the company and not its ratepayers. Further, since the EMF operates prospectively, there will be a signficant time lag between the under- or overcollection of reasonable and prudently incurred fuel cost and the future revenue realization of such under- or overcollection. This time-lag in conjunction with the inevitable disallowance of unreasonable or imprudently incurred fuel costs should provide the utility with considerable incentive to minimize its fuel costs. The Commission believes that such incentivies will provide reasonable assurance that the company will make every effort to hold fuel costs to as low a level as is reasonably possible. Given this view the Commission believes and so concludes that no useful purpose would be served by utilization of an EMF coefficient other than unity. Under this scenerio, as long as the utility reasonably and prudently incurs fuel costs, it would over time be allowed full recovery of such costs. Consistent with the foregoing and in order for the EMF rider to operate in an efficient and effective manner it is necessary that it remain in effect for a fixed 12-month period following its establishment and that it carry through as a rider to rates established in any intervening general rate case proceedings. Such a provision is necessary in order to facilitate the prevention of any time-period gaps or overlaps with regard to the incurring or recovery of reasonable prudently incurred fuel costs.

As most parties pointed out in their comments herein (and as should be clear from the above discussion), it is important to use consecutive test periods in order to prevent the overlapping of test periods or gaps in test periods. To accomplish this result, the Commission has decided to modify its Rules to provide for annual hearings to be held at the same time each year for each utility and to be based on test periods uniform over time for each utility. Our Rule R8-54 provided for fuel charge proceedings to be initiated by application of the utility. The Commission finds good cause to rescind this Rule and to implement G.S. 62-133.2 through R8-55 as revised herein. This is consistent with the provisions of G.S. 62-133.2 which provide for fuel charge proceedings to "be held on an annual basis." Hearings will be held individually, rather than all hearings being held on the same date, so as to allow ample time for investigation and presentation of each proceeding.

In order to take full advantage of the benefits to be derived from utilization of the EMF concept, and, in order to more accurately reflect the financial significance of such utilization, the Commission believes and so concludes that each utility should be required to followed deferred accounting with respect to the difference between actual reasonable and prudently incurred fuel costs and fuel-related revenues realized under the fuel cost component of rates in effect. This accounting technique will minimize fluctuations in earnings which as previously stated will ultimately have a favorable impact on the future level of public utility rates and it will also result in more complete and meaningful financial reporting and disclosure.

Use of the EMF concept does not lessen the need for the Commission to make as accurate an estimate as possible in establishing the reasonable level of fuel costs to be included in rates prospectively. It will continue to be in the best interest of the utility and its ratepayers to minimize the variance between the forecasted level of reasonable and prudently incurred fuel costs from that actually experienced. This results from the time lag, as previously discussed, and the potential cascading effect of unintentional but nevertheless systematic over- or undercollection of reasonable and prudently incurred fuel costs. In developing prospective fuel costs, under existing circumstances, the most difficult and sensitive parameter to estimate is the appropriate nuclear capacity factor. As previously stated, when a utility's total generating capability is composed of a large percentage of nuclear powered facilities, variations in fuel costs can be significant due to the vast difference between nuclear fuel costs and fossil fuel costs. Given the sensitivity of total fuel costs to changes in the nuclear capacity factor, the variability of the nuclear capacity factor, and the Commission's desire to enhance the efficient and fair operation of the EMF concept, the Commission believes and so concludes in establishing fuel costs that the capacity factor for nuclear production facilities should be normalized based generally on an equally weighted average of each nuclear unit's actual lifetime operating experience and the national average for nuclear production facilities as reflected in the most recent North American Electric Reliability Council's Equipment Availability Report, giving due consideration to new plants and certain unusual events. The foregoing normalization requirement assumes that an abnormality having a probable impact on the utility's revenues and expenses existed during the test period. A nuclear capacity factor benchmark developed in this manner in

conjunction with the EMF will encourage fuel cost efficiency for reasons previously discussed and, hopefully, will minimize the variability of recovery of prudently incurred fuel costs.

IT IS, THEREFORE, ORDERED as follows:

1. That the revised Commission Rule R8-55 attached hereto as Appendix A be, and the same is hereby, adopted effective the date of this Order.

2. That Commission Rule R8-54 be, and the same is hereby, rescinded.

3. That the parties may file further comments, if any there be, with respect to the rule revisions and procedural changes adopted pursuant to this Order. Such comments shall be filed on or before Tuesday, September 2, 1986. Should these comments establish good cause for further rule revisions or reconsideration of any of the rule revisions adopted by this Order, the Commission will enter an appropriate ruling by further Order.

ISSUED BY ORDERS OF THE COMMISSION.

This the 14th day of August 1986.

NORTH CAROLINA UTILITIES COMMISSION

(SEAL)

Sandra J. Webster, Chief Clerk

RULE R8-55

RULE R8-55. Annual hearings to review changes in the cost of fuel and the fuel component of purchased power.

(a) For each utility generating electric power by means of fossil and/or nuclear fuel for the purpose of furnishing North Carolina retail electric service, the Commission shall schedule an annual public hearing pursuant to G.S. 62-133.2(b) in order to review changes in the cost of fuel and the fuel component of purchased power. The annual fuel charge adjustment hearing for Duke Power Company will be scheduled for the first Tuesday of May each year; for Carolina Power & Light Company, the annual hearing will be scheduled for the first Tuesday of August each year; and, for Virginia Electric and Power Company, the annual hearing will be scheduled for the second Tuesday of November each year.

(b) The test periods for the hearings to be held pursuant to paragraph (a) above will be uniform over time. The test period for Duke Power Company will be the calendar year; for Carolina Power & Light Company, the test period will be the 12-month period ending March 31; and, for Virginia Electric and Power Company, the test period will be the 12-month period ending June 30.

(c) The general methodology and procedures to be use in establishing fuel costs, including the fuel cost component of purchased power, shall be as follows:

(1) Fuel cost will be preliminarily established utilizing the methods and procedures approved in the utility's last general rate case, except that capacity factors for nuclear production facilities will be normalized based generally on an equally weighted average of each nuclear unit's actual lifetime operating experience and the national average for nuclear production facilities as reflected in the most recent North American Electric Reliability Council's Equipment Availability Report. Further, in developing the nuclear capacity factor due consideration will be given to plants 2 years or less in age and to certain unusual events. A primary fuel cost rider will then be determined based upon the difference between the fuel costs thus established and the base fuel cost component of rates then in effect. The foregoing normalization requirement assumes that the Commission finds an abnormality having a probable impact on the utility's revenues and expenses existed during the test period.

(2) The fuel cost as described above will be further modified through use of an experience modification factor (EMF) rider. The EMF rider will reflect the difference between actual reasonable and prudently incurred fuel cost and the fuel related revenues that were actually realized during the test period under the fuel cost component of rates then in effect. Revenues collected pursuant to the EMF rider and the primary fuel cost rider established in each

fuel adjustment proceeding shall be provisional until made final by operation of the next following EMF rider.

(3) The primary fuel cost rider and the EMF rider as described hereinabove will be charged as an increment or decrement to the base fuel cost component of rates established in the utility's previous general rate case.

(4) The EMF fuel rider will remain in effect for a fixed 12-month period following establishment and will carry through as a rider to rates established in any intervening general rate case proceedings; provided, however, that such carry-through provision will not relieve the Commission of its responsibility to determine the reasonableness of fuel costs, other than that being collected through operation of the EMF rider, in any intervening general rate case proceeding.

(d) Each electric utility, as a minimum, shall submit to the Commission for purposes of investigation and hearing the information and data in the form and detail as set forth below:

(1) Actual test period kWh sales, fuel related revenues, and fuel related expenses for the utility's total system and for its North Carolina retail operations.

(2) Test period kWh sales normalized for weather, customer growth and usage. Said normalized kWh sales shall be for the utility's total system and for its North Carolina retail operations. The methodology used for such normalization shall be the same methodology adopted by the Commission, if any, in the utility's last general rate case.

(3) Adjusted test period kWh generation corresponding to normalized test period kWh usage. The methodology for such adjustment shall be the same methodology adopted by the Commission in the utility's last general rate case, including adjustment by type of generation; i.e., nuclear, fossil, hydro, pumped storage, purchased power, etc. In the event that said methodology is inconsistent with the normalization methodology set forth in paragraph (c)(1) above, additional pro forma calculations shall be presented incorporating the normalization methodology reflected in paragraph (c)(1).

(4) Cost of fuel corresponding to the adjusted test period kWh generation, including a detailed explanation showing how such cost of fuel was derived. The cost of fuel shall be based on: (1) unit fuel prices used by the Commission in the last general rate case; (2) unit fuel prices incurred during the test period; and (3) unit fuel prices proposed by the respondent utility in this proceeding if applicable. Unit fuel prices shall include delivered fuel prices and burned fuel expense rates as appropriate.

(5) Any information required by NCUC Rules R8-52 and R8-53 for each test period which has not already been filed with the Commission. Further, such information for the complete 12-month test period shall be provided by the company to any intervenor upon request.

(6) All workpapers supporting the calculations, adjustments and normalizations described above.

(e) Each utility shall file the information required under this rule, accompanied by workpapers and direct testimony and exhibits of expert witnesses supporting the information filed herein, and any changes in rates proposed by the respondent (if any), at least 60 days prior to the hearing. Nothing in this rule shall be construed to require the respondent utility to propose a change in rates or to utilize any particular methodology to calculate any change in rates proposed by the respondent utility in this proceeding.

(f) The respondent utility shall publish a notice for two (2) successive weeks in a newspaper or newspapers having general circulation in its service area, normally beginning at least 30 days prior to the hearing, notifying the public of the hearing before the Commission pursuant to G.S. 62-133.2(b) and setting forth the time and place of the hearing.

(g) Persons having an interest in said hearing may file a petition to intervene setting forth such interest at least 15 days prior to the date of the hearing. Petitions to intervene filed less than 15 days prior to the date of the hearing may be allowed in the discretion of the Commission for good cause shown.

(h) The Public Staff and other intervenors shall file direct testimony and exhibits of expert witnesses at least 15 days prior to the hearing date. If a petition to intervene is filed less than 15 days prior to the hearing date, it shall be accompanied by any direct testimony and exhibits of expert witnesses the intervenor intends to offer at the hearing.

(i) The burden of proof as to the correctness and reasonableness of any charge shall be on the utility.

(j) The hearing will generally be held in the Hearing Room of the Commission at its offices in Raleigh, North Carolina.

(k) If the Commission has not issued an order pursuant to G.S. 62-133.2 within 120 days after the date the respondent utility has filed any proposed changes in its rates and charges in this proceeding based solely on the cost of fuel and the fuel component of purchased power, then said utility may place such proposed changes into effect. If such changes in the rates and charges are finally determined to be excessive, said utility shall refund any excess plus interest to its customers in a manner directed by the Commission.

(l) Each company shall follow deferred accounting with respect to the difference between actual reasonable and prudently incurred fuel costs, including the fuel cost component of purchased power, and fuel related revenues realized under rates in effect.

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 677
SENATE BILL 524

AN ACT TO PROVIDE ADJUSTMENTS TO COSTS IN ELECTRIC UTILITY RATEMAKING AND TO STUDY THE QUESTION OF CONTINUING THE AUTHORITY FOR TRUE-UPS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-133.2 reads as rewritten:

"§ 62-133.2. Fuel charge adjustments for electric utilities. - **(a) The Commission may allow electric utilities to charge a uniform increment or decrement as a rider to their rates for changes in the cost of fuel and the fuel component of purchased power used in providing their North Carolina customers with electricity from the cost of fuel and the fuel component of purchased power established in their previous general rate case.**

(b) For each electric utility engaged in the generation and production of electric power by fossil or nuclear fuels, the Commission shall hold a hearing within 12 months of the last general rate case order and determine whether an increment or decrement rider is required to reflect actual changes in the cost of fuel and the fuel cost component of purchased power over or under base rates established in the last preceding general rate case. Additional hearings shall be held on an annual basis but only one hearing for each such electric utility may be held within 12 months of the last general rate case.

(c) Each electric utility shall submit to the Commission for the hearing verified annualized information and data in such form and detail as the Commission may require, for an historic 12-month test period, relating to:

(1) Purchased cost of fuel used in each generating facility owned in whole or in part by the utility.
(2) Fuel procurement practices and fuel inventories for each facility.
(3) Burned cost of fuel used in each generating facility.
(4) Plant capacity factor for each generating facility.
(5) Plant availability factor for each generating plant.
(6) Generation mix by types of fuel used.
(7) Sources and fuel cost component of purchased power used.
(8) Recipients of and revenues received for power sales and times of power sales.
(9) Test period kilowatt hour sales for the utility's total system and on the total system separated for North Carolina jurisdictional sales.

