

PLACE: Held via Videoconference

DATE: Thursday, September 10, 2020

TIME: 1:30 P.M. - 4:24 P.M.

DOCKET NO.: E-7, Sub 1214

E-7, Sub 1213

E-7, Sub 1187

BEFORE: Chair Charlotte A. Mitchell, Presiding

Commissioner Tonia D. Brown-Blair

Commissioner Lyons Gray

Commissioner Daniel G. Clodfelter

Commissioner Kimberly W. Duffley

Commissioner Jeffrey A. Hughes

Commissioner Floyd B. McKissick, Jr.

IN THE MATTER OF:

DOCKET NO. E-7, SUB 1214

Application of Duke Energy Carolinas, LLC,
for Adjustment of Rates and Charges Applicable to
Electric Utility Service in North Carolina

DOCKET NO. E-7, SUB 1213

Petition of Duke Energy Carolinas, LLC,
for Approval of Prepaid Advantage Program

DOCKET NO. E-7, SUB 1187

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

VOLUME 19

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P R O C E E D I N G S

CHAIR MITCHELL: All right. It's 1:30.

Let's go back on the record, please. We will
resume with cross examination for the
McLawhorn/Floyd panel.

Mr. Jenkins, we are with you.

MR. JENKINS: Thank you, Chair.

Whereupon,

JACK L. FLOYD AND JAMES S. MCLAWHORN,
having previously been duly affirmed, were examined
and continued testifying as follows:

CROSS EXAMINATION BY MR. JENKINS:

Q. Mr. Floyd, can you hear me okay?

A. (Jack L. Floyd) I can.

Q. Good. Now, we've both been involved in too
many of these Duke rate cases than we might care to
admit; isn't that right?

A. Yes. You may have a few more under your belt
than me.

Q. Now, do I understand correctly the gist of
your stated opposition to the commercial group
settlement is that you prefer not making any changes
now in rate schedules that might impact a future study
of rate design?

1 A. I think that's a fair statement. I have
2 approached this whole subject with a rather cautionary
3 stance. And I have expressed, at all levels, I think,
4 that the caution that I think needs to be placed on
5 this study. It is a large, formidable task, and to do
6 anything at this time, I think, is taking stale data
7 and trying to fit it into something that really needs
8 to serve the utility of the future. I asked the
9 Company through discovery if they had updated analysis
10 of cost curves, revenue curves, a bunch of other
11 questions related to load research, and the responses
12 that I got were basically, you know, we maintained the
13 existing rate structures.

14 The last analysis was done in the last case,
15 the Sub 1146, and that was a limited analysis. So with
16 all of that said, I -- you know, I just feel like --

17 CHAIR MITCHELL: All right. Mr. Floyd,
18 I have to interrupt you, I apologize. We're
19 getting significant feedback here. Everyone
20 double-check that your lines are muted. I don't
21 know where that feedback is coming from. All
22 right. Mr. Floyd, we may be having a problem with
23 your line. All right. Mr. Jenkins, while
24 Mr. Floyd is responding to your questions, please

1 mute the line.

2 MR. JENKINS: It is muted.

3 CHAIR MITCHELL: No, you're not muted.

4 All right. Now you're muted, Mr. Jenkins.

5 Mr. Floyd, you may proceed with your response.

6 THE WITNESS: I'll just close in
7 response that I think one of the things that has
8 gotten us to the place we are today, in terms of
9 rate design, is that -- and Mr. Jenkins kind of
10 highlights some of the history we've had with these
11 rate cases. I think Duke Carolinas is now -- this
12 is the sixth case in what I call the modern era of
13 rate cases since about 2007, and there had been
14 very little change in terms of rate design through
15 that whole period.

16 The biggest change has, I think,
17 occurred with the OPT class, the consolidation that
18 Mr. Jenkins, I think, will agree, was forced upon
19 the parties to be done. Lighting has been
20 addressed in terms of structure and costing out the
21 components of the lighting rate schedules, and
22 we're facing a new utility paradigm that I believe
23 requires new study, new data, new research. And to
24 do anything piecemeal at this time is limiting that

1 comprehensive study.

2 And again, I can't -- I can't stress
3 enough that I believe a comprehensive approach with
4 all the stakeholders is really what's necessary at
5 this time.

6 Q. Thank you. You're not saying that you
7 substantively oppose the OPT changes that the
8 commercial group settlement would implement?

9 A. I don't -- I'm not opposed to them, per se.
10 And let me say this. I'm not opposed to -- I'll use
11 the off-peak energy rate as an example. I think
12 Mr. Pirro in his testimony conveyed that that rate was
13 developed taking into account a better understanding of
14 the on-peak/off-peak cost relationships, rather than
15 simply applying an across-the-board percentage
16 increase.

17 That being said, I have not seen any analysis
18 behind that, but I take him at his word. I've had a
19 good working relationship with Mr. Pirro. If that's
20 the case, then that is a positive step in rate design.
21 However, that is an isolated adjustment or change in
22 structure. And again, my cautionary stance is
23 predicated on looking at all of the factors: OPT,
24 residential, lighting, the whole works. And then where

1 can we go with adopting rate schedules that facilitate
2 the electric vehicle adoption and things like that.

3 You know, these are just things that I'm
4 bantering around, but, you know, I will take Mr. Pirro
5 at his word that the \$0.03 -- or 3.02 cents off-peak
6 rate in the OPT small secondary energy rate is -- the
7 way he described it the other day, is a positive step.

8 (Reporter interruption due to technical
9 difficulties.)

10 CHAIR MITCHELL: Let's take a
11 five-minute recess.

12 COURT REPORTER: Thank you.

13 (At this time, a recess was taken from
14 1:36 p.m. to 1:41 p.m.)

15 CHAIR MITCHELL: All right. Let's go
16 back on the record. Mr. Jenkins, Mr. Floyd, you
17 may proceed.

18 MR. JENKINS: Thank you. And you're
19 doing a great job, Chair Mitchell, with a difficult
20 set of circumstances.

21 Q. Mr. Floyd, when will rates from Duke's next
22 rate case go into effect?

23 A. Typically a month or so after the final order
24 they will be required to comply -- or to file a

1 compliance filing. And we'll review that, make
2 comments as necessary, and the Commission will issue an
3 order.

4 Q. So that could be 2023, 2025, anytime right?

5 A. I would not expect it to take that long. I
6 mean, in this proceeding, it's typically 60 to 90 days
7 before we get an order, and then another 30 days. So
8 early -- at this point, early '21.

9 Q. I'm sorry. My question was for the next Duke
10 rate case.

11 A. Oh, I'm sorry. Well, I mean, I have no idea
12 when the Company will file a proceeding. We have asked
13 that such a study take place, but that it be completed
14 either before or incorporated into the next case.

15 Q. Now, you don't believe that any comprehensive
16 review of rates will necessarily end all disputes with
17 the respect to rates, do you?

18 A. I'm not giving a Pollyanna answer to that.
19 No, I don't. There -- I think there will always be
20 disputes in rate design. If anything, it is -- it is
21 mostly art sprinkled with some science and data. But
22 until all the parties can come together on all the
23 issues, which I don't ever expect while I'm here, we'll
24 continually have dispute.

1 Q. Now, you've been fairly consistent over the
2 years in suggesting more comprehensive rate studies,
3 haven't you?

4 A. Over the years, I think this is the first
5 case that I -- the Public Staff has actually put pen to
6 paper in direct testimony with this concept, but I have
7 certainly talked about it internally with folks. And,
8 you know, whether or not it's intervening counsel that
9 thinks I go rogue, my own attorneys think I do that a
10 lot. I don't -- I have pushed rate design and cost of
11 service -- I mean, these are inextricably linked. I
12 have pushed both to modernize, because for the last 10
13 years, whether it started with the smart grid
14 initiative, smart meters, and everything that has
15 happened since, I see electric utility service
16 changing, and rate design has not. And rate design
17 needs to move into the modern era.

18 Q. Well, for example, in the last rate case,
19 let's look at your testimony there.

20 MR. JENKINS: And, Chair Mitchell, I'd
21 ask that the Commission take administrative notice
22 of the direct testimony of Jack Floyd prefiled on
23 January 23, 2018, in Docket E-7, Sub 1146.

24 CHAIR MITCHELL: All right. Hearing no

1 objection, the Commission will take judicial notice
2 of Mr. Floyd's testimony filed on January 23, 2018,
3 in E-7, Sub 1146.

4 MR. JENKINS: Thank you.

5 Q. At page 14 through 15 of that testimony, you
6 noted that DEC, quote, did not propose substantial
7 changes to the structure of its rate schedules, end
8 quote, because smart meters were still being installed
9 and that DEC would develop innovative rate designs in
10 the future. Do you recall that?

11 MS. EDMONDSON: Can Mr. Floyd get a copy
12 of that?

13 MR. JENKINS: Unfortunately, because the
14 testimony was filed so late, we did not -- it was
15 after the time for us to provide copies.

16 Q. But do you recall that, Mr. Floyd?

17 CHAIR MITCHELL: Mr. Floyd, you're
18 muted.

19 THE WITNESS: I'm holding my space bar
20 down and it's not working, so. Is it working now?
21 Okay. I'm familiar with the testimony. I may not
22 be literally familiar with all the words.

23 Q. And do you recall that, despite waiting for
24 future rate designs, you testified the Commission

1 should address three rate design issues in the last DEC
2 rate case: the basic facilities charge, standby
3 charges, and lighting?

4 A. I do.

5 Q. Now, before that, in the 2009, 2011, and 2013
6 DEC rate cases, the Commercial Group pointed out
7 intra-class subsidies within the OPT rate class, and the
8 Commission made steps to eliminate those subsidies.

9 Do you recall that period?

10 A. I do. And I think, at this point in time,
11 most of those issues, at least to my knowledge today,
12 have been resolved.

13 MR. JENKINS: Madam Chair, I'd ask that
14 the Commission take administrative notice of the
15 final order of September 24, 2013, in Docket
16 E-7, Sub 1026.

17 CHAIR MITCHELL: All right. Hearing no
18 objection, we will -- the Commission will take
19 judicial notice of the final order issued in
20 E-7, Sub 1026.

