

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-7, SUB 1213
DOCKET NO. E-7, SUB 1214
DOCKET NO. E-7, SUB 1187

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, SUB 1213)	
)	
In the Matter of	)	ORDER GRANTING PUBLIC
Petition of Duke Energy Carolinas, LLC, for	)	STAFF'S MOTION TO TAKE
Approval of Prepaid Advantage Program	)	JUDICIAL NOTICE OF
	)	TESTIMONY AND EXHIBITS
DOCKET NO. E-7, SUB 1214	)	PRESENTED BY WITNESSES
	)	DURING DUKE ENERGY
In the Matter of	)	PROGRESS, LLC, HEARING
Application by Duke Energy Carolinas, LLC, for	)	AND ADDITIONAL
Adjustment of Rates and Charges Applicable to	)	DOCUMENTS, AND REQUIRING
Electric Utility Service in	)	PUBLIC STAFF TO FILE
North Carolina	)	ELECTRONIC VERSIONS OF
	)	DUKE ENERGY CAROLINAS,
DOCKET NO. E-7, SUB 1187	)	LLC'S CORRECTIVE ACTION
	)	PLANS
In the Matter of)	
Application of Duke Energy Carolinas, LLC for)	
an Accounting Order to Defer Incremental)	
Storm Damage Expenses Incurred as a Result)	
of Hurricanes Florence and Michael and Winter)	
Storm Diego)	

BY THE CHAIR: On October 13, 2020, in response to a motion by Duke Energy Carolinas, LLC (DEC), the Commission issued an order in the above-captioned dockets (DEC dockets) that, among other things, established guidelines for the parties to request that the Commission take judicial notice of information pursuant to N.C. Gen. Stat. § 62-65.

On October 21, 2020, in response to a motion by DEC, the Commission issued an order in the DEC dockets taking judicial notice of testimony and an exhibit presented by witnesses Marcia Williams and James Wells (Williams/Wells Testimony), during the expert witness hearing in the rate case application of Duke Energy Progress, LLC (DEP), in Docket No. E-2, Sub 1219 (DEP hearing). Among other things, the order directed the Court Reporter to file an addendum to Volume 29 of the DEC transcript and an addendum to Volume 29 of the Official Exhibits in the DEC dockets to include the Williams/Wells Testimony. Further, the order directed the Court Reporter to wait until October 27, 2020, to file the addendums to Volume 29 of the DEC hearing transcript and Vol. 29 of the Official Exhibits.

On October 22, 2020, the Public Staff filed a motion requesting that the Commission take judicial notice in the DEC dockets of certain evidence presented during the DEP hearing, as well as other documents. Specifically, the Public Staff requested that the Commission take judicial notice of the following described testimony, exhibits and documents.

(1) Testimony and exhibits of DEP witness Jessica L. Bednarcik introduced into evidence during the DEP hearing and located at Confidential Tr. Vol. 17, p. 432, line 12, through p. 462, line 10, Bednarcik Rebuttal Public Staff Cross Examination Exhibit 7, Bednarcik Rebuttal Confidential Public Staff Cross Examination Exhibit 8, and Bednarcik Rebuttal Public Staff Cross Examination Exhibit 9 (Bednarcik Testimony). The Public Staff stated that the Bednarcik Testimony addresses the issues of DEP's and DEC's beneficiation projects and the fulfillment fees paid by DEC and DEP to Charah, Inc., related to the planned disposal of ash at the Brickhaven and Sanford Mines, and that these issues are the subject of disallowances recommended by the Public Staff in both the DEP and DEC general rate case proceedings.

(2) Testimony and an exhibit of Public Staff witnesses Jay B. Lucas and Michael C. Maness introduced into evidence during the DEP hearing and located at Tr. Vol. 15, p. 1818, line 20, through p. 1823, line 22, and Lucas/Maness Public Staff Redirect Exhibit 2 (Lucas/Maness Testimony). The Public Staff stated that the Lucas/Maness Testimony was provided in response to cross-examination questions by DEP and redirect examination by the Public Staff, and that the exhibit was introduced by the Public Staff during the redirect examination of said witnesses. The Public Staff further stated that the Lucas/Maness Testimony addresses the issues of the Public Staff's equitable sharing recommendation and the feasibility of conducting a prudence evaluation of DEP's and DEC's historical actions or inactions, and that these issues are the subject of recommendations made by Public Staff witnesses Charles Junis and Michael C. Maness in the DEC rate case proceeding, and by Public Staff witnesses Jay B. Lucas and Michael C. Maness in the DEP rate case proceeding.

(3) During the cross examination of Carolina Utility Customers Association, Inc. witness Kevin O'Donnell, the Commission granted the Public Staff's request that the Commission take judicial notice of DEP's 2020 Integrated Resource Plan (IRP) filed on September 1, 2020, in Docket No. E-100, Sub 165. The Public Staff requested that the Commission likewise take judicial notice of DEC's 2020 IRP filed on September 1, 2020, in Docket No. E-100, Sub 165 (DEC's IRP). The Public Staff stated that DEC's IRP is relevant to issues of cost of service allocation methodology, load forecasts, and activation of demand response.

(4) The Corrective Action Plans submitted by DEC to the North Carolina Department of Environmental Quality on December 31, 2019, for the Belews Creek, Marshall, Allen, and Cliffside facilities (DEC Corrective Action Plans). The Public Staff stated that these documents are relevant to issues regarding DEC's remediation and closure activities at its coal ash sites, which are the subject of recommendations made by Public Staff witnesses Charles Junis and Michael C.

Maness in the DEC dockets. The Public Staff further provided web links for the DEC Corrective Action Plans.

The Public Staff stated that it consulted with the other parties to this proceeding and that all parties indicated that they do not object to the Public Staff's requests for judicial notice.

Based on the foregoing and the record, the Chair finds good cause to take judicial notice of the Bednarik Testimony, Lucas/Maness Testimony, DEC's IRP, and the DEC Corrective Action Plans, as described above.

In addition, the Chair finds good cause to direct that the Public Staff file electronic versions of the DEC Corrective Action Plans in the DEC dockets on or before November 3, 2020.

Further, the Chair directs the Court Reporter to as soon as reasonably practicable include the above described testimony and exhibits in the aforesaid addendum to Volume 29 of the DEC hearing transcript, and Volume 29 of the Official Exhibits in the DEC dockets, respectively, as well as all other testimony and exhibits previously or subsequently approved by the Commission for inclusion in said addendum to Volume 29 of the transcript and addendum to Volume 29 of the Official Exhibits.

IT IS, THEREFORE, ORDERED as follows:

1. That the Commission hereby takes judicial notice of the above described Bednarik Testimony, Lucas/Maness Testimony, DEC's IRP, and the DEC Corrective Action Plans, and said testimony and exhibits are hereby admitted into evidence in the DEC dockets;
2. That on or before November 3, 2020, the Public Staff shall file herein electronic versions of the DEC Corrective Action Plans; and
3. That the Court Reporter shall file an addendum to Volume 29 of the DEC transcript and an addendum to Volume 29 of the Official Exhibits in the DEC dockets, as directed in the body of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of November, 2020.

NORTH CAROLINA UTILITIES COMMISSION



Kimberley A. Campbell, Chief Clerk