(d) The Commission shall provide for notice of a public hearing with reasonable and adequate time for investigation and for all intervenors to prepare for hearing. At the

hearing the Commission shall receive evidence from the utility, the public staff, and any intervenor desiring to submit evidence, and from the public generally. In reaching its decision, the Commission shall consider all evidence required under subsection (c) of this section as well as any and all other competent evidence that may assist the Commission in reaching its decision including changes in the price of fuel consumed and changes in the price of the fuel in the fuel component of purchased power occurring within a reasonable time (as determined by the Commission) after the test period is closed. ~~The Commission may also consider, but is not bound by, the fuel costs incurred by the utility and the actual recovery under the rate in effect during the test period as well as any and all other competent evidence that may assist the Commission in reaching its decision including changes in the price of fuel consumed and changes in price of the fuel in the fuel component of purchased power occurring within a reasonable time (as determined by the Commission) after the test period is closed.~~ The Commission shall incorporate in its fuel cost determination under this subsection the experienced over-recovery or under-recovery of reasonable fuel expenses prudently incurred during the test period, based upon the prudent standards set pursuant to subsection (d1) of this section, in fixing an increment or decrement rider. The Commission shall use deferral accounting, and consecutive test periods, in complying with this subsection, and the over-recovery or under-recovery portion of the increment or decrement shall be reflected in rates for 12 months, notwithstanding any changes in the base fuel cost in a general rate case. ~~The burden of proof as to the correctness and reasonableness of the charge shall be on the utility.~~ The burden of proof as to the correctness and reasonableness of the charge and as to whether the fuel charges were reasonably and prudently incurred shall be on the utility. The Commission shall allow only that portion, if any, of a requested fuel adjustment that is based on adjusted and reasonable fuel expenses prudently incurred under efficient management and economic operations. In evaluating whether fuel expenses were reasonable and prudently incurred, the Commission shall apply the rule adopted pursuant to subsection (d1). To the extent that the Commission determines that an increment or decrement to the rates of the utility due to changes in the cost of fuel and the fuel cost component of purchased power over or under base fuel costs established in the preceding general rate case is just and reasonable, the Commission shall order that the increment or decrement become effective for all sales of electricity and remain in effect until changed in a subsequent general rate case or annual proceeding under this section.

(d1) Within one year after ratification of this act, for the purposes of setting fuel rates, the Commission shall adopt a rule that establishes prudent standards and procedures with which it can appropriately measure management efficiency in minimizing fuel costs.

(e) If the Commission has not issued an order pursuant to this section within 120 days of a utility's submission of annual data under subsection (c) of this section, the utility may place the requested fuel adjustment into effect. If the change in rate is finally determined to be excessive, the utility shall make refund of any excess plus interest to its customers in a manner ordered by the Commission.

(f) Nothing in this section shall relieve the Commission from its duty to consider the reasonableness of fuel expenses in a general rate case and to set rates reflecting reasonable fuel expenses pursuant to G.S. 62-133."

Sec. 2. The enactment of this act shall be construed as clarifying rather than changing the meaning of G.S. 62-133.2 as it was previously worded and as construed by the Utilities Commission in Commission Rule R8-55 so that electric utilities will recover only their reasonable fuel expenses prudently incurred, including the fuel cost component of purchased power, with no over-recovery or under-recovery, in a manner that will serve the public interest.

Sec. 3. Until the Commission has formally adopted a rule as prescribed by subsection (d1) of G.S. 62-133.2 all fuel charge adjustment proceedings shall be heard and decided pursuant to the applicable provisions of subsections (a), (b), (c), (d), (e) and (f) of G.S. 62-133.2 and Commission Rule R8-55.

Sec. 4. The Joint Legislative Utility Review Committee shall study the matter of recovery or "true-up" of fuel costs, the matter of fuel charge adjustments, and the question of how efficient, cost effective management of electric utilities can be assured, and shall report its findings and recommendations to the General Assembly prior to the convening of the 1989 Session of the General Assembly. This study shall include, although it is not limited to, the following:

1. Whether a "true-up" procedure should be a part of the rate structure.
2. Whether fuel charge adjustments should be continued.
3. If either fuel charge adjustments or "true-ups" are continued, whether the present practice of requiring an annual proceeding should be maintained or some other procedure adopted.
4. Whether the Utilities Commission should be required to adopt other rules that establish prudent standards against which it may appropriately measure management efficiency in general, not just in the area of minimizing fuel costs, and whether such rules should place the burden of proving management efficiency on the utility in any proceeding involving charges to customers.
5. Whether the Utilities Commission should be required to devise a system by which the management and operation of the electric utilities operating in the State can be compared, and whether such comparisons should be required to be published on a regular basis.

Sec. 5. G.S. 62-133.2 is repealed in its entirety effective July 1, 1989.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1987.

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-2, SUB 833

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc., for Authority to Adjust Its Electric Rates and Charges Pursuant to G.S. 62-133.2 and NCUC Rule R8-55	))))))	ORDER APPROVING FUEL CHARGE ADJUSTMENT

HEARD: Tuesday, August 5, 2003, at 10:00 a.m., and Wednesday, August 13, 2003, at 9:00 a.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner Sam J. Ervin, IV, Presiding; Commissioners J. Richard Conder and Michael S. Wilkins

APPEARANCES:

For Carolina Power & Light Company
d/b/a Progress Energy Carolinas, Inc.:

Len S. Anthony, Manager-Regulatory Affairs, and Kendal Bowman, Associate General Counsel, Progress Energy Service Company, Post Office Box 1551, Raleigh, North Carolina 27602-1551

For the Carolina Industrial Group for Fair Utility Rates II:

Ralph McDonald, Bailey & Dixon, Post Office Box 1351, Raleigh, North Carolina 27602-1351

For the Carolina Utility Customers Association, Inc.:

James P. West, West Law Offices, PC, Suite 1735, Two Hanover Square, 434 Fayetteville Street Mall, Raleigh, North Carolina 27601

For the Public Staff:

James D. Little, Staff Attorney, Public Staff - North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699-4326

For the Attorney General:

Len Green, Assistant Attorney General, North Carolina Department of Justice, Post Office Box 629, Raleigh, North Carolina 27602-0629

BY THE COMMISSION: Pursuant to G.S. 62-133.2 and Commission Rule R8-55(e), Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc. (PEC, CP&L, or Company), is required to file, at least 60 days prior to the first Tuesday in August of each year, an application for a change in rates based solely on changes in the cost of fuel and the fuel component of purchased power. On June 6, 2003, PEC filed its Application along with the testimony and exhibits of Company witness Bruce P. Barkley. In its Application, the Company requested an increment of 0.202 cents/kWh (0.209 cents/kWh including gross receipts tax) to the base fuel factor of 1.276 cents/kWh approved in PEC's last general rate case, Docket No. E-2, Sub 537, or a recommended fuel factor of 1.478 cent`/kWh. The Company also requested an increment of 0.156 cents/kWh (0.161 cents/kWh including gross receipts tax) for the Experience Modification Factor (EMF) to collect approximately $54.5 million of underrecovered fuel expense incurred during the test period and the amounts deferred in Docket No. E-2, Subs 765 and 784, eligible for recovery in this fuel case. The Company proposed that the EMF rider be in effect for a fixed 12-month period.

On June 13, 2003, the Carolina Industrial Group for Fair Utility Rates II (CIGFUR II) filed a petition to intervene. The Commission granted CIGFUR II's petition on June 17, 2003.

On June 17, 2003, the Commission issued its Order Scheduling Hearing, Requiring Filing of Testimony and Requiring Public Notice. The Commission scheduled the hearing for August 5, 2003.

On June 24, 2003, the Carolina Utility Customers Association, Inc. (CUCA), filed a petition to intervene in the proceeding. The Commission granted CUCA's petition on June 27, 2003.

On July 10, 2003, PEC filed a revised Application along with additional direct testimony of Mr. Barkley. In the revised Application, PEC changed the requested increment to the base factor established in Docket No. E-2, Sub 537, to 0.123 cents/kWh (0.127 cents/kWh including gross receipts tax) for a new requested fuel factor of 1.399 cents/kWh.

On July 18, 2003, the Attorney General filed a notice of intervention pursuant to G.S. 62-20. The intervention of the Public Staff is also noted pursuant to Commission Rule R1-19(e).

On July 21, 2003, CUCA filed the testimony of Kevin W. O'Donnell.

On July 22, 2003, the Public Staff filed the affidavits of John R. Hinton and Thomas S. Lam and the testimony and exhibits of Darlene P. Peedin in accordance with Commission Rule R8-55(h), which requires the filing of Public Staff and other intervenor testimony at least 15 days prior to the hearing date.

On July 23, 2003, PEC filed a motion in which it sought the Commission's authorization to file rebuttal testimony. The Commission allowed PEC's request on July 24, 2003.

On July 29, 2003, PEC filed Mr. Barkley's rebuttal testimony.

On July 30, 2003, the Commission entered an Order Rescheduling Hearing in which the Commission rescheduled the evidentiary hearing in this proceeding for August 13, 2003. However, this Order provided that a hearing would be held as scheduled on August 5, 2003, for the sole purpose of receiving the testimony of public witnesses.

On August 5, 2003, the Commission held the public hearing as scheduled. No public witnessed appeared.

On August 7, 2003, the Public Staff filed the supplemental direct testimony of Ms. Peedin.

On August 11, 2003, PEC filed affidavits of publication showing that public notice had been provided as required by Commission Rule R8-55(f) and in accordance with the Commission's procedural order.

The docket came on for hearing as ordered on August 13, 2003. At the beginning of the hearing, Public Staff counsel requested that the Commission take judicial notice of certain documents, and without objection, the Commission ruled that the request to take judicial notice of the documents was allowed. During the hearing, PEC presented witness Bruce P. Barkley for cross-examination. CUCA and the Public Staff cross-examined Mr. Barkley. CUCA presented Kevin O'Donnell for cross-examination. PEC cross-examined Mr. O'Donnell. The Public Staff presented John R. Hinton, Thomas S. Lam, and Darlene P. Peedin as a panel for cross-examination. CUCA and PEC cross-examined the panel. All affidavits, testimony and exhibits were entered into the record. At the close of the hearing, the Commission requested that proposed orders or briefs be filed by September 8, 2003.

Based upon the Company's verified Application, the testimony and exhibits received into evidence at the hearing and the record as a whole, the Commission now makes the following:

FINDINGS OF FACT

1. Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc., is duly organized as a public utility company under the laws of the State of North Carolina and is subject to the jurisdiction of the North Carolina Utilities Commission. PEC is engaged in the business of generating, transmitting, and selling electric power to the public in North Carolina. PEC is lawfully before this Commission based upon its Application filed pursuant to G.S. 62-133.2.

2. The test period for purposes of this proceeding is the 12-month pe`iod ended March 31, 2003.

3. PEC's fuel procurement and power purchasing practices were reasonable and prudent during the test period.

4. The new maximum dependable capacity (MDC) value for Brunswick Unit No. 1 is 872 MWs and the new MDC for Robinson Unit No. 2 is 710 MWs.

5. The performance of PEC's nuclear units during the test period was reasonable and prudent.

6. The proper fuel factor for this proceeding is 1.399 cents/kWh.

7. PEC should be allowed to recover $5,000,000 of the $55.46 million prior fuel expense underrecovery deferred from Docket No. E-2, Sub 784, as adjusted in Docket No. E-2, Sub 806, and eligible for recovery in this case per the Stipulation agreed to by the Parties and approved by the Commission.

8. PEC should collect $13,220,355 of prior fuel expense underrecovery in this case, which is one-third of the amount deferred from Docket No. E-2, Sub 765, and is the last installment eligible for recovery.

9. It is appropriate to remove from PEC's test year fuel underrecovery calculation in this proceeding cogeneration expenses in the amount of $3,789,327.

10. It is appropriate to remove from PEC's test year fuel underrecovery calculation in this proceeding purchased power expenses related to Cogentrix Eastern Carolina in the amount of $362,374.

11. It is appropriate to reduce the fuel underrecovery for purposes of this proceeding by $954,363 to reflect the impact of using a higher freight rate for the off-system sales fuel credit.

12. It is appropriate to utilize a ratio of 61% to be applied to purchases from power marketers and to purchases from other sellers that do not provide the Company with actual fuel costs.

13. The test period North Carolina retail fuel expense underrecovery for purposes of this proceeding is $31,207,675, which includes an adjustment for certain gas transportation costs associated with the Sandhills pipeline project. The total amount of fuel expense underrecovery which PEC should be allowed to recover for purposes of this proceeding is $49,428,030.

14. The appropriate EMF increment to use in this proceeding is 0.141 cents/kWh (0.146 cents/kWh with gross receipts tax).