21 Q. And, Mr. Floyd, I do so because there's a
22 good summary of this history in that order. But in
23 that case, a Staff/DEC stipulation was reached that,
24 among other things, would delay any OPT changes until

1 some additional study was performed. And the
2 Commission, in its final order, with respect to that
3 OPT subsidy issue at page 98 stated that, quote, it
4 cannot allow the imbalance that is already known to
5 continue while the Company and Public Staff study the
6 situation for another year or two, end quote.

7 And my question is, wouldn't you agree one
8 reason for the Commission to do so is that, however
9 helpful rate design studies can be, the Commission's
10 statutory duty is to ensure that ratepayers that are
11 actually paying the bills now should have rates that
12 are as fair and reasonable as possible?

13 A. I would agree with that. But like I said, I
14 believe most of those issues have been resolved. There
15 are certainly technical and structural changes that
16 really need to be addressed, but most -- well, I think
17 all of that, except for maybe the Sub 1146 case,
18 certainly did not have the benefit of advanced metering
19 infrastructure. And that really is the underpinning
20 cornerstone for moving from what I call traditional
21 rate design into a more modern era of rate design.

22 And for Duke Carolinas, as I understand, they
23 are pretty much done with the smart meter AMI
24 deployment and have already started to collect load

1 research. That load research is where the basis of any
2 new rate design should start. Anything outside of that
3 under the traditional approach would simply be an
4 exercise of moving \$1 of cost to another -- from one
5 bucket to another, and that's what I want to try to
6 avoid in this case.

7 Now, I admit I have -- I have agreed with the
8 Company's status quo design, because I simply don't
9 have any new data or analysis on which to base any new
10 type of rate design. But that's why I'm pushing so
11 hard. Duke -- and really I'm pushing all the other
12 parties. Public Staff is kind of in the middle of the
13 road here on this, but we're pushing for a new paradigm
14 of rates. And I think the history that you explained
15 certainly conveys the frustrations of both the Public
16 Staff and the Commission and the need to move past the
17 traditional way of doing rate design.

18 Q. You would agree, wouldn't you, Mr. Floyd,
19 that this has been a very rough year for businesses in
20 North Carolina?

21 A. As it has for everyone, yes.

22 Q. Yes. In fact, are you aware that one member
23 of the Commercial Group, namely J. C. Penney, was
24 forced to file a bankruptcy petition since this rate

1 case began?

2 A. I have seen news reports of such, yes.

3 Q. So isn't it true that individual businesses
4 may not have a number of years to wait for additional
5 rate review?

6 A. I understand the -- and sympathize with that
7 a little. However, when we are talking a
8 5-plus billion dollar revenue requirement for a
9 monopoly utility service, I don't see how we do
10 anything quickly.

11 MR. JENKINS: Thank you, Chair Mitchell.
12 Nothing further.

13 CHAIR MITCHELL: All right. CIGFUR?

14 MS. CRESS: Thank you, Chair Mitchell.

15 CROSS EXAMINATION BY MS. CRESS:

16 Q. Good afternoon, gentlemen. I am going to be
17 looking at a different device. I've got multiple
18 screens going here. I'm sure you can relate. So
19 although it's probably not going to look like I'm
20 looking at you, I am, and I'm going to try to make this
21 interaction feel as organic as possible, if that's even
22 feasible under the current circumstances.

23 So, Mr. McLawhorn, I will start with you, if
24 that's all right, sir?

1 A. (James S. McLawhorn) That's fine.

2 Q. Okay. Is it fair to say that the Company
3 acts in reliance upon directives and decisions of this
4 Commission?

5 A. Among other regulatory authorities, yes.

6 Q. And is it also fair to say that intervenors,
7 likewise, act in reliance upon this Commission's
8 directives and decisions?

9 A. I would say the intervenors certainly pay
10 attention to the directives of the Commission. They're
11 free to advocate positions that may not agree with past
12 Commission decisions, as long as they're within their
13 legal bounds.

14 Q. Okay. Would you agree that pollution control
15 costs benefit all customers?

16 A. Yes, there's some benefit, I would think.
17 They may benefit some customers more than others.
18 Certainly, as we've heard a lot of testimony in this
19 case and the last rate case about coal ash, we've seen
20 the effects of impacts on groundwater, and the attempts
21 to mitigate that have a greater impact to customers who
22 live closer to the plant sites than they do to others.
23 But I would -- I would generally agree with that
24 statement.

1 Q. So benefits flow to all customers, but
2 perhaps geographic proximity to the origin of the
3 pollution, the benefits for those customers would be
4 greater; is that sort of the logic?

5 A. For some environmental costs, yes. I don't
6 think you can make just a blanket statement. I picked
7 out one particular area of environmental remediation in
8 particular.

9 Q. Understood. Would you agree with me that the
10 Public Staff has included numerous safeguards to
11 protect ratepayer interest in its second stipulation
12 and settlement with the Company?

13 A. Could you be a little bit more specific? And
14 I have a copy of the stipulation if you want to direct
15 me to that.

16 Q. Does the stipulation contain parameters in
17 which the Company must act as it relates to the grid
18 improvement program, specifically pertaining to
19 numerous details on program components and time limits
20 on those programs?

21 A. It certainly does address the grid
22 improvement program, and it has, for example, specific
23 programs that we stipulated with the Company that would
24 be included in any deferral if the Commission agrees

1 with the stipulation. And there was language about
2 reporting requirements and other things that we will --
3 the Public Staff will work with the Company and other
4 parties on.

5 Q. Okay. Sir, the Commission has been approving
6 the customer component in the allocation of
7 distribution costs since 1973; is that right?

8 A. You're talking about the monthly fixed
9 customer charge. It has been approved by this
10 Commission for many decades. I don't know the exact
11 year of when it began, but I'm sure it was in a part of
12 the proceedings in 1973.

13 Q. Okay. So would you agree with me, subject to
14 check, that its origins date back to Docket Numbers
15 E-7, Sub 145 and E-22, Sub 141?

16 A. Particularly, I'm more familiar with the E-22
17 docket, and I believe that's the one in which the
18 Commission approved the minimum system approach. I
19 think. I'm not looking back at my notes, but I assume
20 that's the one you are referring to for Dominion that
21 was VEPCO at the time.

22 Q. So just by my count, would you agree that
23 that's 47 years now that the Commission has been
24 approving this method of cost allocation for components

1 within the distribution system?

2 A. It's been 47 years since that was approved.
3 I don't know that there has been explicit approval by
4 the Commission in each and every case since then. I
5 guess by not speaking to it, you could say there was
6 implicit approval by the Commission. But I don't
7 know -- well, I know for a fact there hasn't been
8 explicit approval in their orders in each and every
9 case.

10 Q. Okay. Although the Public Staff has, in this
11 proceeding, insinuated that much has changed about the
12 provision of electric service since 1992, and
13 therefore, the NARUC cost allocation manual perhaps
14 should not be given as much weight as an authoritative
15 source, the Public Staff did, in fact, rely on the
16 NARUC cost allocation manual and cited to it in support
17 of the conclusions that the Public Staff reached in its
18 2019 report on the minimum system method; is that
19 correct?

20 A. We did, and I will state why. And I'll also
21 say that, as I answer these questions, Mr. Floyd was
22 more directly involved with the development of the
23 report, so he may wish to add to my comments. But yes,
24 we certainly did cite to the 1992 NARUC cost allocation

1 report. As it's mentioned in the regulatory assistance
2 project report that came out in January of this year,
3 there really has been no comprehensive analysis of cost
4 of service methodology since that report in 1992 that
5 was issued by NARUC.

6 So that is certainly a reason why we
7 referenced it when we issued our report back, I
8 believe, in -- it was in 2019 or 2018. I think it was
9 2019. And then now we have a new study that was
10 produced by the regulatory assistance project this
11 year. So at least we have something else on a national
12 comprehensive level to look to, other than just the
13 NARUC report.

14 Q. Mr. Floyd, is there anything you want to add?

15 A. (Jack L. Floyd) Let me see if I can get this
16 button to work. The only thing that I would add really
17 is that, you know, one of the final conclusions of that
18 report asks the Commission to convey its interest and
19 seek a new NARUC study on this very topic. And I don't
20 know where that stands at the moment. But the
21 regulatory assistance project document came out earlier
22 this year, and it provides a new opportunity to look at
23 cost allocation, and to some extent rate design.

24 I do believe that both are important enough

1 and to move into a different view, different analysis,
2 different perspective, whatever word you want to come
3 up with, to address this future utility service rate
4 design question that I'm trying to get everyone to talk
5 about.

6 Q. So this 2019 report -- and that's how I'm
7 going to refer to the Public Staff's report that it
8 published in 2019 on the minimum system method at the
9 direction of the Commission.

10 This 2019 report, you would agree with me,
11 was pretty comprehensive and pretty thorough, right?

12 A. Well, it was a good report. It -- we relied
13 heavily on what the Company's descriptions of the
14 minimum system approaches that they took, and we
15 formulated our opinions about where to go. And, you
16 know, at the end of the day, it really is an exercise
17 in determining just how distribution costs are to be
18 allocated. And the Public Staff continues to believe
19 that there is a demand-related portion to that and a
20 customer-related portion to that. And that whether or
21 not it is the minimum system that is used or something
22 else, both of those points need to be considered in the
23 allocation of distribution costs going forward.

24 Q. But the 2019 report specifically stated that

1 the minimum system method is reasonable for
2 establishing the maximum amount to be recovered in the
3 fixed or basic customer charge?

4 A. (James S. McLawhorn) If I might, and then I
5 will let Mr. Floyd respond to that. It did address
6 that, Ms. Cress. I think it's a reflection of the fact
7 that there had -- there had not been any other
8 comprehensive literature that had been produced at that
9 point. We had analyzed the different methodologies for
10 allocating costs to fixed customer cost from the
11 different methodologies that were included in the 1992
12 NARUC report. And it is also a reflection of the fact
13 that -- to tie it back to Mr. Floyd's rate design study
14 plea, for lack of a better word, that many customers --
15 well, there are only -- for some customers, and
16 residential in particular, there are only two ways to
17 recover costs, through the monthly fixed charge and
18 through an energy charge. And as more and more
19 customers, including residential customers, have the
20 ability to bypass or to reduce their energy consumption
21 while their other fixed costs may not necessarily go
22 down commensurate with their energy reduction, if you
23 bill all of these demand charges into the energy
24 charge, or a substantial portion -- not all of them but

1 a substantial portion -- then there's going to be a
2 shifting of costs among customers. And some customers
3 are not going to be paying their share of the costs
4 that they impose or rely upon the system for.

