

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-2, SUB 1318

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Duke	)	
Energy Progress, LLC to Construct New	)	
Natural Gas-Fueled Combined Cycle	)	
Combustion Turbine Units at Existing	)	
Electric Generating Facility in Person	)	<b>PETITION TO INTERVENE OF</b>
County, NC	)	<b>ENVIRONMENTAL DEFENSE</b>
		<b>FUND</b>

Pursuant to North Carolina Utilities Commission (“Commission”) Rules R1-5, R1-7, and R1-19, Environmental Defense Fund (“EDF” or “Petitioner”), petitions to intervene in this proceeding. In support of its Petition, EDF states the following:

1. EDF is a national non-profit corporation engaged in linking science, economics, and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems. EDF has over 336,304 members nationwide.
2. Relevant to this proceeding, EDF has 9,538 members in North Carolina. EDF has been active in North Carolina working on environmental policies including clean energy, climate change, oceans, and sustainable agriculture.
3. The address of EDF’s North Carolina office is: Environmental Defense Fund, 4000 Westchase Blvd., Suite 510, Raleigh, NC 27607.
4. EDF, through its current programs aimed at various clean energy policies, including: (1) eliminating barriers to adoption of clean energy; and (2) advancing "smart" electric and gas system modernization, is pursuing initiatives at the state and national levels designed to

ensure that grid investments maximize their potential to create a cleaner, more resilient electric and gas system.

5. Specifically, EDF works extensively with public utility commissions, industry, academia, and other stakeholders across the country and in this region to evaluate, improve and advance electric and gas system investment plans so that they realize a full range of resiliency, environmental, economic and consumer benefits. EDF aims to ensure that clean energy and grid modernization investments provide: (1) benefits that outweigh the costs of the investments; and (2) accountability that dollars spent are providing tangible benefits. EDF also supports various clean energy policies before state public utility commissions.

6. EDF's members have a direct and substantial interest in the electric generation applications in the Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") (DEC and DEP, collectively, "Duke") North Carolina territories. Specifically, EDF's members have direct interest in the implementation of North Carolina's SL 2021-165 and Duke's application to construct carbon-emitting generation resources, including the proposed 1,360 MW Natural Gas-fueled combined cycle generating facility at issue in this docket.

7. EDF has repeatedly appeared in proceedings before the Commission dealing with matters affecting their members including proceedings regarding energy generation and energy efficiency planning, prudence in utility investments and rate payer impact, and policy decisions, particularly regarding clean energy, regarding new Duke generation investments. *See*, Docket Nos. E-100, Sub 190 and 191 (2023 Duke Carbon Plan/Integrated Resource Plan and Carbon Plan Rulemaking); Docket No. E-100, Sub 157 (2018 Integrated Resource Plan and REPS Compliance Proceeding); Docket No. E-2, Sub 1142 (DEP 2017 Rate Case); Docket No. E-100, Sub 147 (2016 Integrated Resource Plan and REPS Compliance Proceeding); Docket E-100, Sub 141 (2014

Integrated Resource Plans Proceeding); Docket No. E-7, Sub 939 (Buck Stream Station Renewable Energy Facility Registration Proceeding); Docket No. E-7, Sub 940 (Lee Steam Station Renewable Energy Facility Registration Proceeding); Docket No. E-100, Sub 115 (Determination of Purchase Price of Swine Farm Methane Gas Proceeding); Docket No. E-2, Sub 926 (Proposed Demand Response Program); E-2, Sub 929 (Proposed Residential EnergyWise Program); E-2, Sub 928 (Proposed Residential Comprehensive Retrofit Programs); Docket Nos. E-2, Sub 998 and E-7, Sub 986 (Progress/Duke Merger Proceedings).

8. Notably, Duke filed the *Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Motion to Consolidate* (“Motion to Consolidate”) in the instant docket, Docket No. E-7, Sub 1297 (the “Catawba County CPCN Proceeding”), where EDF is contemporaneously seeking intervention, and Docket No. E-100, Sub 190 (the “CPIRP Docket”), where EDF has already been granted intervention.

9. The Motion to Consolidate seeks for the Commission to consolidate the procedural schedule in the CPIRP Docket with the procedural schedules in the instant docket and the Catawba County CPCN Proceeding, which would effectively combine the three proceedings procedurally.