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

This finding of fact is essentially informational, procedural, and jurisdictional in nature and is not controversial.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 2

G.S. 62-133.2 sets out the verified annualized information which each electric utility is required to furnish to the Commission in an annual fuel charge adjustment proceeding for an historical 12-month period. In Commission Rule R8-55(b), the Commission has prescribed the twelve months ending March 31 as the test period for PEC. All pre-filed exhibits and direct testimony submitted by the Company in support of its Application utilized the twelve months ended March 31, 2003, as the test year for purposes of this proceeding. The Company made the standard adjustments to the test period data to reflect normalizations for weather, customer growth, generation mix, and SEPA and NCEMPA transactions.

The test period proposed by the Company was not challenged by any party, and the Commission concludes that the test period appropriate for use in this proceeding is the twelve months ended March 31, 2003.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The evidence for this finding can be found in the Company's Application and the monthly fuel reports on file with the Commission. Commission Rule R8-52(b) requires each utility to file a Fuel Procurement Practices Report at least once every ten years, as well as each time the utility's fuel procurement practices change. In its Application, the Company indicated that the procedures relevant to the Company's fuel procurement were filed in its Fuel Procurement Practices Report, which was updated in March 2000. In addition, the Company files monthly reports of its fuel costs pursuant to Commission Rule R8-52(a). These reports were filed in Docket No. E-2, Sub 800, for calendar year 2002,

and in Docket No. E-2, Sub 827, for calendar year 2003. No party elicited any evidence contesting the Company's fuel procurement and power purchasing practices.

The Commission finds and concludes that PEC's fuel procurement procedures and power purchasing practices were reasonable and prudent during the test period.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence supporting this finding can be found in the direct testimony and exhibits of PEC witness Barkley.

The Company proposed increasing the MDC rating for Brunswick Unit No. 1 from 820 MWs to 872 MWs and the rating for Robinson Unit No. 2 from 683 MWs to 710 MWs. The MDC rating change was effective January 1, 2003. No party elicited any evidence challenging this change; therefore, the Commission accepts the MDC changes as proposed by the Company.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence supporting this finding can be found in the Company's Application, the direct testimony and exhibits of PEC witness Barkley, and the Affidavit of Public Staff witness Lam.

The Company files with this Commission monthly Fuel Reports pursuant to Commission Rule R8-52 and Base Load Power Plant Performance Reports pursuant to Commission Rule R8-53. These reports were filed in Docket No. E-2, Sub 800, for calendar year 2002, and Docket No. E-2, Sub 827, for calendar year 2003. Witness Barkley testified that the Company met the standard for prudent operation as set forth in Commission Rule R8-55(i) based upon the test year actual nuclear capacity factor of 97.6% exceeding the latest NERC five-year average of 80.4%. The Company's Boiling Water Reactors (BWRs) at Brunswick Unit Nos. 1 and 2 experienced capacity factors of 101.9% and 92.6%, respectively. The Pressurized Water Reactor (PWRs) at Robinson Unit No. 2 and Harris Unit No. 1 experienced capacity factors of 94.1% and 101.0%, respectively. Brunswick Unit No. 2 and Robinson Unit No. 2 each experienced refueling outages that impacted their test period performance. Public Staff witness Lam verified the Company's test year average capacity factor calculation. No other party elicited evidence concerning this issue.

Based on the evidence, the Commission finds and concludes that the operation of the Company's base load nuclear plants was reasonable and prudent during the test period.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The evidence supporting this finding can be found in the testimony and exhibits of Company witness Barkley and the affidavit of Public Staff witness Lam.

In Barkley Exhibit No. 3, the Company calculated a fuel factor of 1.548 cents/kWh based on normalized capacity factors for its nuclear units in accordance with Commission Rule R8-55(c)(1), by using the most recent North American Electric Reliability Council (NERC) Equipment Availability R```rt five-year (1998-2002) weighted average for BWRs and PWRs. The workpapers included in Barkley Exhibit No. 7 show that kWh normalization for customer growth and weather at both meter and generation levels was performed in a manner consistent with past cases. Normalization adjustments were also made for SEPA deliveries and hydro generation. The unit prices used for coal, nuclear, internal combustion turbines, purchases and sales were also calculated in a manner consistent with past cases. The most recent NERC five-year capacity factors for Brunswick Unit Nos. 1 and 2, both BWRs, were normalized at 77.92%, and the capacity factors of the Robinson and Harris Units, both PWRs, were normalized at 82.93%. The Company's NERC normalized calculations resulted in a system nuclear capacity factor of 80.4% using this data.

Public Staff witness Hinton testified on the weather data used to compute the normal weather adjustments. PEC utilized weather data published by the National Oceanic and Atmospheric Administration (NOAA) for the 30 year period 1961-1990 because it did not have the 1971-2000 data available. Witness Hinton advocated the use of more current data and recommended use of the 1971-2000 NOAA data in future fuel cases. PEC agreed to utilize the more recent data in future cases.

Witness Barkley explained in his pre-filed testimony that he could not recommend the 1.548 cents/kWh fuel factor based on the NERC average capacity factors because the Company's nuclear units are expected to significantly outperform the NERC average during the period rates are in effect in this case. He instead recommended that the Commission adopt a 1.478 cents/kWh base fuel factor based on a projected nuclear capacity factor of 97.4% and expected fuel costs for the 12 months ended September 30, 2004. On July 10, 2003, the Company filed additional direct testimony, wherein Company witness Barkley recommended adoption of a base fuel factor of 1.399 cents/kWh, based on a projected nuclear capacity factor of 97.4% and expected cost data during the time period October 1, 2003, through September 30, 2004. This calculation is shown on Revised Barkley Exhibit No. 3A, which was included with his revised testimony. The computation of the 1.399 cents/kWh fuel factor is summarized below:

Generation Type	MWhs	Fuel Cost
Nuclear	28,169,705	$127,492,400
Purchase – Cogen	1,494,201	34,568,000
Purchase – AEP	1,712,200	18,423,300

Purchase – Broad River	241,999	15,202,000
Purchase – SEPA	181,699	0
Purchase – Other	769,117	12,792,800
Hydro	742,032	0
Coal	27,174,021	523,829,000
IC & CC	1,849,045	106,763,000
Sales	(1,830,500)	(50,512,500)
Total Adjusted	60,503,519	$788,558,000
Less NCEMPA:		
PA Nuclear		$ 17,271,300
PA Buy-Back		(2,020,100)
PA Coal		20,132,700
System Projected Fuel Expense		$753,174,100
Projected MWh meter sales		53,851,060
Projected Fuel Factor (cents/kWh)		1.399

After review of the Company's revised fuel factor proposal, Public Staff witness Lam recommended that the Commission approve PEC's requested fuel factor of 1.399 cents/kWh. Mr. Lam stated in his Affidavit that a nuclear capacity factor of 97.4% was more representative of the expected operation of the Company's nuclear units during the time period when the fuel factor will be in effect than the most recent NERC five-year average of 80.4% or the actual test year average capacity factor. No other party elicited any evidence to challenge the Company's request in this case.

Based on the evidence of record, the Commission finds and concludes that the proper fuel factor to adopt in this case is 1.399 cents/kWh based on a nuclear capacity factor of 97.4% as proposed by the Company and agreed to by the Public Staff. This factor is an increase of 0.123 cents/kWh (0.127 cents with gross receipts tax) over the base fuel factor of 1.276 cents/kWh approved in PEC's last general rate case, Docket No. E-2, Sub 537.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 7-14

The evidence supporting these findings can be found in the testimony and exhibits of Company witness Barkley, CUCA witness O'Donnell, Public Staff witness Peedin, and the following documents of which the Commission took judicial notice: PEC's March 1987 Monthly Fuel Report, filed as Nevil Exhibit I in Docket No. E-2, Sub 533; PEC's Annual Report concerning the Status of Cogeneration and Small Power Production Activities, filed in Docket No. E-100, Sub 41B, on August 30, 2002; the Commission's Order in Docket No. E-2, Sub 658, including the Joint Stipulation of the Parties; and the Commission's Order in Docket No. E-2, Sub 537.

G.S. 62-133.2(d) provides:

> The Commission shall incorporate in its fuel cost determination under this subsection the experienced over-recovery or underrecovery of reasonable fuel expenses prudently incurred during the test period . . . in fixing an increment or decrement rider. The Commission shall use deferral accounting and consecutive test periods in complying with this subsection, and the over-recovery or under-recovery portion of the increment or decrement shall be reflected in rates for 12 months, notwithstanding any changes in the base fuel cost in a general rate case . . .

In the prefiled direct testimony and exhibits submitted by Company witness Barkley, he requested recovery of $54,534,094 of underrecovered fuel expense consisting of three components. One component is the underrecovery of $36,313,739 of test period fuel costs resulting from using the fuel factors approved by the Commission in Docket No. E-2, Subs 784 and 806. The second component is $13,220,355 of underrecovery, which is the final one-third installment of the underrecovered amount that was deferred from PEC's 2000 fuel case, Docket No. E-2, Sub 765. The third component is $5,000,000 of the $55.46 million of underrecovered fuel costs deferred in Docket No. E-2, Sub 784, and as adjusted in Docket No. E-2, Sub 806. The Company requested an EMF increment of 0.156 cents/kWh (0.161 cents/kWh with gross receipts tax) to recover the total $54,534,094 underrecovered amount. The EMF was determined by dividing the underrecovery by 35,036,680,393 kWh of adjusted North Carolina retail sales, as set forth on Barkley Exhibit No. 4.

During the test year, the Company determined that it had not expensed all of the appropriate gas transportation costs associated with the Sandhills pipeline and made a system true-up adjustment to fuel expense of $17.2 million in August 2002. Because of the magnitude of this adjustment, the Public Staff proposed, and the Company agreed, to recover one-half of the adjustment in this proceeding and the remaining portion in the next fuel case. The test period underrecovery for the North Carolina retail customers was therefore reduced by $5,629,012 and is incorporated in the $36,313,739 underrecovery set forth in the discussion above.

As stated in her testimony, Public Staff witness Peedin reviewed the Company's requested EMF and the fuel and purchased power expense records for the test period. Witness Peedin also reviewed calculations presented in the Company's filing as well as the Company's monthly fuel reports. As a result, witness Peedin proposed several adjustments to the amounts requested by the Company. After taking into account all of witness Peedin's adjustments, the Public Staff recommended that the total underrecovered fuel costs be set at $49,428,030. This resulted in an EMF increment of 0.141 cents/kWh (0.146 cents/kWh with gross receipts tax) when divided by 35,036,680,393 kWh of adjusted North Carolina retail kWh sales per Barkley Exhibit No. 4.

In witness Peedin's direct testimony, she recommended that the Commission remove $3,789,327 in fuel costs related to cogeneration plants E, F and G, as shown in Barkley Exhibit No. 7, from fuel expenses. Witness Peedin stated that the total costs of purchases (energy and capacity) from cogeneration plants E, F, and G were included in non-fuel base rates in PEC's most recent general rate case, Docket No. E-2, Sub 537. Cogeneration plants E, F, and G were identified in Company witness Barkley's rebuttal testimony as the Elizabethtown, Lumberton, and Kenansville facilities.

Witness Peedin stated that a similar issue arose in a prior fuel case, Docket No. E-2, Sub 658, regarding the proper level of fuel cost to include for Stone Container, a cogenerator. She stated that the non-fuel portion of the rates set in the Sub 537 general rate case provided for the recovery of an annual payment to Stone, including a portion of the payment that represented actual burned fuel costs. Therefore, at the time of the Sub 658 fuel case, there was already a level of purchases being recovered in non-fuel rates based on capacity available from the cogenerator at the time of the Sub 537 general rate case. Due to a change in the contract with the cogenerator, an increased amount of capacity was available to PEC. As a result, PEC proposed to include fuel costs associated with the total capacity available to it from the cogenerator in fuel rates. The Public Staff concluded in that case that it would not be appropriate to include in fuel rates the amount that was already being recovered in the non-fuel portion of base rates set in the last general rate case. PEC eventually agreed with the Public Staff's conclusion and the two parties filed a joint stipulation to commit to working together to determine the appropriate methodology to calculate the appropriate amount to be included in fuel rates. The methodology used since that case effectively excludes from fuel costs any expenses associated with the level of Stone Container capacity included in the Sub 537 general rate case.

As with the case cited above, witness Peedin testified that the Public Staff still concludes that it is not appropriate to include in fuel rates amounts for cogeneration facilities that are already being recovered in the non-fuel portion of base rates. Witness Peedin indicated that the Public Staff considers it reasonable to remove the North Carolina retail portion of the fuel costs associated with cogenerators Lumberton, Elizabethtown, and Kenansville, because there is already a level of capacity and energy costs included in non-fuel base rates in the Company's last general rate case related to the total capacity of these facilities. Witness Peedin testified that it would be inappropriate to also provide recovery of these costs in fuel rates.

With regard to this issue, CUCA presented testimony by witness O'Donnell that essentially agreed with the adjustment made by the Public Staff, stating that the costs of cogenerators Elizabethtown, Lumberton, and Kenansville are being recovered in non-fuel base rates and that it would be inappropriate to also include these costs in the fuel clause proceeding.