5 Q. Is there anything you were going to add,
6 Mr. Floyd?

7 A. (Jack L. Floyd) No.

8 Q. Okay. If you could pull that report up for
9 me, and it's already been admitted into the record. I
10 believe it was identified as DEC Hager Redirect
11 Exhibit 1.

12 A. (James S. McLawhorn) I have that.

13 Q. I'll wait for Mr. Floyd. You know, and
14 please -- I should have said this at the outset, but
15 both of you please feel free to interject at any time.
16 I do feel like there's a lot of bleed over between the
17 topics that you two cover, and so some of these
18 questions certainly were a toss-up as between who would
19 be the most appropriate candidate for answering them.

20 Mr. Floyd, do you have it in front of you
21 now?

22 A. (Jack L. Floyd) I do.

23 Q. Okay. And so, if you'll just read with me
24 page 16, starting with the last paragraph that begins

1 on page 16 and carries over to page 17. This report
2 states in part that:

3 "After our review, the Public Staff believes
4 that the use of MSM" -- and correct me if I'm wrong,
5 but that means minimum system method -- "by electric
6 utilities for the purpose of classifying and allocating
7 distribution costs is reasonable for establishing the
8 maximum amount to be recovered in the fixed or basic
9 customer charge. While not precise, MSM is a logical
10 methodology for classifying costs of a distribution
11 system as demand or customer related."

12 Is there anything about those two sentences
13 that your testimony here today is changing or
14 contradicting?

15 A. In terms of rate design, or cost of service,
16 or both?

17 Q. In terms of anything that this -- these two
18 sentences could possibly apply to.

19 A. No. I responded a moment ago that, you know,
20 the Public Staff still believes that distribution costs
21 have a demand-related component and a customer-related
22 component. The minimum system method, MSM, is a
23 reasonable approach to distinguishing what portions are
24 demand related and what portions are customer related.

1 That has not changed.

2 I think, you know, we also say in the report
3 that the minimum system method establishes a maximum.
4 And I think, from the prefilled testimony of other
5 intervenors, the Justice Center and others that have
6 discussed the impacts on low-usage, low-income
7 customers, the minimum system method gives us a maximum
8 amount. And I've explained this in previous cases, is
9 that this is somewhat of an art to determine. And what
10 we have typically used the minimum system to do is to
11 set up boundaries. Establish a maximum boundary in
12 this case. And then, at a minimum, we've looked at the
13 basic customer method.

14 And we feel like somewhere in between lies
15 the answer. And that -- I think that approach has --
16 is consistent with this report, or this report is
17 consistent with that approach. But there is a
18 recognition through all of this that, as James
19 mentioned just a moment ago, about the only place to
20 get revenue out of certain rate schedules is either a
21 basic customer charge or an energy charge. And those
22 two charges must work together to cover the
23 customer-related, the demand-related, and the
24 energy-related costs of service. And between the two

1 elements, produces the necessary revenue.

2 So there's a -- there's a method to the
3 madness between establishing boundaries for where a
4 basic customer charge lands, and that's really all, at
5 the end of the day, what we've done. And as long as
6 we're somewhere in the middle, we try to look at and
7 apply cost causation as much as possible. But then
8 again, we have the policy objectives of not trying to
9 impose too significant of an increase in a basic
10 customer charge, which does rely heavily on the
11 determination of -- from the minimum system method.
12 But we try not to impose such a significant change in
13 that charge in any particular rate case.

14 A. (James S. McLawhorn) And if I could just add
15 on to what Mr. Floyd said. Just to make sure there's
16 no misunderstanding in the report from the section that
17 you read, Ms. Cress, which you correctly read it, the
18 Public Staff in its report said that the minimum system
19 methodology is a reasonable method. We did not say
20 it's the ideal method, or the best method, or the
21 greatest method, but it is a reasonable method for this
22 determination. As you have pointed out, it has been
23 used since 1973, so it's been in practice for a very
24 long time.

1 But this had -- and as Mr. Floyd has said
2 several times, this is not an art. There's no cookbook
3 to flip open and give you the exact temperature or the
4 exact number. If there were, we wouldn't be sitting
5 here having questions from all the different parties
6 and all the interest on this. So that's where the art
7 comes in.

8 So yes, I totally agree with Mr. Floyd's
9 testimony that minimum system sets a maximum amount.
10 And I believe the minimum intercept method, or one of
11 the others -- I'd have to go back and get the exact
12 terminology -- sets somewhat of a minimum boundary.
13 And I guess the Public Staff and other parties make
14 recommendations, and then the Commission uses its
15 judgment and determination to decide where between
16 those two numbers is the correct amount.

17 Q. Okay. And, Mr. McLawhorn, you said that it
18 was primarily Mr. Floyd who was involved in the 2019
19 report from the Public Staff on the minimum system
20 method, but you certainly would have had to read, and
21 approve, and sign off on that report before it went out
22 the door; is that fair to say?

23 A. Yes. I would say Mr. Floyd was the Public
24 Staff's lead technical investigator on that report, but

1 as his direct supervisor, I was certainly involved and
2 aware, and not just at the very end, but I did read the
3 report, and signed off on it, and made the
4 recommendation to higher Public Staff management.

5 Q. Okay. And so we've talked about how long of
6 a standing precedent we have here as it pertains to
7 this particular cost allocation methodology.

8 Would you agree that it would take a pretty
9 compelling reason to depart from many decades of
10 ratemaking practice and precedent?

11 A. We certainly don't make changes for no good
12 reason, you know, just to change. We do change things
13 from time to time. If we -- if there was a convincing
14 argument that there was a better way to analyze and to
15 go about something, we would certainly be open to that
16 and giving consideration. So we would not want to make
17 wholesale changes that might cause some sort of rate
18 shock. Barring that, we would not be opposed to
19 recommending a change.

20 Q. Okay. So you conceded that there has to be a
21 good reason. How good of a reason are we talking?

22 A. Well, it would need to be theoretically
23 sound, first and foremost. I'm not sure I know how to
24 answer your question completely. It's sort of like I

1 would know it when I saw it, but there would have to be
2 evidence that was presented that said this is a better
3 way. And I'm certainly not discounting that. We
4 have -- through the changes in technology that have
5 been referenced numerous times, we have new information
6 available to us or becoming available to us through the
7 use of AMI data collection and other things that we've
8 never had before as cost of service analysts and rate
9 design analysts. It's never been available.

10 Q. Would you agree that the Commission has tools
11 available to it to achieve its objectives of parity,
12 and equity, and fairness that do not necessarily
13 include changing the fundamental allocation methodology
14 that has historically been used?

15 A. I'm not sure I 100 percent follow your
16 question. The Commission has tools available to it to
17 ensure equity without making changes? I mean, they
18 have the data that they've always had, but oftentimes
19 that data is very broad. It's not discrete in many
20 cases. It's the best that we've had. So given that,
21 the Commission had the ability to make the decisions
22 that it needed to make. That doesn't mean if there's
23 better information or better ways, that we can't refine
24 what we've done historically and improve upon it.

1 Q. In other words, the cost allocation
2 methodology is not necessarily the only way that the
3 Commission could perhaps address some of its concerns
4 related to issues of equity or social justice; is that
5 fair to say?

6 A. Well, I wouldn't presume to speak for the
7 Commission on what they think they can and can't do.
8 Some of those issues -- I know some people have
9 concerns with the legal bounds around that. And, you
10 know, I would not want to suggest what the Commission
11 could and could not do from an equity or social policy
12 standpoint.

13 A. (Jack L. Floyd) Ms. Cress, I'd like to
14 intersect some response to that, too. My take on
15 General Statute 62-133 gives the Commission a very wide
16 latitude in determining rate design and rates, and
17 looking at how rates are set in terms of the revenue
18 requirement they are trying to achieve. That wide
19 latitude certainly can address some of the things
20 without being more specific, but it relies upon the
21 facts of each case where we end up in terms of how
22 those customers relate to one another in producing the
23 assigned revenues. And we do that in the context of a
24 rate of return on rate-base calculation.

1 And then looking at these other policy
2 objectives that the Commission or the General Assembly
3 or -- have imposed upon the Commission that need to be
4 implemented as part of that rate design. It's -- the
5 question of how many tools or what tools they have is a
6 very, I believe, a wide open question that -- you know,
7 I believe the statute gives the Commission a wide
8 latitude.

9 Q. Okay. Would you gentlemen agree that a
10 change in the cost allocation methodology could have
11 profound impacts across all ratepaying classes?

12 A. (James S. McLawhorn) That is a possibility.
13 That's something that would be looked at in any study.
14 I don't know if you're working your way into the
15 recommendation in my prefiled direct and in the
16 stipulation, that the Company has agreed to look at a
17 variety of different cost allocation methodologies.
18 But assuming that you are, I'll go ahead and cater
19 that. That is certainly one of the things that we will
20 be looking at. I don't think anyone would want to
21 advocate for a change that was going to have, you know,
22 drastic detrimental impacts on certain customers.

23 A. (Jack L. Floyd) Ms. Cress, the methodology
24 is one part of the question. That certainly imposes

1 constraints and provides perspective for the cost of
2 service. But the other question -- or another part of
3 that question, I believe, has to do with the cost of
4 service structure, itself. And let's talk about Duke
5 Carolinas a little bit.

6 Duke Carolinas has five broad customer
7 classes: residential, general service, industrial,
8 lighting, and the OPT, which is basically the
9 nonresidential time of use schedule, and there are
10 sub-pieces of the OPT. Those are fairly broad classes
11 that encompass a lot of customers. And one of the
12 reasons that I've been pushing a rate study, and along
13 with that a cost of service study, I reckon, is that
14 load research may actually show that we have different
15 types of customers within these broad classes.