10. The regulatory and evidentiary standards for the Commission to consider and implement in these different proceedings are not the same, though, so the consolidation of the three dockets would be a purely procedural remedy to the benefit of Duke.

11. While EDF has not taken a position on the Motion to Consolidate, in an effort to efficiently investigate the multiple proceedings prior to the Commission issuing an order on the Motion to Consolidate, EDF did request from Duke the fulsome *Duke Energy Carolinas, LLC's Application for Certificate of Public Convenience and Necessity*, including all exhibits in unredacted form, filed in North Carolina Utilities Commission Docket No. E-7, Sub 1297, through

a data request propounded on March 20, 2024.<sup>1</sup> EDF would have similarly requested relevant materials in the instant proceeding, too, but for the position taken by Duke and outlined below.

12. Despite the outstanding Motion to Consolidate and the intuitive position that the CPIRP Docket deals with generation asset planning including new natural gas facilities for Duke, Duke has taken the position that the fulsome application in the Catawba County CPCN Proceeding is not discoverable to parties who have not yet intervened in the Catawba County CPCN Proceeding.

13. Accordingly, in an effort to be judicious and efficient given the upcoming procedural deadlines in the CPIRP proceeding and in advance of Duke's requested procedural deadlines in the dual CPCN proceedings, EDF is now seeking intervention here and, contemporaneously, in the Catawba County CPCN Proceeding.

14. Duke has not yet filed objections to EDF's March 20, 2024 data requests and EDF does not relinquish any available procedural remedies it might have in response to any such filed objections, including, but not limited to, a Motion to Compel by way of this intervention request.

15. Finally, had Duke not sought to consolidate the proceedings, EDF would have separately sought intervention.

16. EDF only sought the fulsome Catawba County CPCN Proceeding application via data request because (1) the discovery process seemed more efficient especially given the currently unopposed Motion to Consolidate and (2) the application is relevant to the underlying CPIRP Proceeding.

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<sup>1</sup> The March 20, 2024 data requests did include a typographical error listing them as EDF's Second Set of Data Requests when they were, in actuality, EDF's Third Set of Data Requests, but this error was pointed out by Duke counsel and has since been corrected.

17. EDF's participation in this proceeding as a party will benefit the Commission by providing critical insight, knowledge, and understanding.

18. All correspondence related to this proceeding should be addressed to counsel:

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19. Pursuant to Commission Rule R1-39, EDF agrees to accept electronic service of all filings in this docket.

WHEREFORE, for the foregoing reasons, EDF respectfully requests that the Commission grant Petitioner's request that it be permitted to intervene and participate fully as a party to this docket.

Respectfully submitted this 4th day of April, 2024.

KILPATRICK TOWNSEND & STOCKTON LLP

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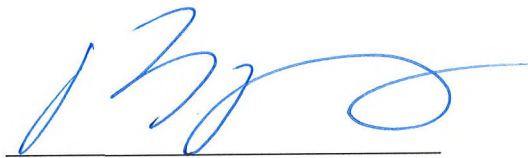
STATE OF NORTH CAROLINA

WAKE COUNTY

VERIFICATION

Benjamin W. Smith, first being duly sworn, deposes and says that he is the attorney for Environmental Defense Fund; that he has read the foregoing Petition to Intervene and that the same is true of his personal knowledge, except as to any matters and things therein stated on information and belief as to those, he believes them to be true; and that he is authorized to sign this verification on behalf of Environmental Defense Fund.

This 4<sup>th</sup> day of April, 2024:



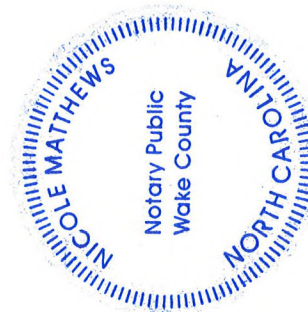
Benjamin W. Smith

Sworn to and subscribed before me  
this 4<sup>th</sup> day of April, 2024.

Nicole Matthews  
Notary Public (signature)

Nicole Matthews  
Notary Public (printed)

My Commission expires: 12-6-24



**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing *Petition to Intervene* has been served by electronic mail, hand delivery, or by depositing a copy in the United States Mail, first-class postage prepaid, properly addressed to parties of record.

This the 4th day of April, 2024.

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Apr 04 2024