Company witness Barkley presented rebuttal testimony stating that he understood the theory upon which the Public Staff and CUCA relied in taking their positions of disallowing these costs from the fuel clause was that these costs are included in PEC's base rates. Witness Barkley testified that the initial 15-year agreements between the cogenerators and PEC had expired. Upon expiration of the agreements, the cogenerators abandoned their status as Qualifying Facilities (QFs) under PURPA and chose to sell their output into the wholesale market. These facilities were then resold and their owners decided to return to QF status and eventually signed new contracts with PEC. Witness Barkley testified that because the original contracts with the QFs expired, PEC signed new contracts with the same QFs and that they represent new cogenerators whose fuel costs should be recovered through the fuel clause. In his rebuttal testimony, witness Barkley presented an analogy that assumed that the Company purchased all of its cogeneration needs (capacity and energy) from a certain cogenerator and that after a few years the cogenerator ceased doing business and closed. Later, the Company negotiated a purchased power agreement with another cogenerator that would sell the same amount of energy and capacity to the Company as the previous cogenerator. Witness Barkley testified that no one would argue that the fuel cost of the second cogenerator should not be recovered through the fuel clause.

Under cross-examination, witness Barkley testified that "all the payments to the owner of these three [cogeneration] facilities were included in base rates even though the [specific] amount of fuel in those payments is unknown... Everything was included in the base rates; the entire avoided cost payments." (Transcript, Vol. 1, pp. 109-110). Witness Barkley also testified under cross-examination that during the test period ended March 31, 1987, there were approximately $60 to $70 million of cogeneration costs, and now during the test year in this proceeding, as shown on Barkley Exhibit No. 6, the Company is facing over $140 million of annual cogeneration costs. (Transcript, Vol. 1, pp. 110-111)

Witness Barkley agreed under cross-examination that the difference between the Company and the Public Staff on this issue is the Public Staff's position that these fuel costs are already included in non-fuel base rates from the last general rate case. Counsel for the Public Staff stated that the Public Staff was not taking issue with the prudence of the costs. (Transcript, Vol. 1, p. 128)

Based on the evidence, the Commission finds and concludes that it is appropriate to remove cogeneration expenses in the amount of $3,789,327 for Elizabethtown, Lumberton, and Kenansville from PEC's test year fuel expense underrecovery calculation in this proceeding for the following reasons. First, the Commission concludes that at the time of the last rate case, Docket No. E-2, Sub 537, the total costs of purchases (energy and capacity) from Lumberton, Elizabethtown, and Kenansville were included in non-fuel base rates. Witness Peedin's testimony is unrefuted on this point. Furthermore, witness Barkley testified under cross-examination that all of the avoided cost payments associated with these facilities were included in base rates, although the exact fuel dollars were unknown at the time. Public Staff Barkley Cross-examination Exhibit I is also very

persuasive evidence in this regard. This cross-examination exhibit was identified by witness Barkley as PEC's response to a Public Staff data request. The response to certain inquiries therein indicates that all three facilities were included in non-fuel base rates during PEC's last general rate case, Docket No. E-2, Sub 537.

Second, the Commission is of the opinion that the circumstances of this issue are similar to those presented in Docket No. E-2, Sub 658, regarding cogenerator Stone Container. In that Order, with regard to Stone Container, the Commission stated as follows:

> Since recovery of all of CP&L's Stone Container related cogeneration expenses related to the 29 MW of capacity, including compensation for actual burned fuel costs, was provided for in the nonfuel portion of base rates set in the Sub 537 general rate case, it would not be appropriate to also provide recovery in fuel rates of the actual burned fuel costs related to the 29 MW of capacity by including said costs in subsequent fuel case underrecovery calculations.

Furthermore, in the Sub 658 Order, the Commission approved the result embodied in a Joint Stipulation that was signed by the Public Staff, CP&L, CUCA, CIGFUR, and the Attorney General. In this Stipulation, it is noted:

> The Public Staff also questioned the inclusion in the calculation of CP&L's fuel cost underrecovery of certain fuel costs associated with the Company's power purchases from Stone Container Corporation's cogeneration facility. The Public Staff asserted that the Company was inappropriately attempting to recover certain of these purchased power costs through the fuel factor. The Public Staff calculated this amount to be approximately $2.5 million for the test period. The Company agrees that certain of these costs were inappropriately included as test year fuel costs, but believes that the dollar amount in question is approximately $2.1 million.

Thus, even though there was a relatively minor difference in the dollar amounts set forth by the Company and the Public Staff in the Sub 658 Joint Stipulation, it strongly appears that at that time, the Company agreed in principle that cogeneration costs included in the non-fuel portion of base rates should not be included in subsequent fuel adjustment case underrecovery calculations and that the Commission's Order adopted that position as well.

Witness Barkley asserted in his rebuttal testimony that PEC is treating Stone Container differently than the Lumberton, Elizabethtown, and Kenansville cogeneration facilities because PEC is still purchasing power from Stone Container under the original

purchased power agreement that preceded the last general rate case. However, the Commission does not believe that the fact that the cogeneration facilities at issue in this case have changed ownership and/or entered into new contracts with PEC distinguishes them from the Commission's prior decision with respect to the Stone Container costs, or is otherwise determinative of whether their fuel costs should be included in the calculation of PEC's fuel underrecovery. The Commission instead considers the fact that the fuel costs at issue in this proceeding are associated with the same facilities that PEC's applicable purchased power costs were associated with in the last general rate case, and that those purchased power costs were included in their entirety in non-fuel base rates, to be the more important factors in determining the appropriate treatment of the fuel costs of such purchases in this proceeding. The owners of the facilities may change, and the contracts under which PEC pays for power from the facilities may have changed, but the underlying essential factors – that the facilities themselves are the same facilities, and that PEC is still purchasing power from them – have not changed.

Third, it appears from the documents filed in this case and from those that the Commission has been requested to judicially notice that the MW capacities of the plants have not materially changed and that the Company has actually purchased less energy from the facilities in the test year in this proceeding than was purchased from them in the test year used in the Sub 537 general rate case. The capacities of the Lumberton, Elizabethtown, and Kenansville facilities per PEC's March 1987 fuel report were 33.335 MW, 31.920 MW, and 32.152 MW, respectively. According to PEC's filing of August 30, 2002, in Docket No. E-100, Sub 41B, the current contract capacities are 32 MW, 32 MW, and 32.4 MW, respectively. More importantly, the MWh purchased from the Lumberton, Elizabethtown, and Kenansville facilities for the twelve months ended March 1987 per the March 1987 fuel report, were 230,167 MWh, 254,195 MWh, and 242,670 MWh, respectively. The MWh purchased for the twelve months ended March 2003, per PEC's March 2003 fuel report, were 110,337 MWh, 88,667 MWh, and 31,415 MWh, respectively. The Commission therefore concludes that there has been no significant increase in the capacity and a decrease in the amount of energy purchased by PEC from these facilities as compared to the level incorporated into the Sub 537 general rate case. All of the costs paid for energy from the three facilities should continue to be considered as being recovered in the non-fuel base rates.

Finally, the Commission concludes that it has the authority and discretion to exclude the fuel costs of these facilities from fuel expense even if prudently incurred. G.S. 62-133(d) states in part that, "in reaching its decision, the Commission shall consider all evidence required under subsection (c) of this section as well as any and all other competent evidence that may assist the Commission in reaching its decision . . . " Included in the information that the Commission may require the utility to submit pursuant to subsection (c) and consider in reaching its decision are the "[s]ources and fuel cost component of purchased power used." Furthermore, Commission Rule R8-55(c)(2) states in part that "The EMF rider will reflect the difference between reasonable and prudently incurred fuel cost and the fuel related revenues that were actually realized during the test period under the fuel cost components of rates then in effect." (Emphasis added) The

Commission concludes that the language of the statute and Commission Rule provide the Commission with the authority and discretion to determine that it is not reasonable to include the fuel costs for cogeneration facilities in fuel rates when the total costs of purchases from such facilities have already been included in non-fuel base rates in the utility's most recent general rate case and that CP&L has not met its burden of proving that the amounts in question represent underrecovered fuel costs.

It is undisputed that the total amounts paid by PEC for power from the Lumberton, Elizabethtown, and Kenansville facilities were included in the non-fuel base rates set in the Sub 537 general rate case. Thus, all amounts paid by PEC to reimburse these cogenerators for their actual fuel costs were included in non-fuel base rates. Therefore, it cannot be disputed that a portion of the fuel cost of purchased power was set for recovery through the non-fuel component of the rates approved by the Commission in Sub 537. It would be eminently unfair to PEC's ratepayers for the Commission to ignore its actions in PEC's general rate case by including 100% of PEC's fuel cost of purchased power in the fuel component of rates, as if its actions in Sub 537 had never taken place. The Commission concludes that the EMF set in this fuel proceeding should reflect the Commission's decision in Sub 537, and that the most appropriate way to do so is to continue to presume, as it has for many years, that the ongoing actual fuel costs of the Kenansville, Elizabethtown, and Lumberton facilities are being recovered in PEC's non-fuel base rates.

The Commission is not persuaded by witness Barkley's hypothetical analogy regarding the recoverability of fuel costs if PEC ceased purchasing power from one cogenerator and began purchasing power from a new cogenerator. The Commission is aware that contracts expire and the Company might negotiate new contracts with either an existing or a new cogenerator. While it might prove true that the Company could include prudently incurred fuel costs from a new facility in its fuel expenses in this hypothetical scenario, the fact of the situation in this case is that the energy is being purchased from the same physical facilities as in the last general rate case, and the Commission must determine the reasonable treatment of fuel costs in light of that fact.

With regard to the testimony by witness Barkley that PEC's cogeneration costs have increased since the last general rate case, the Commission cannot base its determination of reasonable test year fuel costs on whether or not the Company's total cogeneration costs have generally increased or decreased over time. That is a general rate case issue. The Commission must instead base its determination solely on evidence regarding reasonable fuel expenses prudently incurred. The question in this case is whether it is reasonable to include costs related to the Lumberton, Elizabethtown, and Kenansville facilities in fuel expenses for purposes of this proceeding when the total costs associated with these facilities were included in non-fuel base rates in the Company's most recent general rate case and when the record does not establish that those costs were underrecovered. (Commission review of the Company's filing in this case does reveal that approximately $30 million of cogeneration fuel cost related to Plants A, B, C and D, detailed on Barkley Exhibit No. 7, page 83 of 87, have been included by the Company in

its fuel underrecovery calculation and are not being disputed by the Public Staff, presumably because the cost associated with the facilities were not included in non-fuel base rates in the Company's last general rate case. The Commission also notes that PEC's North Carolina retail operating revenues, excluding off-system sales revenues, have grown from approximately $1.6 billion per the Commission's Order in Docket No. E-2, Sub 537, to approximately $2.4 billion for calendar year 2002 per PEC's ES-1 filing with the Commission, an increase of approximately $800 million.)

During the Public Staff's review of purchased power expenses in this proceeding, it determined that PEC purchased power from Cogentrix Eastern Carolina. As stated in Ms. Peedin's prefiled testimony, the Public Staff inquired of the Company regarding a description of the seller. The Company responded that Cogentrix Eastern Carolina is a cogeneration facility that became commercial in April 1986. Mr. Barkley's rebuttal testimony identified this cogenerator as the Kenansville facility. The total costs of purchases (capacity and energy) from the Kenansville facility were included in non-fuel base rates in the Company's last general rate case. Witness Peedin testified that the Public Staff believes that it is inappropriate to include these costs in fuel rates in this case since the costs are already being recovered. As a result, witness Peedin made an adjustment to reduce the test year underrecovery by $362,374.

Witness Barkley's rebuttal testimony indicated that PEC believed these purchases were market purchases like purchases from other wholesale market participants and the fuel cost should be included in the fuel clause.

Based on the evidence presented by the witnesses on this issue, the Commission concludes that the recommendation of the Public Staff is reasonable because the total costs of purchases from this facility were included in non-fuel base rates in the Company's last general rate case as discussed above. Therefore, the Commission finds and concludes that the expenses included in fuel costs for Cogentrix Eastern Carolina should be reduced by $362,374 as recommended by the Public Staff.

As mentioned above, CUCA witness O'Donnell testimony agreed with the Public Staff's position on the fuel costs associated with the three cogeneration plants. However, witness O'Donnell recommended two additional adjustments to PEC's fuel costs. First, witness O'Donnell claimed that coal freight detention charges were imprudently incurred and were not the type of costs recoverable through the fuel adjustment mechanism. Second, witness O'Donnell also questioned the accuracy of the fuel cost associated with Southport, another cogeneration facility.