16 We need to study that. And I think some of
17 that study is already underway with the study the
18 Commission ordered in -- I believe it's the
19 E-100, Sub 101 interconnection docket. Duke is working
20 on that now. It may have something to produce for us
21 sometime in the fall, but sometime soon. But it is not
22 necessarily, or not only a question of methodology. We
23 need to look at how the structure of the cost of
24 service also impacts rate design.

1 Q. Okay. Just briefly, let me pause for a
2 moment and address Chair Mitchell quickly.

3 MS. CRESS: Chair Mitchell, I'm not sure
4 if the Company's revised witness list has made its
5 way to you following the changes from yesterday,
6 but I did just want to make you aware that CIGFUR
7 requested more time than it had initially requested
8 following Mr. Floyd's second supplemental testimony
9 on Monday. We have now requested 30 minutes for
10 this panel, and I do have quite a few questions
11 left, but I will try to pick up the pace. I was
12 just making you aware that it wasn't still a
13 five-minute reservation.

14 CHAIR MITCHELL: All right. You may
15 proceed, Ms. Cress. Thank you.

16 MS. CRESS: Thank you.

17 Q. So, Mr. McLawhorn, you acknowledge the
18 possibility that a change in cost allocation
19 methodology could have profound impacts across
20 ratepaying classes.

21 Would you also concede that some of those
22 impacts might be unforeseen?

23 A. (James S. McLawhorn) Certainly anything is
24 possible. I mean, I can't make a determination going

1 into something when we haven't even looked at it yet.

2 But again, that's one of the recommendations that -- or
3 one of the agreements in the stipulation, that an
4 analysis would look at the pros and cons of any such
5 methodology that's studied. And even -- even so, even
6 if there were a change in cost allocation
7 methodology -- and let me just say, nobody has
8 recommended that something be changed at this point.

9 It's merely been a recommendation that there be a study
10 looking at it, because we have not done this -- we've
11 been using the same thing for, you cited, 40-plus years
12 for the minimum system methodology. We may have been
13 using the same cost allocation methodology longer than
14 that. Certainly, it's been in use -- the current
15 methodology has been in use since before I was here.

16 There are arguments that parties would make
17 that that means you shouldn't change. But we know that
18 the electric utility industry is changing the way costs
19 are being incurred, and the reasons they're being
20 incurred are changing. The types of facilities that
21 are being installed now. We're moving more away from
22 central generating plants to more distributed
23 generation, more focus on the transmission and
24 distribution system. It's time to take a look at a lot

1 of things, and cost allocation methodology being one of
2 those.

3 And, you know, today, the Public Staff has
4 certain parameters and -- that it follows even within a
5 cost allocation methodology for how revenues are
6 allocated or apportioned among classes to avoid any
7 type of sudden shift in revenues that we often refer to
8 as rate shock. And I'm certainly not proposing that
9 that wouldn't still be a consideration if we were to
10 change cost allocation methodologies. I think that
11 would be important to keep that in mind.

12 Q. So I think, if I'm hearing you correctly, you
13 would agree with me, would you not, that it would be
14 premature, as we sit here today, to depart from the
15 Commission's standing precedent on this issue without
16 first undergoing and undertaking the very thorough
17 comprehensive and transparent studies that you both are
18 discussing; is that fair?

19 A. Yes. And I think that's exactly what my
20 testimony says and what is included in the stipulation.
21 And if anybody read it any differently, then I didn't
22 do a very good job with my testimony. That is all that
23 was intended by what's in there.

24 Q. Is it fair to ask other customers to pay a

1 portion of the costs that the Company incurs to connect
2 customers to its system?

3 A. You mean new customers?

4 Q. Yes, to connect new customers.

5 A. Well, that's an interesting question.

6 Certainly, we've got a public -- this is -- a utility
7 is a public service company. It's sort of a "we're all
8 in this together" company, and nobody has discrete
9 rates that they pay just for their service and just the
10 exact cost of their service.

11 So, you know, I'm not -- I may not be
12 interpreting your question exactly right, but, for
13 instance, a new customer comes on the Company's system,
14 if they're at the distribution level, there are going
15 to be costs to connect that customer to the system. Of
16 course, distribution costs are pretty much directly
17 assigned to the customer classes where they occur, or
18 very close to that. So it's -- they're pretty much
19 recovered from customers within their class. But, you
20 know, if you ask a new customer to pay, you know, the
21 full freight for sort of a marginal cost to be
22 connected to the system, we would be departing from our
23 historical use of average costs.

24 So the customers that are there today had the

1 benefit of paying average costs when they -- I guess to
2 go back to an old phrase, everybody was a new customer
3 at some point in time on the utility's system. And
4 that historical average embedded cost methodology is
5 how rates have been set historically. And so I don't
6 know if that answers your question or not. I rambled a
7 little bit.

8 Q. That's quite all right. Hopefully these next
9 couple of questions will be more straightforward.

10 Primary customers don't use secondary lines;
11 is that right?

12 A. As a general rule, that's correct. I believe
13 Mr. Floyd may have a different thought on that, but I
14 believe that's generally correct.

15 Q. And same thing for transmission customers?

16 A. If you're a transmission customer and you
17 take service directly off the transmission system, then
18 there should not be a direct impact to the distribution
19 network, barring some unforeseen, odd power-flow
20 issues.

21 Q. So you would agree that customers served from
22 subtransmission or single-customer substations should
23 not be allocated secondary or primary voltage costs?

24 A. Would you please -- would you repeat the

1 question? I'm sorry, I'm thinking.

2 Q. Sure. You would agree, wouldn't you, that
3 customers served from subtransmission or
4 single-customer substations shouldn't be allocated the
5 secondary or primary voltage costs?

6 A. I guess taking your question in a vacuum,
7 that sounds reasonable. I think I would have to -- I
8 would have to think about that a little longer. I
9 hesitate to give an absolute answer on the spot.

10 Q. I'll go with the one that you just gave,
11 which was that it sounds reasonable.

12 A. Okay. That's fine.

13 Q. So moving on to the -- DEC has always used
14 the SCP, correct?

15 A. As far as I know, that's correct, that's been
16 their testimony.

17 Q. And they've never used the SWPA?

18 A. DEC has never used the SWPA. DEP did, and --
19 of course, until they were acquired by DEC, and, of
20 course, Dominion still uses it.

21 Q. In your arguments supporting your contention
22 that the Commission should reverse past precedent as to
23 the SWPA, you cite to a number of past Commission cases
24 and precedent; do you not?

1 A. I do, yes. Including their most recent --
2 well, that's -- I'm sorry, that's not in the DEC case,
3 sorry.

4 Q. Did you cite to the last time that the SWPA
5 issue was fully litigated in a Duke rate case,
6 specifically Docket Number E-2, Sub 1023?

7 A. No. I was the witness in that case. That
8 was a DEP case, and I testified and recommended that
9 the DEP, or Progress at the time, maintained the use of
10 the summer/winter peak and average methodology, which
11 they had had for a number of years prior to that. That
12 was after the merger of Progress Energy and Duke Energy
13 Carolinas. The Company, in their rate case, requested
14 that the Commission approve the SCP methodology, and
15 the Commission agreed with the Company in that case.
16 So that did not support my position, so I did not cite
17 that.

18 Q. Okay. So that's why you didn't include that
19 one in your testimony here in support of SWPA, because
20 it contradicted your recommendation?

21 A. I think most witnesses include testimony that
22 supports their position and not testimony that does not
23 agree with their position in any case.

24 Q. Understood.

1 MS. CRESS: Chair Mitchell, at this
2 time, I'd request that the Commission take judicial
3 notice of its order granting general rate increase
4 in Docket Number E-2, Sub 1023, issued on
5 May 30, 2013.

6 CHAIR MITCHELL: All right. The
7 Commission will take judicial notice of its order
8 issued in E-2, Sub 1023 as requested.

9 MS. CRESS: Thank you.

10 Q. Mr. McLawhorn, is it fair to say that the
11 arguments that you use in this case to support the SWPA
12 are substantially the same as those that you raised
13 when you were a witness in the E-2, Sub 1023 case; is
14 that fair to say?

15 A. For the most part. I would also point out
16 that, since that time, and in particular in the most
17 recent Dominion Energy case, E-22, Sub 562, which I
18 think the Commission has already taken notice of the
19 order in that case, that Dominion advocated for the
20 SWPA. The Public Staff supported that. The Commission
21 had significant language in that Dominion order stating
22 that it found the SWPA to be a reasonable methodology
23 to be consistent with how Dominion plans and operates
24 its system, and that a methodology focused only on a

1 single peak would not be appropriate for Dominion.

2 I understand that Dominion is a separate
3 company, but the logic that the Commission used for
4 justifying approval of the SWPA in the Dominion case
5 is, essentially, the same logic I used in my testimony.
6 And if you go and read Ms. Hager -- Duke witness
7 Hager's rebuttal of me in the DEC case, she states that
8 I described the planning process of DEC, the IRP
9 process of how the Company plans and operates its
10 system correctly. She took no issue with that, and
11 that is the same logic that the Commission used for
12 approving SWPA in the Dominion case.

13 Q. Okay. Did the Public Staff challenge the
14 Commission's rejection of the SWPA in Docket
15 E-2, Sub 1023, whether by appeal, or moving for a
16 rehearing, or requesting a reconsideration?

17 A. We did not at that time.

18 Q. Okay. Has the Public Staff cited any
19 quantifiable studies in support of its arguments for
20 the SWPA in this case?

21 A. Quantifiable studies? No, I don't believe .
22 So the peak and average methodology was certainly one
23 of the methodologies included in the 1992 NARUC manual
24 among many, including the SCP that Duke uses. There

1 are some new -- there's some new analysis and new
2 discussion of methodologies that include -- that are
3 not based solely on peak allocation in their regulatory
4 assistance project manual from January of this year,
5 and that is one of the reasons we have asked for some
6 of those studies to be included. In fact, that study
7 is very critical of a single coincident peak allocation
8 methodology.

9 Q. And likewise, Public Staff has not cited any
10 quantifiable studies in support of its arguments that
11 the minimum system method in this case should be
12 reconsidered; is that fair to say?

