

BEFORE THE
NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1219
DOCKET NO. E-7, SUB 1214

DOCKET NO. E-2, SUB 1219

In the Matter of:

Application of Duke Energy Progress,
LLC For Adjustments of Rates and
Charges Applicable to Electric Service
in North Carolina

DOCKET NO. E-7, SUB 1214

In the Matter of:

Application of Duke Energy Carolinas,
LLC For Adjustment in Electric Rate
Schedules and Tariffs and Request for
an Accounting Order

MOTION TO EXCUSE CIGFUR
WITNESS PHILLIPS FROM
ATTENDING EVIDENTIARY HEARING

NOW COMES the Carolina Industrial Group for Fair Utility Rates II (“CIGFUR II”) and Carolina Industrial Group for Fair Utility Rates III (“CIGFUR III”) (collectively, “CIGFUR”) in the dockets listed above, and moves that CIGFUR witness Nicholas Phillips, Jr. be excused from attending the evidentiary hearing in the above-captioned dockets. In support of this motion, CIGFUR states the following:

1. On September 3, 2019, CIGFUR III filed a Petition to Intervene in Docket No. E-7, Sub 1214, which was granted by Order of the Commission dated September 6, 2019.
2. On October 28, 2019, CIGFUR II filed a Petition to Intervene in Docket No. E-2, Sub 1219, which was granted by Order of the Commission dated October 30, 2019.

3. On February 18, 2020, CIGFUR III caused to be filed in Docket No. E-7, Sub 1214 the *Direct Testimony of Nicholas Phillips on Behalf of CIGFUR III*. Witness Phillips' testimony was limited to cost of service methodology and rate design principles, the appropriate cost of service study and revenue distribution, industrial rate design, the Rider EDIT-2, Duke Energy's proposed Grid Improvement Plan ("GIP"), and DEC's proposed return on equity and capital structure.
4. On April 13, 2020, CIGFUR II caused to be filed in Docket No. E-2, Sub 1219 the *Direct Testimony of Nicholas Phillips on Behalf of CIGFUR II*. Witness Phillips' testimony was limited to cost of service methodology and rate design principles, the appropriate cost of service study and revenue distribution, industrial rate design, the Rider EDIT-2, Duke Energy's proposed GIP, and DEP's proposed return on equity and capital structure.
5. On May 29, 2020, DEC caused to be filed in Docket No. E-7, Sub 1214 an *Agreement and Stipulation of Settlement with [CIGFUR III]* resolving the contested issues—subject to the terms and conditions set forth in the *Agreement and Stipulation*—between CIGFUR III and DEC on rate of return, capital structure, the GIP, the EDIT Rider, cost allocation, and rate design. As part of that settlement, CIGFUR III and DEC agreed to waive cross-examination of each other's pre-filed direct testimony, except as it relates to questions that may be asked by any Commissioner or any other party to the extent that same is not inconsistent with the terms of such settlement. Also as part of that settlement,

CIGFUR III and DEC agreed that each other's pre-filed testimony and exhibits may be received into evidence without objection.

6. On June 26, 2020, DEP caused to be filed in Docket No. E-2, Sub 1219 an *Agreement and Stipulation of Settlement with [CIGFUR II]* resolving the contested issues—subject to the terms and conditions set forth in the *Agreement and Stipulation*—between CIGFUR II and DEP on rate of return, capital structure, the GIP, the EDIT Rider, cost allocation, and rate design. As part of that settlement, CIGFUR II and DEP agreed to waive cross-examination of each other's pre-filed direct testimony, except as it relates to questions that may be asked by any Commissioner or any other party to the extent that same is not inconsistent with the terms of such settlement. Also as part of that settlement, CIGFUR II and DEP agreed that each other's pre-filed testimony and exhibits may be received into evidence without objection.
7. On July 9, 2020, the Commission issued a consolidated order *Accepting Recommended Consolidated Issues for Remote Expert Witness Hearing and Postponing Separate Issue hearings*. CIGFUR witness Phillips was designated to appear in the separate DEC- and DEP-specific portions of the evidentiary hearing to be scheduled to begin at a later date.
8. The North Carolina Justice Center, the North Carolina Housing Coalition, the Natural Resources Defense Council, and Southern Alliance for Clean Energy (“NCJC et al.”) was the only party to reserve time for the cross-examination of CIGFUR witness Phillips. On July 16, 2020, counsel for CIGFUR proposed, and counsel for NCJC et al. agreed, that NCJC et al. waives its previously

requested cross-examination of CIGFUR witness Phillips in exchange for CIGFUR waiving its previously requested cross-examination of NCJC witness Wallach.

9. On July 17, 2020, Counsel for CIGFUR requested the affirmative waiver of cross-examination of CIGFUR witness Phillips and consent to this motion from all other parties to this proceeding. As of the time this motion was filed, CIGFUR has not received an objection to this motion from any party. Moreover, and in addition to the aforementioned, separate agreements regarding the cross-examination of CIGFUR witness Phillips between CIGFUR and Duke, and CIGFUR and NCJC et al, respectively, CIGFUR has received the affirmative consent (or affirmative statement of “no objection”) for this motion from:

- a. the Public Staff of the N.C. Utilities Commission;
- b. the N.C. AGO;
- c. CUCA;
- d. NCSEA;
- e. NCLM;
- f. Harris Teeter;
- g. Hornwood, Inc.;
- h. NCCEBA;
- i. Tech Customers;
- j. Fayetteville Public Works Commission;
- k. Vote Solar; and

1. Sierra Club.

WHEREFORE, CIGFUR respectfully requests that:

1. CIGFUR witness Phillips be excused from attending the separate, DEC- and DEP-specific phases of the evidentiary hearing for Docket Nos. E-7, Sub 1214 and E-2, Sub 1219; and
2. That the pre-filed testimony of CIGFUR witness Phillips be admitted into evidence.

Respectfully submitted, this the 20th day of July, 2020.

/s/ Christina Cress
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CERTIFICATE OF SERVICE

The undersigned attorney for CIGFUR hereby certifies that she caused the foregoing *Motion to Excuse CIGFUR Witness Phillips from Attending Evidentiary Hearing* to be served upon the parties of record in this proceeding by electronic mail.

July 20, 2020.

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