CUCA witness O'Donnell's request for denial of recovery of detention charges (all parties agreed that detention and demurrage charges would be collectively called detention charges) was challenged by both the Company and Public Staff. Witness O'Donnell identified charges totaling $80,725 on a system basis that were incurred due to delays experienced by PEC unloading coal trains at PEC's Roxboro and Mayo plants. Witness O'Donnell claimed the charges were primarily the result of inadequate staffing at

those locations and these amounts were labor costs that should not be recoverable through the fuel adjustment mechanism, even if those costs were prudently incurred.

PEC witness Barkley testified that the recovery of detention charges via the fuel adjustment mechanism is proper and consistent with the accounting rules established by the Federal Energy Regulatory Commission ("FERC") for electric utilities and followed by this Commission pursuant to Commission Rule R8-27. According to his testimony, FERC Account 151 specifies that freight as well as detention charges are considered part of the delivered cost of fuel. Witness Barkley further explained that the Company, in negotiating rail contracts, agrees to the detention charge provisions in return for lower freight rates. He then testified that the incurrence of detention charges is not a sign of imprudent operation. Rather, they are expected. Witness Barkley pointed out numerous factors beyond the Company's control that he believed can result in detention charges. These factors included new safety procedures, an increase in number of cars to unload, equipment failures and weather-related obstacles. Witness Barkley rebutted allegations of understaffing by pointing out that additional staff does not necessarily avoid detention charges given equipment and track limitations. Witness Barkley further testified that he personally observed the unloading operation of 25 cars at the Roxboro plant and discussed unloading procedures with plant personnel. He explained that based upon his review of all the relevant data and his firsthand observation of the coal unloading process at the Roxboro plant, he found the incurrence of the detention charges in question to be prudent. When asked about the rate impact of an $80,725 system adjustment, or approximately $55,000 North Carolina retail, witness Barkley explained such an adjustment would not change the requested EMF factor in this case.

Public Staff witness Lam testified that he had investigated the detention charges in question and believed they were prudently incurred. He further testified that he had personally observed unloading operations at the Roxboro plant and more recently at the Mayo plant location. Mr. Lam testified that the detention charges incurred by PEC were prudently incurred and were not caused by inadequate staffing.

The Commission is not persuaded by witness O'Donnell's arguments that detention charges are not fuel costs and should be excluded from the case. To the contrary, detention charges are as much a fuel cost as is freight. Clearly the FERC system of accounts and the Commission's Rules provide that detention costs are properly included in fuel costs. Regarding the allegation of understaffing, unlike Witnesses Barkley and Lam, witness O'Donnell admitted that he had not visited either the Mayo or Roxboro plants to observe their coal unloading processes, nor had he discussed this issue with any personnel at either plant. Rather, witness O'Donnell's position was based upon PEC's responses to data requests. In addition, when asked by the Commission whether his position was that PEC should attempt to minimize the overall costs of unloading coal by balancing labor costs against detention charges or whether PEC should just minimize fuel costs, he testified that, given that G.S. 62-133.6 prohibits PEC from raising its rates before 2008, his position was based upon only minimizing fuel costs because the fuel factor is the only rate PEC can raise in the near term. The Commission must reject such a narrow

position. A prudent utility strives to minimize its total cost of service and the Commission finds no credible evidence that PEC has not done that in this case. Instead, the record reflects that the understaffing of which the CUCA complains is the result of prudent utility cost-minimization practices. Finally, the amount of detention charges at issue in this proceeding is de minimus, since making the adjustment proposed by witness O'Donnell would not alter the EMF in this proceeding. For these reasons, the Commission finds that the de minimus amount of detention charges are an allowable part of fuel cost and were prudently incurred.

CUCA witness O'Donnell also questioned the accuracy and reliability of the fuel cost reported by the Southport cogeneration facility to PEC. To support his assertions, witness O'Donnell compared the ratio of actual burned fuel cost to PEC's energy payments to Southport and concluded that the ratio was out of line. Company witness Barkley testified that there is no relationship between the payments PEC must make to a cogeneration facility, which are based on a utility's avoided costs, and the amount of fuel cost incurred by a cogenerator in the production of electricity. One is based on PEC's average system marginal energy cost, and the other is based on the cogenerator's actual fuel costs. Furthermore, witness Barkley explained that PEC is not responsible for procuring fuel for Southport and has not observed anything unusual in its fuel reporting which would cause PEC to question the validity of its reported burned fuel cost.

The Commission finds that there is no reasonable basis to disallow the fuel cost associated with the Southport facility. The actual fuel cost incurred by the Southport facility is not related in any manner to the energy cost paid to Southport by PEC for cogeneration deliveries. Ratios developed on the basis of such analysis are an "apples and oranges" comparison as mentioned by Company witness Barkley. Company witness Barkley testified that the average fuel cost values relied upon by witness O'Donnell are an estimate based upon assumed heat rate values. Mr. O'Donnell assumed that the profitability of a cogenerator is based solely on energy payments when capacity payments accounted for two-thirds of the total cogeneration payments to this customer during the test period. Witness Barkley reviewed the cost per ton as reported by Southport in their letters and did not see any cost fluctuations that caused any concerns. Therefore, the Commission concludes the fuel costs as reported by the Southport cogeneration facility are reasonable, prudently incurred, and recoverable in this proceeding.

In Public Staff witness Peedin's direct testimony filed on July 22, 2003, and in her supplemental testimony filed on August 7, 2003, she testified that PEC is currently involved in a proceeding with Norfolk Southern before the Surface Transportation Board (STB). She indicated that the issue at hand is that the current freight rate in dispute before the STB is included in fuel expenses. Based on inquiries of the Company, the Public Staff discovered that the Company had not included the same freight rate as a credit against fuel expense associated with off-system sales. Witness Peedin testified that the Public Staff believes that if the disputed freight rate is currently charged to the ratepayers as fuel expense, then the ratepayers should also receive a corresponding credit to fuel expense when PEC makes off-system sales using that fuel. As a result, PEC prepared an analysis

to determine the estimated impact of using the higher freight rate to price the off-system sales fuel credit during the test year, and based on this information the Company determined that the credit would have been larger by $1,440,330 on a system basis, which equates to $954,363 on a North Carolina retail basis. Witness Peedin testified that the Public Staff recognizes that this adjustment is an estimate that will be subject to a more precise calculation when the outcome of the STB proceeding is known.

Counsel for the Company indicated that the Company had reviewed the supplemental testimony filed by witness Peedin and concurred with the Public Staff's position on the wholesale freight cost allocation issue. As a result, the Company filed Revised Barkley Exhibit No. 4, which set forth the Company's revised total underrecovery as $53,579,731. This revised underrecovery accepted and included the Public Staff's adjustment in the amount of $954,363 for the off-system sales fuel credit. The revised total underrecovery also produced the Company's revised EMF increment of 0.153 cents/kWh (0.158 cents/kWh with gross receipts tax).

No other party elicited evidence to the contrary on the wholesale freight cost issue. The Commission agrees with the reasoning of the Public Staff as accepted by PEC; therefore, the Commission concludes that it is appropriate to reduce the fuel underrecovery by $954,363 on a North Carolina retail basis to reflect the impact of using a higher freight rate for the off-system sales fuel credit for purposes of this proceeding.

For purposes of this proceeding, witness Peedin also recommended that the Commission accept the application of a 61% fuel ratio to the total energy cost of purchases from power marketers as well as other suppliers that are unwilling or unable to provide PEC with actual fuel costs. Witness Peedin indicated that to determine the 61% ratio, the Public Staff had performed a review of off-system sales made by PEC, Duke Power, and Dominion North Carolina Power for the twelve months ended December 31, 2002. According to Ms. Peedin, this analysis was similar to those performed by the Public Staff in support of the stipulations (Marketer Stipulations) entered into in 1997 and 1999 covering these types of purchases. Ms. Peedin stated that this analysis resulted in fuel ratios ranging from 57.21% to 64.90%, leading the Public Staff to conclude that the ratio to be applied currently to purchased energy costs to determine allowable fuel costs should be 61%. Witness Peedin noted that both the methodology underlying the analysis and the 61% ratio had been accepted by the Commission as reasonable in each fuel case since the beginning of 1997, including those held in 2002. Ms. Peedin acknowledged that PEC had used the 61% ratio in its determination of recoverable test year fuel costs in this proceeding.

Witness Peedin stated that the Public Staff continues to consider it reasonable to use the utilities' off-system sales as a basis for determining the fuel cost proxy for purchases from marketers and from other sellers that refuse to provide fuel costs to the purchasing utility. The Public Staff believes this methodology for determining a proxy fuel cost meets the criteria set forth in the Commission's 1996 Duke fuel case Order.

The Commission notes that recovery of fuel cost from marketer purchases is an important part of the Company's overall fuel cost. The use of a ratio to determine marketer fuel costs evolved with the emergence of an active wholesale bulk power market, which prompted this Commission to address the issue in the 1996 Duke Power Company fuel case. In its Order in that proceeding, the Commission stated, "When faced with a utility's reliance upon some such form of proof in a future fuel adjustment proceeding, the considerations will be whether the proof can be accepted under the statute, whether the proffered information seems reasonably reliable, and whether or not alternative information is reasonably available." Recognizing that an active wholesale bulk power market continues to evolve and applying this standard to the evidence presented herein, the Commission concludes, as it has in past proceedings, that the methodology recommended and used by the Public Staff to determine the fuel cost component of purchases from power marketers and other suppliers (1) satisfies the requirements set forth in the 1996 Duke fuel case order, and (2) is reasonable and will be accepted in this proceeding. The Commission approved the use of the 61% ratio in the most recent Duke Power fuel proceeding, Docket No. E-7, Sub 725. The Commission also accepts the use of the 61% ratio in this proceeding as recommended by Public Staff witness Peedin and adopted by PEC. No party elicited evidence in this proceeding to suggest that the Commission's reliance on the Public Staff's recommended methodology and ratio would be unreasonable.

Based upon the evidence of record, the Commission hereby approves the total underrecovery of fuel expenses in the amount of $49,428,030 as recommended by the Public Staff. Incorporated in this total underrecovery amount is $31,207,675 of underrecovery during the test year, which includes the Sandhills pipeline true-up adjustment in the amount of $5,629,012; recovery of $5,000,000 of prior fuel expense underrecovery deferred from Docket No. E-2, Sub 784; and recovery of $13,220,355 of prior fuel expense underrecovery, which is the last installment of the amount deferred from Docket No. E-2, Sub 765. When the total underrecovered amount of $49,428,030 is divided by the uncontroverted adjusted NC retail sales of 35,036,680,393 kWh, this calculation produces an EMF increment of 0.141 cents/kWh (0.146 cents/kWh with gross receipts tax) as recommended by the Public Staff. This EMF increment should remain in rates for a period of time not to exceed one year from the effective date of this Order.

Finally, CUCA witness O'Donnell made a recommendation to remedy what he believed to be a significant shortcoming in the manner in which undercollections and overcollections of fuel costs are handled by CP&L. In his testimony, witness O'Donnell explained that CP&L's EMF is calculated by dividing the dollar amount of fuel cost under-recovery or over-recovery during the test period (adjusting for deferrals from previous cases) by a forecast of the utility's kWh sales in the coming period. If a utility's forecasted sales are different from the actual sales made during the following test period, the EMF will recover more or less money than it was designed to collect. To remedy this concern, witness O'Donnell recommended tracking the EMF true-up and placing any under-recovery or over-recovery that is experienced in a deferred fuel account. Then, the under-recovery or over-recovery could be incorporated into the following year's EMF.

Witness O'Donnell stated that such a mechanism would eliminate risk to all parties.

In his rebuttal testimony, PEC witness Barkley testified that, based upon the wording of the fuel statute and Commission Rule R-88, PEC believes that the current procedures for EMF recoveries are appropriate. He also characterized witness O'Donnell's recommendation on this issue as a "true-up of a true-up." However, witness Barkley also testified that PEC has no objection to the adoption of this proposal if the Commission finds that witness O'Donnell's recommendation on this issue is lawful.

The Commission will not rule on the merits or legality of witness O'Donnell's recommendation on this issue herein for the following reasons. First, the procedure used by CP&L to position itself to recover the under-recovered fuel expense has been used for several years by CP&L, Duke Energy, and Dominion North Carolina Power and is consistent with Commission Rule R8-55 and G.S. 62-133.2. In addition, witness O'Donnell's recommendation lacks other necessary details to permit its full implementation. Finally, the Commission believes that such a ruling could be made more appropriately in a generic proceeding wherein all affected parties would be afforded the opportunity to participate and the Commission could receive the benefit of input by all such affected parties.

IT IS, THEREFORE, ORDERED as follows:

1. That, effective for service rendered on and after October 1, 2003, PEC shall adjust the base fuel component in its North Carolina retail sales by an increment of 0.123 cents/kWh (0.127cents/kWh including gross receipts tax) above the base fuel component approved in Docket No. E-2, Sub 537. Said increment shall remain in effect until changed by a subsequent Order of this Commission in a general rate case or fuel case.