13 A. In this case, we have not cited any studies.
14 I think, again, as we stated earlier, we've not stated
15 that the minimum system is a methodology that gives you
16 the absolute number; it is a number that gives you a
17 maximum amount, and then there are other methodologies
18 that set more of a minimum boundary on that, and with
19 the understanding that perhaps the correct answer is
20 somewhere in between.

21 Q. And the Public Staff also has not provided
22 any model runs or other predictive forecasting in
23 support of the SWP [sic] method in this case, correct?

24 A. SWPA. No. That is part of the study that

1 we're asking to be done.

2 Q. Okay. You're not aware of any order allowing
3 deferral accounting treatment that allocates cost on
4 the front end before it's spent and before such time as
5 the Companies are coming back in to seek recovery of
6 those costs, correct?

7 A. I am not personally aware of that. A later
8 Public Staff, one of the accounting witnesses,
9 Ms. Boswell or Mr. Maness, might be a good candidate to
10 ask that. I don't believe the Public Staff has
11 recommended that in this case. So certainly cost
12 allocation usually takes place at the time of recovery
13 of the cost.

14 Q. Thank you. So, Mr. Floyd, I think these next
15 ones are for you.

16 Is it fair to say that some customers on the
17 OPT-V rate are served directly from the substation?

18 A. (Jack L. Floyd) I don't know that,
19 personally, but either secondary, primary, or
20 transmission.

21 Q. So assuming that there are, indeed, some
22 customers on the OPT-V rate that are served directly
23 from a substation, would it be fair to say that those
24 customers would not use a large portion of the majority

1 of the Company's distribution system?

2 A. If we're talking about the substation between
3 transmission and primary, I think you're correct. They
4 would be allocated transmission costs and substation
5 costs. But at a point further down the line, so to
6 speak, they would not be allocated those costs.

7 Q. Because DEC's OPT rates have voltage
8 designations, specifically OPT transmission, OPT
9 primary, OPT secondary, the Company does not allocate
10 secondary distribution equipment to primary and
11 transmission customers, correct?

12 A. I believe -- I believe that's the case, yes.

13 Q. And that's entirely appropriate, correct?

14 A. It is appropriate. And again, this kind of
15 illustrates the nature of OPT, itself. I mean, it was
16 a hotly debated rate schedule, and stakeholders came to
17 agreement on the structure, itself. And that's why you
18 see small, medium, and large levels of service under
19 each, the secondary, primary, and transmission levels
20 of service. And it was an effort to recognize the
21 point at which service was delivered to the customer on
22 a voltage basis.

23 Q. Okay. And you would agree, wouldn't you,
24 that capacity shouldn't be built to serve nonfirm load?

1 A. That, I think, literally, yes. Nonfirm load,
2 we might have to discuss what that means.

3 Q. Well, you tell me what you think nonfirm load
4 means.

5 A. Well, it -- when a customer primarily serves
6 their own load and wants to be backstopped by the
7 incumbent utility, that's one level. And then there's
8 another level on a daily basis of whether or not they
9 want service routinely over many hours. And then when
10 there are load-related issues, that they get curtailed,
11 that's another issue. That kind of describes the gamut
12 of what nonfirm might mean to individual customers.

13 Q. Is it fair to say that your opposition to
14 curtailable demand has nothing to do with rate design?

15 A. Explain your question a little bit more.

16 Q. Well, I think you should just take the
17 question at face value and answer it as you see fit.

18 A. I'm not sure how to answer the question.
19 Curtailable load is typically outside of cost of
20 service. It is -- you know, customers who have
21 curtailable load receive credit for that load when the
22 utility is calling that that load be curtailed. Those
23 are typically marginal types of costs, and they're not
24 reflected in the embedded average cost of service. I'm

1 not sure how else to respond to your question.

2 Q. Well, but the removal of curtailable load is
3 the correct thing to do; is it not?

4 A. It depends. The cost of service is
5 predicated on system demand under a single coincident
6 peak methodology. It's predicated on the actual
7 demands at the time of the coincident peak. So it's --
8 it could be there at the time of peak, and should be
9 reflected in the cost of service. The ability to
10 curtail is the customer's decision to make, and then
11 credits -- marginal cost-oriented credits are paid to
12 the customer to be able to do that. But the Company is
13 still looking to serve that load on a routine basis.

14 A. (James S. McLawhorn) Ms. Cress, if I could
15 interject a little bit there. I think where the Public
16 Staff has an issue with the removal of the
17 interruptible load from a cost of service standpoint,
18 we are opposed to that if it is going to allow certain
19 customers to interrupt for just a few hours of the year
20 and then avoid paying for plant that they are using and
21 getting the benefit from over the vast majority of the
22 other hours of the year. We believe that is totally
23 inappropriate, to be able to use the plant for, you
24 know, 85 to 90 percent of the year and avoid paying for

1 it, particularly production plant.

2 As I will note, last week, Duke witness
3 Immel, when he was being crossed on September 3rd by
4 the Sierra Club, he stated that capacity has value in
5 more hours than just the very peak hours of the year.
6 That there is value in capacity or in production plant
7 in all hours, and if customers are going to be allowed
8 to avoid that while using that plant 85 percent of the
9 rest of the year, that's simply not appropriate.

10 Q. You would agree, though, that the Company
11 wouldn't -- the Company wouldn't agree to remove that
12 load if it wasn't the right thing to do?

13 A. I would agree that there can be differences
14 of opinion on that. Historically, we don't adjust
15 loads in a cost of service study unless it is a known
16 permanent change, such as a wholesale customer has left
17 the utility system, or a major industrial plant has
18 left the system, and we know that load will be back,
19 then we might make that type of adjustment in a cost of
20 service study. But we don't make ad hoc adjustments in
21 a cost of service study.

22 Q. Okay. Mr. Floyd, in your first supplemental
23 testimony and exhibits, you used a base rate increase
24 of \$126.7 million and an EDIT decrease of

1 \$272.6 million; is that right?

2 A. (Jack L. Floyd) I believe that was the
3 incorrect exhibits.

4 Q. Oh, okay. So the corrected exhibits show
5 what?

6 A. (Witness peruses document.)

7 I believe the \$126 million base revenue
8 number is correct. The change, the correction that I
9 made was to the EDIT credit. Instead of reading 272
10 and change, it should read \$399,343,000.

11 Q. Okay. And in your second supplemental
12 testimony and exhibits, you use a base rate increase of
13 \$290 million, which is obviously a \$146 million
14 approximate increase from the \$126.7 million.

15 Can you explain this -- these different
16 numbers?

17 A. You might -- you might get a better answer by
18 asking Ms. Boswell. She's the accountant witness. My
19 numbers of base revenue and EDIT credits derive from
20 her exhibits. And that's one reason that we file --
21 the Public Staff typically wants to file, along with
22 its accounting schedules, the impact the revenue
23 assignment would have on the classes. But my numbers
24 simply come from her exhibit.

1 Q. Okay. In your original testimony and
2 exhibits, I believe pages 8 to 9 -- and I'll let you
3 get there.

4 A. You said the original direct?

5 Q. That's correct.

6 A. Okay. Page 8?

7 Q. Page 8 and 9; yes, sir.

8 A. Okay.

9 Q. You state that, in a rate reduction case, no
10 class should receive an increase in order to bring
11 other classes to the 10 percent band. Your SCP exhibit
12 seems to show residential and OPT customers getting
13 increases in order to bring other customers within
14 this, quote, band.

15 A. This is -- a decrease is when we look at
16 overall revenue decrease. So if Ms. Boswell's exhibit
17 were to show a negative base revenue number, not a
18 positive number, then I would say that we don't want
19 any class to see a decrease at the expense of trying to
20 resolve other rate design issues that cause significant
21 increases to other classes. That's the reason for that
22 statement.

23 Q. Did you include that rate reduction language
24 in your first and second supplemental testimony and

1 exhibits?

2 A. I don't believe so. The rate design --
3 excuse me, the rate design principles were looking at
4 an increase in both situations.

5 Q. So that's the reason that the rate reduction
6 language was left out of your second and first
7 supplemental?

8 A. Yes. It was not material.

9 Q. Okay. In your supplemental testimony, you
10 said you were using per-book studies and adjusting
11 those, but you don't show, do you, the adjustments that
12 you made or how you -- how you reached those
13 adjustments or those numbers?

14 A. Yes. I have a somewhat convoluted
15 spreadsheet that takes into account all of the Public
16 Staff's adjustments, whether rate base expense or
17 otherwise. And what I've tried to do is to look at the
18 impact from, again, the base revenue change on the NC
19 retail level. And then I look at what impacts that has
20 to each class. The -- I cannot -- I do not have the
21 capability of making individual changes to individual
22 expenses within the cost of service.

23 What I try to do is look at the overall rate
24 base change, the overall net income change, the expense

1 change, and then determine the changes in the
2 allocation factors across the board that would be
3 impacted by our recommendations on those items. And I
4 pass that along to what the Public Staff ends up
5 proposing, in terms of a proposed revenue requirement,
6 or proposed rate base, a proposed level of expense.
7 And that's how I end up where I end up with the
8 calculations. But in my exhibits, I have a very
9 convoluted spreadsheet.

10 Q. But we just don't get the benefit of seeing
11 that spreadsheet?

12 A. You can -- you can see it anytime you want.

13 Q. Can I come down there to the Dobbs Building?

14 A. Yes.

15 Q. Okay. So you say that you use per-book
16 studies, but in your second supplemental testimony, it
17 does not -- it does not say what type of studies you
18 used; is that correct?

19 A. I used the same per-books level of
20 allocation. And under each method, the single
21 coincident -- summer coincident peak, winter, and the
22 peak and average. The -- what I've learned over the
23 years is that I look at the allocations of the rate
24 base expense, net income across the cost of service,

1 and they don't materially change between the per books;
2 the present annualized, which is the 45-B cost of
3 service; the proposed rates, which is the 45-C. They
4 don't change materially over the three views, so I just
5 stick with the per books. Again, this is a high-level
6 analysis of applying the Public Staff's recommended
7 revenue and requirement of rate base.

8 Q. Okay. And I think this is my last question.
9 The Commission has, in the past, on a number of
10 occasions considered lifeline rates, and each time has
11 rejected implementing those rates; is that a fair
12 assessment?

13 A. I'm not aware that the Commission has
14 considered lifeline rates in the context of electric
15 utility service. There is certainly precedent for it
16 in telephone service, but I did not find, during my
17 study, where that occurred in electric utility service.

18 Q. Mr. McLawhorn, would you add anything to
19 that?

20 A. (James S. McLawhorn) I am not aware of the
21 Commission's consideration of lifeline rates for
22 electric service either, at least not during my tenure
23 with the Public Staff.

24 Q. Okay. I think that's everything I have.

1 Thank you.

2 CHAIR MITCHELL: All right. At this
3 point, we are going to take an afternoon break. We
4 will go off the record. We will come back on at
5 10 after 3:00. 3:10.

6 (At this time, a recess was taken from
7 2:58 p.m. to 3:10 p.m.)

8 CHAIR MITCHELL: All right. Let's go
9 back on the record. North Carolina Justice Center.
10 Mr. Neal, do you have questions for the panel?

11 MR. NEAL: Chair Mitchell, this is
12 David Neal, I have just a few.

13 CHAIR MITCHELL: All right.

14 MR. BOEHM: Chair Mitchell, this is
15 Kurt Boehm with Harris Teeter. I think that -- I'm
16 not sure that you've got my cross here. I think I
17 was next on the list. I just want to make sure you
18 have it.

19 MR. NEAL: That is correct. I'm happy
20 to defer to Mr. Boehm.

21 CHAIR MITCHELL: All right. I am just
22 seeing the updated information. Mr. Boehm, you may
23 proceed.

24 MR. BOEHM: Thank you, Chair Mitchell.

1 CROSS EXAMINATION BY MR. BOEHM:

2 Q. Good afternoon, Mr. Floyd.

3 A. (Jack L. Floyd) Good afternoon.

4 Q. And I think that all of my questions are
5 directed towards you. And all of my questions will be
6 about your second supplemental testimony that you filed
7 earlier this week.

8 In your second supplemental testimony, when
9 you prepared that, you obviously reviewed the
10 settlement agreement signed by DEC and Harris Teeter
11 which was filed with the Commission on May 28th; is
12 that correct?

13 A. I did.

14 Q. And do you have that settlement agreement,
15 the Harris Teeter settlement agreement, in front of
16 you?

17 A. Stand by.

18 (Witness peruses document.)

19 I have the version of the one with the
20 Commercial Group, and as I believe, they're pretty
21 identical.

22 Q. I think that's probably the case. We could
23 probably work with that, if you don't have our -- if
24 you don't have the Harris Teeter one.

1 A. I do. I just made the one copy.

2 Q. Okay. Hopefully there's not a big
3 inconsistency in the way that they're numbered. But I
4 think you're correct that the content is generally the
5 same.

6 Now, on page 9 of your second supplemental
7 testimony, you were asked whether you agree with all
8 the terms of the Harris Teeter, Commercial Group, and
9 CIGFUR settlements, and you respond:

10 "No. The Public Staff does not agree with
11 all the terms at this time. It is premature and
12 counterproductive to begin redesigning rates and the
13 terms of service under specific rate schedules without
14 having the full understanding of the rationale for the
15 change and the impact on other rate schedules and
16 revenues."

17 Did I read that correctly?

18 A. Yes, sir.

19 Q. Now, when the Harris Teeter settlement -- and
20 I understand you have a slightly -- perhaps slightly
21 different settlement in front of you -- it contains
22 really just two paragraphs, paragraphs 2 and 3, that
23 address rate design; is that right?

24 A. It does say that. And I've got a copy of

1 that, and they are both identical, both the Harris
2 Teeter and the Commercial Group, in terms of the
3 reference, I believe.

4 Q. Thank you. So there's paragraph 2, which
5 essentially states that the parties agree that any grid
6 improvement plan cost allocated to OPT-V customers
7 shall be recovered via OPT-V of demand charges."

8 And that addresses rate design, correct?

9 A. It does.

10 Q. And then paragraph 3, which I think you
11 discussed a little bit with Mr. Jenkins earlier, which
12 essentially sets the off-peak energy charge at
13 3.022 cents per kWh, and then it makes corresponding
14 adjustments to some of the other charges in OPT-VSS; is
15 that correct?

16 A. It does.

17 Q. And then all the other paragraphs in the
18 settlement are, you know, waiver of each other's
19 witnesses, and things that don't really involve rate
20 design; is that right?

21 A. Yes.

22 Q. Now, going back to the statement that you
23 made on page 9 of your second supplemental testimony,
24 you say that:

1 "The Public Staff does not agree with the
2 Harris Teeter settlement and that it's premature to
3 begin redesigning rates without having a full
4 understanding of the rationale for the change and
5 impact on other rate schedules and revenues."

6 Is that correct?

7 A. Yes. And I think I -- I think I've been
8 fairly clear with my cautionary approach to anything
9 rate -- changing rate design.

10 Q. Now, I just want to kind of focus in on this
11 statement that, "without having a full understanding of
12 the impact on other rate schedules and revenues."

13 Would you agree that the -- that the rate
14 design changes agreed to by Harris Teeter and DEC, that
15 they do not have impact on any rate -- any customers
16 taking service on any other rate schedule, other than
17 OPT-VSS?

18 A. I would -- I would agree with you literally
19 that that's true. And let me explain what I mean. Is
20 that you are only changing the small secondary off-peak
21 energy rate consistent with, I think, with what
22 Mr. Pirro said earlier was not an across-the-board type
23 of change. But the issue that I have with anything
24 changing in terms of rate design now is that I

1 really -- I really don't have a good sense of what
2 impacts that could have to the other rate elements
3 within the OPT small secondary. And I also don't
4 understand or have a full understanding of what that
5 would do in terms of shifting revenue responsibility,
6 cost causation from one class of OPT customer to
7 another, or interclass between OPT and the other
8 customer classes. And that's why I'm cautious.

9 You know, anything rate design, at this
10 moment, is based on insufficient data. Insufficient
11 analysis as indicated by the Company. Now, I know
12 Mr. Pirro said something earlier this week about it
13 being more aligned with cost causation, and I take him
14 at his word. I don't think the Public Staff has any
15 literal fundamental concern with the \$0.03 off-peak
16 energy rate. However, because I don't know of the
17 other things that it could do to the revenue picture
18 for OPT and the revenue picture with the other -- OPT
19 versus the other classes, I'm -- I am suggesting and
20 recommending that the Commission take a very cautious
21 approach to this.

22 Q. Thank you. I appreciate that response. And
23 just sort of just to follow up, going back to your
24 statement on page 9. You say that you don't have a

1 full understanding of the impact on other rate
2 schedules, which you just addressed, and then the other
3 part is revenues. Which I assume that you meant
4 revenues -- how much revenue DEC collects from each
5 customer; is that what you mean by revenues?

6 A. No. What I'm talking about is in terms of
7 the what I call subclasses of the OPT. And there's, I
8 believe, 10 subclasses. But how does -- how does it
9 impact the return on rate base? That's how we measure
10 cost causation. How does it intraclass OPT, and then
11 interclass with the other non-OPT classes? I don't
12 have a full picture of that, and because I don't have a
13 full picture, I take a cautious approach.

14 Q. Sticking with the same statement on page 9,
15 you also state that we don't have a full understanding
16 of the rationale for the change; is that correct?

17 A. I did not until this week. Again, the oral
18 testimony that was provided by Mr. Pirro shed some
19 light on how that rate was established. I don't
20 remember the exact timing of it, but I did not have
21 that at the time that this testimony was filed.

22 Q. Did you review the direct testimony of Harris
23 Teeter witness Mr. Beaver when you prepared your second
24 supplemental testimony?

1 A. No.

2 Q. So your -- you did not review Mr. Beaver's
3 testimony where it contains approximately 10 pages of
4 questions and answers explaining that DEC's proposed
5 rate for the OPT secondary under-recovers the
6 demand-related charges while over-recovering the
7 energy-related charges relative to the underlying cost
8 for DEC's own cost of service study?

9 A. I reviewed it in the context of the direct
10 testimony. I did not go back and try to review his
11 testimony in terms of how that applied to the
12 settlement terms we're talking about.

13 Q. Okay. So --

14 A. If you'll tell me which testimony or which
15 page of his testimony you're speaking of, I'll pull it.

16 Q. Sure. So as I said, Mr. Beaver's testimony
17 has about 10 pages on this issue and the rationale for
18 his proposal to make a change like this, but I would
19 direct you to page 12 of his testimony.

20 A. You said page 12?

21 Q. Yes.

22 A. Okay. I'm there.

23 Q. So do you see the table marked JDD-3 on
24 page 12?

1 A. I do.

2 Q. And the off-peak energy charge in that table,
3 which is the last column. And here Mr. Beaver, he
4 compares the DEC proposed off-peak energy charge of
5 about 3.2 cents to Kroger's proposed off-peak energy
6 charge of about 2.9 cents; do you see that?

7 A. I see it, yes.

8 Q. And would you agree that the settlement that
9 was agreed to by Harris Teeter and DEC falls right in
10 the middle of these two bookends?

11 A. Yes, I would agree to that. But again, I
12 don't really have a basis for how these rates were
13 determined, and I don't -- I don't recall any analysis.
14 I certainly didn't review any analysis in terms of the
15 second supplemental.

16 Q. Thank you. You stated in your testimony, and
17 I think we discussed this with -- earlier today, that
18 staff would like to see the Commission order a
19 comprehensive rate design and cost of service study; is
20 that correct?

21 A. Yes, sir.

22 Q. Now, is there any reason why the Commission
23 couldn't approve the Harris Teeter and DEC settlement
24 and then also order a comprehensive rate design and

1 cost of service study? They're not mutually exclusive
2 are they?

3 A. They're not mutually exclusive, nor are they
4 mutually inclusive. And that's a kind of a funny way
5 to say that. But what I'm -- what I'm trying to avoid
6 with my recommendations with this comprehensive rate
7 study is that I have learned, over the 13, 14 years of
8 looking at these rate cases, that once something gets
9 established, it is extremely difficult to break it
10 apart. And that's -- that's certainly obvious in this
11 case when you see the level of feedback that I've
12 gotten on my recommendation of a study.