2. That PEC shall establish an EMF rider as described herein to reflect an increment of 0.141 cents/kWh (0.146 cents/kWh including gross receipts tax) for retail rate schedules and applicable riders. This rider is to remain in effect for a 12-month period beginning October 1, 2003, and expiring September 30, 2004.

3. That PEC shall file appropriate rate schedules and riders with the Commission in order to implement the fuel charge adjustment approved herein not later than seven (7) working days from the date of this Order.

4. That PEC shall notify its North Carolina retail customers of the fuel charge adjustments approved herein by including the customer notice attached as Appendix A as

a bill message to be included on bills rendered during the Company's next normal billing cycle.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of September 2003.

NORTH CAROLINA UTILITIES COMMISSION

Patricia Swenson

Patricia Swenson, Deputy Clerk

mr091603.02

APPENDIX A

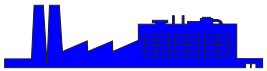
PEC BILL MESSAGE

The N. C. Utilities Commission issued an Order on September 25, 2003, after public hearings and review, approving a fuel charge increase of approximately $19.6 million in the rates and charges paid by North Carolina retail customers of PEC. The rate increase will be effective for service rendered on and after October 1, 2003, and will result in a monthly rate increase of $.56 for a typical customer using 1,000 kWh per month.

The Nuclear Fuel Cycle

-/A

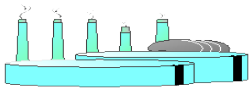
Uranium Mining and Milling



Producers sell U_3O_8 to utilities and traders.

55 Gal. drums = 850 lbs U_3O_8

Conversion to UF_6



Natural UF_6

14 Ton cylinders = 8,200 kg UF_6

Enrichment

Low Enriched UF_6

Fuel Fabrication

UO_2 Fuel Rods

Light Water Power Reactors

Spent Fuel

Spent Fuel Storage at Reactors

Waste Management Reprocessing

Duke Energy Carolinas, LLC Nuclear Fuel Procurement Practices

The Company's nuclear fuel procurement practices are summarized below:

- Near and long-term consumption forecasts are computed based on factors such as: nuclear system operational projections given fleet outage/maintenance schedules, adequate fuel cycle design margins to key safety licensing limitations, and economic tradeoffs between required volumes of uranium and enrichment necessary to produce the required volume of enriched uranium.
- Nuclear system inventory targets are determined and designed to provide: reliability, insulation from market volatility, and sensitivity to evolving market conditions. Inventories are monitored on an ongoing basis.
- On an ongoing basis, existing purchase commitments are compared with consumption and inventory requirements to ascertain additional needs.
- Qualified suppliers are invited to make proposals to satisfy additional or future contract needs.
- Contracts are awarded based on the most attractive evaluated offer, considering factors such as price, reliability, flexibility and supply source diversification/portfolio security of supply.
- For uranium concentrates, conversion and enrichment services, long term supply contracts are relied upon to fulfill the largest portion of forward requirements. By staggering long-term contracts over time, the Company's purchases within a given year consist of a blend of contract prices negotiated at many different periods in the markets, which has the effect of smoothing out the Company's exposure to price volatility. Due to the technical complexities of changing suppliers, fabrication services are generally sourced to a single domestic supplier on a plant-by-plant basis using multi-year contracts.
- Spot market opportunities are evaluated from time to time to supplement long-term contract supplies as appropriate based on comparison to other supply options.
- Delivered volumes of nuclear fuel products and services are monitored against contract commitments. The quality and volume of deliveries are confirmed by the delivery facility to which the Company has instructed delivery. Payments for such delivered volumes are made after the Company's receipt of such delivery facility confirmations.

Duke Energy Carolinas
Planned Nuclear Refueling Outages
Period: January 1, 2024 through August 31, 2025[1]

[BEGIN CONFIDENTIAL]

[END CONFIDENTIAL]

Duke Energy Carolinas, LLC Fossil Fuel Procurement Practices

Coal

- Using Stochastic cost production modeling, near and long-term coal consumption is forecasted based on inputs such as load projections, weather, fleet maintenance and availability schedules, coal quality and cost, non-coal commodity and emission prices, environmental permit and emissions constraints, projected renewable energy production, and wholesale energy imports and exports.
- Station and system inventory targets are developed to provide generational reliability, insulation from short-term market volatility, and adaptability to evolving coal production and transportation conditions. Inventories are monitored continuously.
- On a continuous basis, existing purchase commitments are compared with consumption and inventory requirements to determine changes in supply needs.
- All qualified suppliers are invited to participate in Request for Proposals to satisfy additional supply needs.
- Spot market solicitations are conducted on an on-going basis to supplement existing purchase commitments.
- Contracts are awarded based on the highest customer value, considering factors such as price, quality, transportation, reliability and flexibility.
- Delivered coal volume and quality are monitored against contract commitments. Coal and freight payments are calculated based on certified scale weights and coal quality analysis meeting ASTM standards as established by ASTM International.

Gas

- Using Stochastic cost production modeling, near and long-term natural gas consumption is forecasted based on inputs such as load projections, weather, commodity and emission prices, projected renewable energy production, and fleet maintenance and availability schedules.
- Physical procurement targets are developed to procure a cost effective and reliable natural gas supply.
- Natural gas supply is contracted utilizing a portfolio of long term, short term, spot market and physical call option agreements
- Short-term and long-term Requests for Proposals and market solicitations are conducted with potential suppliers, as needed, to procure the cost competitive, secure, and reliable natural gas supply, firm transportation, and storage capacity needed to meet forecasted gas usage.
- Short-term and spot purchases are conducted on an on-going basis to supplement term natural gas supply.
- On a continuous basis, existing purchases are compared against forecasted gas usage to determine changes in supply and transportation needs.
- Natural gas transportation for the generation fleet is obtained through a mix of long-term firm transportation agreements, and shorter-term pipeline capacity purchases.

- A targeted percentage of the natural gas fuel price exposure is managed via a rolling 60-month structured financial natural gas hedging program.
- Through the Asset Management and Delivered Supply Agreement between Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC implemented on January 1, 2103, DEC serves as the designated Asset Manager that procures and manages the combined gas supply needs for the combined Carolinas gas fleet.

Fuel Oil

- No. 2 fuel oil is burned primarily for initiation of coal combustion (light-off at steam plants) and in combustion turbines (peaking assets).
- All No. 2 fuel oil is moved via pipeline to applicable terminals where it is then loaded on trucks for delivery into the Company's storage tanks. Because oil usage is highly variable, the Company relies on a combination of inventory, responsive suppliers with access to multiple terminals, and trucking agreements to manage its needs. Replenishment of No. 2 fuel oil inventories at the applicable plant facilities is done on an "as needed basis" and coordinated between fuel procurement and station personnel.
- Formal solicitations for supply may be conducted as needed with an emphasis on maintaining a network of reliable suppliers at a competitive market price in the region of our generating assets.

DUKE ENERGY CAROLINAS
Summary of Coal Purchases
Twelve Months Ended December 31, 2023 & 2022
Tons

Line No.	Month	Contract (Tons)	Net Spot Purchase and Sales(Tons)	Total (Tons)
1	January 2023	409,429	36,675	446,105
2	February	311,121	12,883	324,004
3	March	109,778	0	109,778
4	April	108,388	11,140	119,528
5	May	164,253	0	164,253
6	June	197,494	0	197,494
7	July	252,737	0	252,737
8	August	370,702	0	370,702
9	September	401,810	0	401,810
10	October	376,100	0	376,100
11	November	417,985	0	417,985
12	December	330,253	0	330,253
13	**Total** (Sum L1:L12)	**3,450,050**	**60,698**	**3,510,749**

Line No.	Month	Contract (Tons)	Net Spot Purchase and Sales(Tons)	Total (Tons)
1	January 2022	113,717	163,936	277,652
2	February	197,748	101,133	298,880
3	March	223,662	127,470	351,132
4	April	203,061	0	203,061
5	May	179,549	13,169	192,718
6	June	241,861	0	241,861
7	July	250,687	49,307	299,994
8	August	187,891	42,429	230,320
9	September	234,123	36,026	270,150
10	October	281,284	11,937	293,221
11	November	328,541	12,238	340,780
12	December	261,395	60,317	321,712
13	**Total (Sum L1:L12)**	**2,703,519**	**617,962**	**3,321,481**

Note: Detail amounts may not add to totals shown due to rounding.

DUKE ENERGY CAROLINAS
Summary of Gas Purchases
Twelve Months Ended December 31, 2023 & 2022
MBTUs

Line No.	Month	MBTUs
1	January 2023	22,374,406.70
2	February	18,014,958.20
3	March	17,456,726.10
4	April	16,905,984.00
5	May	17,260,547.50
6	June	17,469,407.60
7	July	24,841,667.20
8	August	24,055,836.60
9	September	19,691,135.04
10	October	17,320,904.10
11	November	14,553,659.60
12	December	15,875,436.90
13	**Total (Sum L1:L12)**	**225,820,670**

Line No.	Month	MBTUs
14	January 2022	17,943,338
15	February	21,093,075
16	March	14,222,298
17	April	10,645,484
18	May	17,950,127
19	June	26,864,105
20	July	30,423,120
21	August	29,458,599
22	September	22,034,233
23	October	25,066,022
24	November	18,733,958
25	December	19,089,533
26	**Total (Sum L1:L12)**	**253,523,894**

Note: Detail amounts may not add to totals shown due to rounding.

Duke Energy Carolinas Spot Gas Supply Purchases from Piedmont Natural Gas Company

(January 1, 2023 through December 31, 2023) [BEGIN CONFIDENTIAL]

Trade Date	Start Date	End Date	Total MMBtus	Fixed Price ($/MMBtu)	Index Price ($/MMBtu)	Total Price ($/MMBtu)	Pricing Location	Gas Daily Reported Range (Note 1)
[redacted]								

[END CONFIDENTIAL]

Lawrence Exhibit 1: Proposed Fuel and Fuel-Related Cost Factors
(cents per kWh)
effective September 1, 2024
(excludes regulatory fee)

Table 4: Public Staff PROPOSED Fuel and Fuel-Related Cost Factors (¢ per kWh)

Rate Class	Base & Prospective	EMF	EMF Interest	Total Fuel Factor
Residential	2.3061	0.4751	0.0000	2.7812
General Service/Lighting	2.3045	0.3221	0.0000	2.6266
Industrial	2.2951	0.6899	0.0060	2.9910

These rates are set to take effect on September 1, 2024, with the exception of the Industrial Class EMF rate and EMF interest, which would not take effect until January 1, 2025. Additionally, the EMF component and EMF interest component in current rates will remain in effect through December 31, 2024.

For comparison, Table 5, below provides the existing fuel and fuel-related cost factors (excluding the regulatory fee) approved in Docket No. E-7, Sub 1282:

Table 5: Existing Fuel and Fuel-Related Cost Factors (¢ per kWh)

Rate Class	Base & Prospective	EMF	EMF Interest	Total Fuel Factor
Residential	2.6287	1.2579	0.0084	3.8950
General Service/Lighting	2.2596	1.2342	0.0082	3.5020
Industrial	1.9328	1.3007	0.0087	3.2422

In my Table 6, I present the fuel and fuel related cost factors for each customer class effective September 1, 2024, through December 31, 2024. Table 7 presents these same

fuel and fuel related cost factors which will be effective January 1, 2024 and ending August 30, 2025.

Table 6: Fuel and Fuel-Related Cost Factors effective September 1, 2024, to December 31, 2024 (¢ per kWh)

Rate Class	Base & Prospective	(Approved in Docket No. E-7, Sub 1282)		Public Staff's Recommended rates in this case		Total Fuel Factor
		EMF	EMF Interest	EMF	EMF Interest	
Residential	2.3061	1.2579	0.0084	0.4751	0.0000	4.0475
General Service/Lighting	2.3045	1.2342	0.0082	0.3221	0.0000	3.8690
Industrial	2.2951	1.3007	0.0087	0.0000	0.0000	4.3004

Table 7: Fuel and Fuel-Related Cost Factors effective January 1, 2025, to August 31, 2025 (¢ per kWh)

Rate Class	Base & Prospective	(Approved in Docket No. E-7, Sub 1282)		Public Staff's Recommended rates in this proceeding		Total Fuel Factor
		EMF	EMF Interest	EMF	EMF Interest	
Residential	2.3061	0.0000	0.0000	0.4751	0.0000	2.7812
General Service/Lighting	2.3045	0.0000	0.0000	0.3221	0.0000	2.6266
Industrial	2.2951	0.0000	0.0000	0.6899	0.0060	2.9910

Exhibit JL-1

DUKE ENERGY CAROLINAS

DEC Proposed Vs. CUCA Recommended Fuel Rate Path

(Amounts in ¢ per kWh)

Line	Period	Residential	General & Lighting	Industrial
		(1)	(2)	(3)
1	**Current Fuel Costs (Base + EMF)**	3.8950	3.5020	3.2422
	DEC Supplemental Proposal:			
2	Sep. - Dec. 2024	4.0760	3.8687	3.6045
3	% Increase	4.6%	10.5%	11.2%
4	Jan. - Aug. 2025	2.8097	2.6263	2.9735
5	% Increase	-31.1%	-32.1%	-17.5%
	CUCA Proposal:			
6	Sep. - Dec. 2024	3.8950	3.5020	3.2422
7	% Increase	0.0%	0.0%	0.0%
8	Jan. - Aug. 2025	2.8871	2.8069	3.1602
9	% Increase	-25.9%	-19.8%	-2.5%

DUKE ENERGY CAROLINAS
Revenue Collection Under DEC Proposed
and CUCA Recommended Fuel Rate Paths
(Amounts in $000)

Line	Period	Residential	General & Lighting	Industrial	Total
		(1)	(2)	(3)	(4)
	DEC Proposal:				
	Sep. - Dec. 2024:				
1	Applicable Sales	6,956,369	8,038,616	4,017,803	
2	Applicable Fuel Rate (¢/kWh)	4.0760	3.8687	3.6045	
3	Revenues	$283,542	$310,990	$144,822	$739,353
	Jan. -Aug. 2025:				
4	Applicable Sales	15,914,022	16,552,311	8,330,385	
5	Applicable Fuel Rate (¢/kWh)	2.8097	2.6263	2.9735	
6	Revenues	$447,136	$434,713	$247,704	$1,129,554
7	**Total Billing Period**	$730,678	$745,703	$392,526	$1,868,907
	CUCA Proposal:				
	Sep. - Dec. 2024:				
8	Applicable Sales	6,956,369	8,038,616	4,017,803	
9	Applicable Fuel Rate (¢/kWh)	3.8950	3.5020	3.2422	
10	Revenues	$270,951	$281,512	$130,265	$682,728
	Jan. -Aug. 2025:				
11	Applicable Sales	15,914,022	16,552,311	8,330,385	
12	Applicable Fuel Rate (¢/kWh)	2.8888	2.8044	3.1482	
13	Revenues	$459,727	$464,191	$262,260	$1,186,179
14	**Total Billing Period**	$730,678	$745,703	$392,526	$1,868,907

Duke Energy Carolinas

Summary of DEC Total Fuel Factors - Industrial

Description	Usage (kWh)	Rate (¢/kWh)	Revenue
Company Proposal - Supplemental Filing			
Sept. 1, 2024 - Dec. 31, 2024	4,017,803,000		
Base Fuel Factor		2.2951	$92,212,597
2022 Experience Modification Factor ("EMF")		1.3094	$52,609,112
Total for Period		**3.6045**	**$144,821,709**
Jan. 1, 2025 - Aug. 31, 2025	8,330,385,000		
Base Fuel Factor		2.2951	$191,190,666
2023 EMF		0.6519	$54,305,780
2023 EMF Interest		0.0060	$497,839
2022 EMF Under-recovery		0.0205	$1,707,832
Total for Period		**2.9735**	**$247,702,117**
Total	12,348,188,000		**$392,523,826**
CIGFUR III Proposal			
Sept. 1, 2024 - Dec. 31, 2024	4,017,803,000		
Base Fuel Factor		1.9328	$77,656,096
2022 EMF		1.3094	$52,609,112
Total for Period		**3.2422**	**$130,265,209**
Jan. 1, 2025 - Aug. 31, 2025	8,330,385,000		
Base Fuel Factor		2.2951	$191,190,666
Adjustment for Base		0.1747	$14,556,500
2023 EMF		0.6519	$54,305,780
2023 EMF Interest		0.0000	$0
2022 EMF Under-recovery		0.0205	$1,707,832
Subtotal for Period		**3.1422**	**$261,760,778**
[redacted]		[redacted]	[redacted]
Total for Period		[redacted]	[redacted]
Total	12,348,188,000		[redacted]

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 Pursuant to N.C.G.S. § 62-133.2 and Commission Rule R8-55 Relating to Fuel and Fuel-Related Charge Adjustments for Electric Utilities	)	**AGREEMENT AND STIPULATION OF SETTLMENT**

Duke Energy Carolinas, LLC ("DEC" or the "Company"), the Carolina Industrial Group for Fair Utility Rates III ("CIGFUR") and the Carolina Utility Customers Association ("CUCA"), collectively referred to herein as the "Stipulating Parties," by and through counsel and pursuant to N.C. Gen. Stat. § 62-69, respectfully submit the following Agreement and Stipulation of Settlement ("Agreement") for consideration by the North Carolina Utilities Commission ("Commission") in the above- captioned docket.

I. BACKGROUND

1. On February 27, 2024, the Company filed its application for a fuel charge adjustment, pursuant to N.C.G.S. § 62-133.2 and Commission Rule R8-55, along with the accompanying testimony and exhibits, requesting a change in its fuel charges effective for service rendered on and after September 1, 2024. The Application was accompanied by the testimony and exhibits of witnesses Matthew L. Cameron, Steven D. Capps, Sigourney Clark, Jeffrey Flanagan, Kelly S. McNeil, and John D. Swez ("Initial Filing").

2. On March 15, 2024, the Commission issued its *Order Scheduling Hearing, Requiring Filing of Testimony, Establishing Discovery Guidelines, and Requiring*

Public Notice ("Scheduling Order"). Pursuant to the Scheduling Order, the Commission established, among other things, deadlines for the filing of petitions to intervene, intervenor testimony and exhibits, and Company rebuttal testimony and exhibits; and scheduled this matter for evidentiary and public hearings to be held on June 10, 2024.

3. On May 8, 2024, the Company filed supplemental testimony and exhibits of Sigourney Clark ("Supplemental Testimony") requesting Commission approval for a revised increase in its fuel and fuel-related costs as compared to its Initial Filing. The Supplemental Filing provided revised rates reflecting impacts of the proposed EMF increment for the experienced net under-recovery of fuel and fuel-related costs through March 31, 2024, and a new EMF increment factor for the experienced net under-recovery of certain fuel and fuel-related expenses from September 1, 2023 through March 31, 2024 ("2023 Fuel Balance"). Witness Clark explains the 2023 Fuel Balance is a result of softer than expected sales, primarily as a result of mild weather, particularly from December 2023 to March 2024. Additionally, the Company on its own volition is proposing to postpone recovery of Industrial customers' EMF balance until January 1, 2025, and allow only the prior year EMF to be billed through December 31, 2024 to truncate the increase on a typical bill on September 1, 2024, as compared to the Initial Filing. Such proposal includes recovery of carrying costs associated with delaying bill impacts ("Company Proposed Mitigant").

4. On May 9, 2024, DEC filed a Motion for Expedited Waiver and Proposed Public Notice ("Waiver"), requesting authorization to publish an updated Public Notice, reflecting changes arising from the Supplemental filing, on or before May 31, 2024. Also on May 9, 2024, the Public Staff filed a letter opposing DEC's Waiver and requesting a

second public hearing.

5. On May 10, 2024, the Commission issued its *Order Granting Limited Waiver and Requiring Additional Public Notice* directing DEC to publish its updated Notice on or before May 31, 2024, and declining Public Staff's request for second public hearing.

6. On May 14, 2024, Public Staff filed its Motion for Oral Argument and Leave to File Supporting Briefs.

7. On May 17, 2024, Carolina Utility Customers Association, Inc. ("CUCA") filed a Motion for Extension of Time to File Intervenor Testimony, requesting a three-day extension to file direct testimony and exhibits for CUCA, Public Staff, and other intervenors.

8. On May 20, 2024, the Commission issued its *Order Granting Extension of Time to File Expert Witness Testimony and Permitting Prehearing Legal Briefs*, permitting the Public Staff and other intervenors to file direct testimony and exhibits on or before Thursday, May 23, 2024 and authorizing parties to file legal briefs by no later than Wednesday, May 29, 2024.

9. On May 22, 2024, the Company filed a Motion for Extension of Time, requesting the Commission to grant a three- day extension of time through and including Monday, June 3, 2024, to file rebuttal testimony.

10. On May 23, 2024, Public Staff filed the direct testimonies and exhibits of Darrell Brown, Evan D. Lawrence, Michelle Boswell, and James S. McLawhorn; CUCA filed the direct testimony and exhibits of Jonathan Ly; and CIGFUR filed the direct testimony and exhibits of Brian Collins.

11. In response to the Company Proposed Mitigant, described above, Witness Ly is proposing to delay the impact of the fuel rider increase from September 1, 2024 to January 1, 2025, effectively delaying recovery of the Prospective rate and EMF rate over an 8-month billing period as compared to the statutory 12-month billing period (September 1, 2024 through August 31, 2025 (the "CUCA Mitigant"). CIGFUR Witness Collins offered testimony supporting the CUCA Mitigant.

12. On May 24, 2024, the Commission issued its Order granting the Company's request for a three-day extension.

13. On May 29, 2024, the Company and Public Staff filed limited pre-hearing briefs.

14. On June 3, 2024, the Company filed rebuttal testimony and exhibits of Sigourney Clark and Bryan Sykes and testimony of John D. Swez and Steven D. Capps.

15. The Company, CIGFUR, and CUCA have engaged in substantial negotiations to see if an agreement could be reached as to a strategy to further mitigate rate impact beyond the Company Proposed Mitigant.

16. As a result of the settlement discussions, the Stipulating Parties reached a settlement with respect to an alternative mitigation strategy for further smoothing of the Industrial customers fuel and fuel-related costs in this proceeding as further detailed below ("Alternative Mitigant"). The Stipulating Parties agree and stipulate as follows:

II. GENERAL PROVISIONS & RESOLVED ISSUES

1. The Stipulating Parties acknowledge that the Company's projected rate increase on September 1, 2024, and subsequent decrease on January 1, 2025, to the Industrial customers class would be more pronounced than that to other customer classes

as a percentage of a typical bill. As the Company explains in its Supplemental Testimony, in previous years, the Company has allocated fuel expense under the uniform percentage allocation methodology, otherwise known as the equal percent allocation methodology. In the Company's most recent general rate case in Docket No. E-7, Sub 1276, the Commission ordered the Company to eliminate the equal percent allocation methodology starting with the Company's 2024 fuel proceeding. The larger bill impacts for the Industrial customer class as compared to other rate classes is driven by the elimination of the equal precent allocation methodology. The Stipulating Parties acknowledge that pursuant to N.C. Gen. Stat. § 62-133.2(d) the Company is statutorily entitled to recover its reasonably and prudently included fuel expense in this proceeding; however, given the pronounced impact, the Stipulating Parties agree to the mitigant for Industrial customers described in paragraph (e) below to lessen bill impacts.

2. In light of the mutual acknowledgements set forth in Section II.a, the Stipulating Parties agree as follows:

(i) CUCA and CIGFUR will not oppose or otherwise object to the Company's request to recover the 2023 Fuel Balance[1], and

(ii) The Company agrees to support an alternative mitigation strategy ("Alternative Industrial Class Mitigant"), as detailed later below,

(iii) The Company's agreement to support the Alternative Industrial Class Mitigant is conditioned on its recovery its 2023 Fuel Bill ("Condition Precedent").[2]

[1] On May 8, 2024, the Company made a supplemental filing requesting to collect its under-recovery of its 2023 Fuel Balance (approximately $8 million through March 31, 2024, from the EMF established in Docket E-7, Sub 1282).

[2] Supplemental Testimony of Sigourney Clark and accompanying exhibits.

(iv) CUCA and CIGFUR's agreement to and support of the Alternative Industrial Class Mitigant is not subject to Condition Precedent but, for purposes of compromise and the other terms and conditions set forth herein, including the right to take contrary positions in future positions, CUCA and CIGFUR do not oppose the Company's recovery of its 2023 Fuel Balance.

3. For avoidance of doubt:

(i) Duke Energy Carolinas, LLC, as a signatory to this Agreement, is not rescinding the Company Proposed Mitigant. In other words, the Company is not offering the Alternative Industrial Class Mitigant in lieu of the Company Proposed Mitigant. Unless and until the Condition Precedent is satisfied, the Company maintains its position supporting the Company Proposed Mitigant. Supplemental and Rebuttal testimonies remain unchanged.

(ii) Carolina Utility Customers Association, Inc., as a signatory to this Agreement, is not withdrawing its direct testimony and maintains that further smoothing, as presented by Witness Ly, is warranted absent the Company's recovery of its 2023 Fuel Bill.

(iii) Carolina Industrial Group for Fair Utility Rates III, as a signatory to this Agreement, is not withdrawing Witness Collins' recommendation for further smoothing absent the Company's right to recover its 2023 Fuel Bill.