13 What I don't want to happen is, first of all,
14 we're using stale data to decide rates and rate design
15 that could serve future utilities service. And that
16 may or may not be a good idea. I just simply cannot
17 give you an answer to that question now. What I want
18 to be able to do is to take the use of load research
19 that's predicated on the advanced metering
20 infrastructure, learn how different groups of
21 customers, maybe individual customers at some point,
22 learn how they're using energy and how they are
23 imposing costs on the system, and whether it is an
24 off-peak energy rate or whether it's something else.

1 I don't want to constrain the ability to
2 study any of these going forward. And I believe I'm
3 correct in saying that Mr. Pirro committed to looking
4 at this rate and all the other rates, OPT and
5 everything else in the study, itself. I think the
6 Company agreed with my position for a comprehensive
7 study to do that.

8 So again, I don't want to belabor the point,
9 but anything we do, small or large, to rate design now
10 is just -- is just putting an obstacle in the way of
11 doing it on a more comprehensive basis.

12 Q. Thank you, Mr. Floyd. Getting back to
13 paragraph 2 of the Harris Teeter stipulation, this is
14 the paragraph that states that the signatories agree to
15 any grid improvement plan costs allocated to OPT-V
16 customers shall be recovered via OPT-V demand charges.

17 A. Yes.

18 Q. I wasn't clear from your second supplemental
19 testimony. Do you -- do you oppose this paragraph?

20 A. At this point, I would say yes, I do oppose
21 it, and I'll tell you why. It kind of follows along
22 the same lines as what I just spoke of. We do not --
23 the Public Staff has never advocated that any
24 particular rate element -- and that's what I call basic

1 customer charges, demand charges, and energy charges,
2 in whatever shape, matter or form they take. These are
3 rate elements. I don't believe the Public Staff has
4 ever advocated that a particular rate element recover
5 particular types of costs that go along with that rate
6 element. And I'll say a demand rate to recover demand
7 costs. We've never advocated for that. Because the
8 rate design has to work together in such that all the
9 rate elements work cohesively to produce the revenues
10 that the Company expects from customers on a particular
11 schedule. That's why I have -- I have discussed the
12 issue of fixed cost recovery, I've discussed the issue
13 of demand, or customer, or energy-related costs.

14 We -- what this does, in my mind, is take a
15 very literal understanding of cost of service, cost
16 causation, and a literal approach to rate design. And
17 I think we all need to be careful what we ask for in
18 terms of literally assigning a specific cost to being
19 recovered literally from a specific rate element. And
20 that's, again, the cautious approach that I'm asking to
21 take.

22 Q. Would you agree that grid improvement costs
23 are largely or maybe even entirely demand related or
24 customer related?

1 A. They -- they are distribution and
2 transmission system related. There are elements of
3 demand-related and customer-related classifications of
4 costs for both.

5 Q. But they're not energy related?

6 A. That -- there's some debate about that. They
7 could be. You know, with the grid improvement, as I
8 understand what's going on, is that it's not entirely
9 driven by demand. Some of what's going on could be
10 construed to be energy related. We don't typically
11 allocate costs for distribution and transmission on
12 energy, but because of the plans for grid improvement,
13 I think that needs to be discussed.

14 And the Public Staff witness McLawhorn, his
15 testimony -- I believe it's him. It may have been
16 Mr. Thomas who talked about the benefits-oriented
17 allocation process that needs to be looked at in terms
18 of grid improvement. I don't know what that would
19 have, as far as impact on OPT demand charges or
20 anything else.

21 Q. Thank you, Mr. Floyd, those are all the
22 questions I have.

23 CHAIR MITCHELL: All right. Next up,
24 Mr. Neal, Justice Center.

1 CROSS EXAMINATION BY MR. NEAL:

2 Q. Good afternoon. Good afternoon, Jack Floyd
3 and Mr. McLawhorn. I think I'm going to start with
4 you, Mr. McLawhorn. First, just a quick question.
5 Earlier on cross this afternoon, I believe I heard you
6 say -- and this is, I think, nearly a quote, nobody has
7 recommended that a change be made to cost allocation
8 methodology in this case.

9 Did I mishear you, or is that what you said
10 earlier today?

11 A. (James S. McLawhorn) I did say that. I was
12 speaking in terms of both the recommendation for a
13 study to look at different cost allocation
14 methodologies as well as the grid improvement plan, how
15 those costs are potentially allocated. Now, I probably
16 should clarify, certainly in my direct -- original
17 direct testimony, the Public Staff recommended use of
18 the SWPA cost allocation methodology, whereas Duke had
19 recommended SCP. But in the second stipulation that we
20 signed with Duke, we agreed to stipulate for this case
21 only to use the SCP. And Duke agreed to participate
22 with the Public Staff and other interested parties in
23 looking at various other cost-allocation procedures.
24 So what was what I meant in my answer, that no one is

1 recommending to change cost allocation in this case at
2 this time.

3 Q. And, Mr. McLawhorn, have you read the
4 testimony of Jonathan Wallach that's sponsored by my
5 clients in this case?

6 A. I have, but I have not read it recently. I
7 can pull that up if you want to ask me a particular
8 question about it.

9 Q. I'll just ask generally, I don't think you
10 need to pull it up.

11 Do you recall that he recommended that the
12 Company -- that the Commission ordered the Company to
13 stop using the minimum system method in its cost
14 allocation study?

15 A. I will accept that, subject to check.

16 Q. And do you recall that he also recommended
17 that the Commission reject the Company's use of the
18 non-coincident peak demand allocator to allocate
19 distribution costs in its cost of service study?

20 A. Yes, I do recall that.

21 Q. And, let's see, you also had some discussion
22 about the minimum system method report from the Public
23 Staff, which I believe has been previously admitted as
24 DEC Pirro/Hager Redirect Exhibit 1.

1 A. Yes.

2 Q. Just to clarify one thing I think I heard you
3 say.

4 Within the minimum system method report, is
5 it the Public Staff's position that the minimum system
6 method could be used for setting the maximum allowable
7 basic facilities charge, and then the basic customer
8 method would be the methodology for setting the
9 minimum? Is that the Public Staff's position?

10 A. Yes. I believe both Mr. Floyd and I both
11 agreed with that.

12 Q. Okay. I think I heard you say earlier today
13 that the zero intercept would be the minimum. I just
14 wanted to clarify that. But you meant the basic
15 customer method?

16 A. Yes. I should have gone back and checked,
17 but yes, that's correct.

18 Q. Thank you.

19 A. You are correct.

20 Q. And there was also some discussion about the
21 fair way to allocate costs for those customers who
22 accept service from the transmission lines.

23 Were you able to hear the testimony of Duke
24 witness Ms. Hager last week?

1 A. Yes.

2 Q. Do you recall a question I had for her about
3 whether or not the Company utilizes a minimum
4 transmission system analysis in order to create a
5 hypothetical transmission minimum-size grid that would
6 then make a part of the transmission system customer
7 allocated as a customer charge?

8 A. Yes, I remember that.

9 Q. And it's your recollection that the Company
10 does not do that; is that right?

11 A. I do not believe they do, no.

12 Q. Okay. All right. Mr. Floyd, if I could turn
13 your attention to the -- that same Public Staff minimum
14 system method report, the DEC Hager/Pirro Redirect
15 Exhibit 1. If you turn to page 16 for me.

16 A. (Jack L. Floyd) Okay.

17 Q. If you look at that, at the bottom of the
18 page, I believe you were asked a question about this
19 last sentence on the page, the "after our review, the
20 Public Staff believes"; do you see that sentence?

21 A. I do.

22 Q. And that is a footnote 25. Could you read
23 footnote 25?

24 A. "The position of the Public Staff in any

1 future rate case is dependent on the application filed
2 in that case. The Public Staff reserves the right to
3 develop a new or different position concerning the MSM
4 in any future proceeding before the Commission."

5 Q. Thank you.

6 MR. NEAL: I have no further questions,
7 Chair Mitchell.

8 CHAIR MITCHELL: All right, Mr. Neal.
9 Next up, NCSEA.

10 MR. LEDFORD: Thank you, Chair Mitchell.
11 Peter Ledford. NCSEA does not have any questions
12 for this panel.

13 CHAIR MITCHELL: All right. Thank you,
14 Mr. Ledford.

15 All right. Mr. Culley with Vote Solar?

16 MS. CULLEY: Thank you, Chair Mitchell,
17 no questions.

18 CHAIR MITCHELL: All right. And last,
19 my notes indicate that Duke has cross for the
20 panel?

21 MS. JAGANNATHAN: Yes, Chair Mitchell.
22 Molly Jagannathan here on behalf of Duke.

23 CROSS EXAMINATION BY MS. JAGANNATHAN:

24 Q. Mr. McLawhorn, if I could just start with

1 you. I believe you cleared this up a bit with
2 Mr. Neal, but I just want to clarify -- well, first of
3 all, just to orient us, when we talk about using the
4 minimum system method, we're talking about a
5 classification of distribution costs; isn't that right?

6 A. (Xames S. McLawhorn) Yes.

7 Q. And the Public Staff is not opposed to the
8 Company's use of minimum system for allocating
9 distribution costs in this case, right?

10 A. That's correct.

11 Q. Okay. Thank you. And when we talk about
12 summer coincident peak, and summer/winter peak and
13 average, and winter coincident peak, we're talking
14 allocating production and transmission demand-related
15 costs; isn't that right?

16 A. Yes. Those methodologies don't impact the
17 allocation of other types of plant, just production and
18 transmission.

19 Q. Okay. Thank you. And is it your
20 understanding that the Company is required to file cost
21 of service studies using winter coincident peak, summer
22 coincident peak, and summer/winter peak and average?

23 A. Yes, that's correct.

24 Q. And you indicated earlier that, in the second

1 partial settlement with the Company, the Public Staff
2 agreed, for purposes of this rate case, to accept the
3 Company's proposal to allocate cost of service based on
4 summer coincident peak; isn't that right?

5 A. Yes.

6 Q. Okay. Now, turning to you, Mr. Floyd.

7 With your second supplemental testimony, you
8 filed schedules using winter coincident peak, summer
9 coincident peak, and summer/winter peak and average;
10 isn't that right?