4. The Alternative Industrial Class Mitigant, subject to the Condition

Precedent described above, is as follows:

(i) The Company agrees to continue billing the Industrial customers the total fuel factor established in Docket No. E-7, Sub 1282 through December 31, 2024. The total fuel factor is 3.2422 cents/kWh.

(ii) Test period[3] under-recovered fuel and fuel-related costs for the Industrial customer class will be recovered over an 8-month period as opposed to a 12-month period.

(iii) Four and one half percent (4.5%) interest will be applied to the difference between what the Company is expected to recover over the 8-month stipulated period compared to what the Company would have expected to recover over the 12-month period. Using this calculation, the total amount of the 4.5% interest is $748,704 to be paid by North Carolina Industrial customers.

(iv) The Company further agrees to establish a new total fuel factor beginning January 1, 2025. This new total fuel factor is designed to recover all of the Company's fuel and fuel-related costs, inclusive of the difference in projected fuel costs attributable to maintaining Docket No. E-7, Sub 1282 fuel factors in place through December 31, 2024; under-recovered fuel and fuel-related costs in the above-captioned matter of $56,017,539; and carrying costs of $748,704 by August 31, 2025.

III. RATE IMPACT OF ALTERNATIVE INDUSTRIAL CLASS MITIGANT

[3] January 1, 2023 through December 31, 2023

1. The above Stipulation will result in a 0.0% bill change on September 1, 2024, down from the approximately filed 9.1% requested increase for the Industrial customer class.

2. The above Stipulation will further result in a 0.6% bill decrease on January 1, 2025, up from the approximately filed 15.9% requested decrease for the Industrial customer class.

3. The total net fuel and fuel-related cost factor, for the Industrial customer class, exclusive of the regulatory fee shall be 3.1897 cents/kWh beginning January 1, 2025.

4. The prospective fuel and fuel-related cost factor, for the Industrial customer class, exclusive of the regulatory fee shall be 2.4698 cents/kWh beginning January 1, 2025.

5. The EMF (experience modification factor) cost factor, for the Industrial customer class, exclusive of the regulatory fee shall be 0.6904 cents/kWh beginning January 1, 2025.

6. The EMF interest increment cost factor, for the Industrial customer class, exclusive of the regulatory fee shall be 0.0049 cents/kWh beginning January 1, 2025.

7. The prospective fuel and fuel-related cost interest factor, for the Industrial customer class, exclusive of the regulatory fee shall be 0.0041 cents/kWh beginning January 1, 2025.

8. The EMF Increment Docket E-7, Sub 1282 factor, for the Industrial customer class, exclusive of the regulatory fee shall be 0.0205 cents/kWh beginning January 1, 2025.

IV. AGREEMENT IN SUPPORT OF SETTLEMENT; NON-WAIVER

1. The Stipulating Parties shall act in good faith and use their best efforts to recommend to the Commission that this Stipulation be accepted and approved. The Stipulating Parties further agree that this Stipulation is in the public interest because it reflects a give-and take of contested issues and results in rates (with respect to the stipulated issues) that are just and reasonable. The Stipulating Parties will support the reasonableness of this Stipulation in any hearing before the Commission and any proposed order or brief in this docket.

2. Neither this Stipulation nor any of the terms shall be admissible in any court or Commission except insofar as such court or Commission is addressing litigation arising out of the implementation of the terms herein or the approval of this Stipulation. This Stipulation shall not be cited as precedent by any of the Parties regarding any issue in any other proceeding or docket before this Commission or in any court.

3. The provisions of this Stipulation do not reflect any position asserted by any of the Stipulating Parties but reflect instead the compromise and settlement among the Stipulating Parties as to all the issues covered hereby. No Party waives any right to assert any position in any future proceeding or docket before the Commission or in any court.

4. This Stipulation is a product of negotiation among the Stipulating Parties, and no provision of this Stipulation shall be strictly construed in favor of or against any Party.

V. RECEIPT OF TESTIMONY AND WAIVER OF CROSS-EXAMINATION

The pre-filed testimony and exhibits or portions thereof of the Stipulating Parties on general provisions and resolved Issues may be received in evidence without objection,

and each Party waives all right to cross-examine any witness with respect to such pre-filed testimony and exhibits. If, however, questions are asked by any Commissioner, or if questions are asked or positions are taken by any person who is not a Stipulating Party, then any Stipulating Party may respond to such questions by presenting testimony or exhibits and cross-examining any witness with respect to such testimony and exhibits.

VI. STIPULATION BINDING ONLY IF ACCEPTED IN ITS ENTIRETY

This Stipulation is the product of negotiation and compromise of a complex set of issues, and no portion of this Stipulation other than sections IV, V, VI, VII, and VIII is or will be binding on any of the Stipulating Parties unless the entire Agreement and Stipulation is accepted by the Commission. If the Commission rejects any part of this Stipulation or approves this Stipulation subject to any change or condition or if the Commission's approval of this Stipulation is rejected or conditioned by a reviewing court, the Stipulating Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, each Party retains the right to seek additional procedures before the Commission, including cross-examination of witnesses, with respect to issues addressed by the Stipulation and shall be bound or prejudiced by the terms and conditions of the Stipulation.

VII. COUNTERPARTS

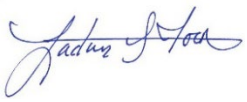
This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same

instrument. Execution by electronic signature shall be deemed to be, and shall have the same effect as, execution by original signature.

VIII. MERGER CLAUSE

This Stipulation supersedes all prior agreements and understandings between the Stipulating Parties as to the issues discussed herein and may not be changed or terminated orally, and no attempted change, termination, or waiver of any of the provisions hereof shall be binding unless in writing and signed by the parties hereto.

The foregoing is agreed and stipulated this the 6th day of June, 2024



Ladawn S. Toon
Associate General Counsel
Duke Energy Corporation
P.O. Box 1551/NCRH 20
Raleigh, North Carolina 27602
(919) 546-2148
ladawn.toon@duke-energy.com

Robert W. Kaylor
Law Office of Robert W. Kaylor, P.A.
P.O. Box 30036
Raleigh, North Carolina 27622
(919) 828-5250
bkaylor@rwkaylorlaw.com

Attorneys for Duke Energy Carolinas, LLC

/s/ Christina D. Cress

Christina D. Cress
N.C. State Bar No. 45963
434 Fayetteville St., Suite 2500
P.O. Box 1351 (zip 27602)
Raleigh, NC 27601
(919) 607-6055
ccress@bdixon.com

Attorney for CIGFUR

/s/ Marcus W. Trathen

Marcus W. Trathen
Matthew B. Tynan
Christopher B. Dodd
Brooks, Pierce, McLendon, Humphrey & Leonard, LLP
Suite 1700, Wells Fargo Capitol Center
150 Fayetteville Street
P.O. Box 1800 (zip 27602)
Raleigh, NC 27601
(919) 839-0300
mtrathen@brookspierce.com
mtynan@brookspierce.com cdodd@brookspierce.com

Attorneys for Carolina Utility Customers Association, Inc.

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 Pursuant to G.S. 62-133.2 and NCUC Rule R8-55 Relating to Fuel and Fuel-Related Charge Adjustments for Electric Utilities	)))))	**DUKE ENERGY CAROLINAS, LLC'S APPLICATION**

Duke Energy Carolinas, LLC ("DEC," "Company," or "Applicant"), pursuant to North Carolina General Statutes ("N.C. Gen. Stat.") § 62-133.2 and North Carolina Utilities Commission ("NCUC" or the "Commission") Rule R8-55, hereby makes this Application to adjust the fuel and fuel-related cost component of its electric rates. In support thereof, the Applicant respectfully shows the Commission the following:

1. The Applicant's general offices are located at 525 South Tryon Street, Charlotte, North Carolina, and its mailing address is:

Duke Energy Carolinas, LLC
P. O. Box 1006
Charlotte, North Carolina 28201-1006

2. The names and addresses of Applicant's attorneys are:

Ladawn S. Toon
Associate General Counsel
Duke Energy Corporation
Post Office Box 1551/NCRH 20
Raleigh, North Carolina 27602
(919) 546-2148
Ladawn.Toon@duke-energy.com

Robert W. Kaylor
Law Office of Robert W. Kaylor, P.A.
P.O. Box 30036
Raleigh, North Carolina 27622
(919) 828-5250
bkaylor@rwkaylorlaw.com

Copies of all pleadings, testimony, orders and correspondence in this proceeding should be served upon the attorneys listed above.

3. NCUC Rule R8-55 provides that the Commission shall schedule annual hearings pursuant to N.C. Gen. Stat. § 62-133.2 in order to review changes in the cost of fuel and fuel-related costs since the last general rate case for each utility generating electric power by means of fossil and/or nuclear fuel for the purpose of furnishing North Carolina retail electric service. Rule R8-55 schedules an annual cost of fuel and fuel-related costs adjustment hearing for DEC and requires that DEC use a calendar year test period (12 months ended December 31). Therefore, the test period used in this Application for these proceedings is the calendar year 2023.

4. In Docket No. E-7, Sub 1282, DEC's last fuel case, the Commission approved the following base fuel and fuel-related costs factors (excluding gross receipts tax and regulatory fee):

Residential - 3.8950 ¢ per kWh
Commercial - 3.5020 ¢ per kWh
Industrial - 3.2422 ¢ per kWh

5. In this Application, DEC proposes base fuel and fuel-related costs factors (excluding gross receipts tax and regulatory fee) of:

Residential - 2.3061¢ per kWh
Commercial - 2.3045¢ per kWh

Industrial - 2.2951¢ per kWh

The base fuel and fuel-related cost factors should be adjusted for the Experience Modification Factor ("EMF") by an increment/(decrement) (excluding gross receipts tax and regulatory fee) of:

Residential - 0.4819¢ per kWh
Commercial - 0.2460¢ per kWh
Industrial - 0.3892¢ per kWh

The base fuel and fuel-related costs factors should also be adjusted for the EMF interest (decrement) (excluding gross receipts tax and regulatory fee) of:

Residential - 0¢ per kWh
Commercial - 0¢ per kWh
Industrial - 0¢ per kWh

This results in composite fuel and fuel-related costs factors (excluding gross receipts tax and regulatory fee) of:

Residential - 2.7880¢ per kWh
Commercial - 2.5505¢ per kWh
Industrial - 2.6843¢ per kWh

Additionally, DEC proposes decrement adjustments to its base fuel factors in order to address the transition of voltage differential from base fuel factors to the fuel and fuel-related costs factors established in its annual fuel proceedings (excluding gross receipts tax and regulatory fee) of:

Residential - (0.0029)¢ per kWh
Commercial - (0.0113)¢ per kWh
Industrial - (0.0052)¢ per kWh

The new fuel factors, including the decrement adjustments for voltage differential, would have an effective date of September 1, 2024.

6. The information and data required to be filed by NCUC Rule R8-55 is contained in the testimony and exhibits of Sigourney Clark, Jeffery Flanagan, John Swez, Kelly McNeil, Matthew Cameron and Steven D. Capps which are being filed simultaneously with this Application and incorporated herein by reference.

7. For comparison, in accordance with Rule R8-55(d)(1) and R8-55(e)(3), base fuel and fuel-related costs factors were also calculated based on the most recent North American Electric Reliability Corporation ("NERC") five-year national weighted average nuclear capacity factor (91.90%) and projected period sales and the methodology used for fuel costs in DEC's last general rate case. These base fuel and fuel-related costs factors are:

	NERC Average	Last General Rate Case
Residential -	2.8634¢ per kWh	2.7679¢ per kWh
Commercial -	2.6262¢ per kWh	2.5303¢ per kWh
Industrial -	2.7598¢ per kWh	2.6650¢ per kWh

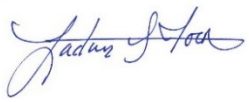
WHEREFORE, Duke Energy Carolinas, LLC requests that the Commission issue an order approving composite fuel and fuel-related costs factors (excluding gross receipts tax and regulatory fee) of:

Residential - 2.7880¢ per kWh
Commercial - 2.5505¢ per kWh
Industrial - 2.6843¢ per kWh

And decrement adjustments to its base fuel factors in order to address the transition of voltage differential (excluding gross receipts tax and regulatory fee) of:

Residential - (0.0029)¢ per kWh
Commercial - (0.0113)¢ per kWh
Industrial - (0.0052)¢ per kWh

Respectfully submitted this 27th day of February, 2024.



By: _____

Ladawn S. Toon
Associate General Counsel
Duke Energy Corporation
Post Office Box 1551/NCRH 20
Raleigh, North Carolina 27602
Tel: (919) 546-2148
Ladawn.Toon@duke-energy.com

Robert W. Kaylor
Law Office of Robert W. Kaylor, P.A.
P.O. Box 30036
Raleigh, North Carolina 27622
Tel: (919) 828-5250
bkaylor@rwkaylorlaw.com
North Carolina State Bar No. 6237

ATTORNEYS FOR DUKE ENERGY CAROLINAS, LLC