11 A. (Jack L. Floyd) I did.

12 Q. Okay. And that was just because the Company
13 initially filed those three methodologies, but not
14 because you're advocating something other than summer
15 coincident peak in this case?

16 A. That's part of the answer. It's also
17 somewhat of a standard practice for the Public Staff to
18 represent to the Commission what the impact of revenue
19 assignment would be under the multiple methodologies
20 that are part of the case.

21 Q. Okay. Thank you. And you would agree with
22 me that, between the settlement with the Public Staff
23 and the settlement with CIGFUR, the Company has agreed
24 to perform and consider no less than seven different

1 cost of service studies prior to the next general rate
2 case; isn't that right?

3 A. We'll be busy, yes.

4 Q. And you would agree with me that the Public
5 Staff's and Company's agreement to use summer
6 coincident peak in this rate case has no impact on the
7 ability for the Public Staff, the Company, and other
8 parties to study new and different costs of service
9 technologies; is that right?

10 A. That is my understanding, and I would object
11 if we did limit it to just one.

12 Q. I figured you might. And then I just have a
13 question from your second supplemental testimony.

14 You state that you oppose the provision of
15 the settlement with CIGFUR in which the Company agreed
16 to remove curtailable load from allocation factors in
17 its next rate case; isn't that right?

18 A. Yes, I did.

19 Q. And I think in that testimony you indicate
20 that you supported a similar adjustment for Dominion
21 previously, but you explain that your different views
22 in that case are justified because of the different
23 allocation methodologies that Dominion uses versus what
24 the Company currently uses; is that right?

1 A. That is part of it, but there's a factual
2 difference between this case and the Sub 479 --
3 E-22, Sub 479 Dominion case. Dominion actually used
4 part of their interruptible demand response resources
5 during the winter peak. And they -- if we didn't make
6 the adjustment in that case, there would have been a
7 slight distortion in the peak component of the
8 summer/winter peak and average calculation. That did
9 not happen in the Duke case. Duke did not -- Duke
10 Carolinas did not use their curtailable load or
11 demand-side management resources at either the winter
12 or the summer peak in the test year for this case.

13 Q. Okay. But is it fair to say that you don't
14 know whether they will use those resources in the test
15 year in a future rate case, right?

16 A. Absolutely. I mean, we can have another
17 polar vortex or something in the summer.

18 A. (James S. McLawhorn) Ms. Jagannathan, if I
19 can interject. I agree with everything that Mr. Floyd
20 said, but even if the Company did interrupt the load in
21 a future test year at one of the peaks, as long as the
22 Company relies on a cost of service methodology that
23 only focuses on a single or two -- if it were to go to
24 a two-coincident peak and not contain an average

1 component, the Public Staff would still oppose the
2 adjustment because it would allow certain customers --
3 as I said earlier, I believe, in cross from Ms. Cress,
4 that it would allow certain customers to avoid paying
5 for production and possibly transmission plant that
6 they are using the vast majority of the other hours of
7 the year. That's not the case with the Dominion
8 cost-allocation methodology.

9 Q. Okay. Thank you. And so would it be fair to
10 say that it would depend on what cost-allocation
11 methodology the Company proposes in its next rate case
12 as to what the Public Staff's position would be on this
13 issue?

14 A. Cost-allocation methodology and whether the
15 Company actually utilized the interruptible and
16 demand-side management resources. It would be a
17 combination of those two factors.

18 A. (Jack L. Floyd) I agree.

19 Q. Okay. Thank you both. And, Mr. Floyd, I
20 just have one more question for you. Just circling
21 back to the minimum system method.

22 I think you indicated that the Public Staff
23 kind of said that it was reasonable to use minimum
24 system method to kind of establish the maximum bounds

1 for a fixed or a basic facilities charge, right?

2 A. That's correct.

3 Q. And even though the Company uses the minimum
4 system method, it doesn't use that maximum amount when
5 setting its fixed or basic facilities charge, right?

6 A. That is true. It has not -- it has been my
7 experience in the half a dozen cases I've looked at
8 that the Company has never used the maximum that was
9 determined through the minimum system approach in their
10 cost of service.

11 Q. Okay. Thank you. And it's your
12 understanding, right, that the Company has not proposed
13 any increase to the basic facilities charge in this
14 case, right?

15 A. That's correct, right.

16 Q. Okay. Thank you. I don't have any more
17 questions.

18 CHAIR MITCHELL: All right. Redirect
19 for the panel?

20 MS. EDMONDSON: No redirect.

21 CHAIR MITCHELL: All right. Questions
22 by Commissioners, beginning with
23 Commissioner Brown-Bland.

24 COMMISSIONER BROWN-BLAND: I have no

1 questi ons.

2 CHAIR MITCHELL: All right.

3 Commi ssi oner Gray?

4 COMMI SSIONER GRAY: No questi ons.

5 CHAIR MITCHELL: Commi ssi oner

6 Cl odfel ter?

7 COMMI SSIONER CLODFELTER: Yes, thank
8 you. I have j ust a couple.

9 EXAMINATION BY COMMI SSIONER CLODFELTER:

10 Q. Mr. McLawhorn, Ms. Hager says that, when the
11 Public Staff advocates for the summer/winter peak and
12 average method, it fails to follow its argument to its
13 logical conclusions. And it's interesting to me that a
14 couple of the witnesses for some of the intervenors
15 used almost identical language. They say almost
16 identically the same thing word for word.

17 Would you respond to that criticism of the
18 Public Staff's position? Do you agree with it? And if
19 not, why not?

20 A. (James S. McLawhorn) I do not agree with it.
21 I'm sure you're not surprised to hear that answer, and
22 I will be happy to respond to it. This is not a new
23 argument by certain parties. I believe the argument
24 has fallacies to it. I -- with all due respect to

1 Ms. Hager -- and I have tremendous respect for her, I
2 have known her for a long time -- I believe this
3 argument is somewhat of a straw man argument.

4 The way the system is built -- and I've
5 discussed this at length in my testimony; it's been
6 discussed in many other cases -- is based on a
7 consideration of both peak demand and energy
8 requirements of the customers it's going to serve.
9 That is what the IRP process does when it is
10 determining the appropriate mix of production plant
11 resources to build. That's how you get the most
12 efficient and most cost-effective system for all of the
13 Company's customers, not just some of the Company's
14 customers.

15 Once this system is built, of course, it has
16 to be operated. And if you -- I have referred to -- I
17 have -- if I can refer you to my prefiled testimony,
18 there is a chart on page 25 that is a load duration
19 curve. And it represents both demands and the percent
20 of hours when the demand is there from the zero point
21 in time to 8,760 hours, although it represents it in
22 percentages. This load duration curve perfectly
23 demonstrates what I just described from a planning
24 standpoint.

1 It clearly shows that some plant is there to
2 serve peak load and some plant is there to serve a base
3 load that's there in all hours, and in between there's
4 plant that serves a combination of peak and energy.
5 Those plants are dispatched on a least-cost basis.
6 That dispatch produces the lowest cost overall fuel
7 cost.

8 The reason I said that I believe Ms. Hager's
9 argument is somewhat of a straw man argument, she seems
10 to imply, and other intervenors seem to imply, that if
11 you use the summer/winter peak and average methodology,
12 then you must allocate the production plant to
13 individual customers, meaning that high load factor
14 customers receive all of their energy in all hours from
15 the lowest fuel cost plants. That is not an
16 appropriate way to look at it.

17 The fuel occurs on an hourly basis, not at a
18 horizontal production plant type of strip. If we
19 didn't look at it that way, then we wouldn't have the
20 lowest overall cost for fuel. So I do not agree with
21 that argument. I believe that that is not the correct
22 way to look at it, and I don't know if that answers
23 your question but that's my explanation.

24 Q. I think the record is pretty clear from your

1 answer. Thank you.

2 A. All right. Thank you.

3 Q. Mr. Floyd, a question -- I'll start it with
4 you, Mr. Floyd, but if Mr. McLawhorn wants to jump in,
5 that's fine too. I have listened to Mr. Pirro and
6 Mr. Huber, and to you last week, and now to both you
7 and Mr. McLawhorn today, and I'm still struggling a
8 little bit to understand the scope of what will be
9 looked at in the comprehensive study. And I want to
10 start the question with you, because I think in
11 response to a question from Mr. Jenkins earlier, you
12 said that cost of service and rate design are -- I
13 wrote it down, inextricably linked.

14 And so what I'm trying to get clear on is how
15 far into cost of service issues are we going to be
16 going in this comprehensive rate design study? I don't
17 have a real good sense right now of the scope to which
18 that study is going to go into cost of service issues.
19 Can the two of you talk to me about that and give me
20 greater clarity?

21 A. (Jack L. Floyd) You can't do one without the
22 other. That's the two-second answer. You cannot do
23 one without the other. And I would even argue, you
24 could get two people in a room and come up with a dozen

1 different ways of which one comes first. And I think
2 Mr. Jenkins hit on my frustrations over the years of
3 dealing with rate cases and rate issues -- rate design
4 issues pretty well.

5 You change the rate design. You make
6 customers more aware of what they're doing in terms of
7 how they use the system, you will change the cost of
8 service, because I guarantee you the load curve is
9 going to change. That's one approach.

10 The other approach is just the reverse. If
11 you do something in the cost of service, look at a
12 particular methodology, and you stick to that
13 methodology from the first part of it, and you don't
14 consider the other ones, and the impacts of how demand,
15 energy, and customer-related costs can impact one
16 another, then you will inform your rate design a
17 certain way. You're going to get a certain response.

18 There's a reason that I use the word
19 "comprehensive." I call this modern era of rate cases
20 since 2006, '07. We are in a place kind of like we
21 were in the late '60s, early '70s when the utilities
22 were building generation -- big-dollar generation
23 facilities, and they were trying to go out and push an
24 increased load, because they needed it for these

1 investments. But we're talking billions of dollars of
2 costs today, in terms of grid improvement, what I call
3 the greening of energy, and then coal ash. All of
4 these things are weighing on customers. The low-,
5 medium-, and high-income customers.

6 And I just -- I find it tough to accept
7 utility service based on old data and being told that
8 I've got to do it the way I've been doing it for the
9 last 50 years, because I don't believe the next
10 50 years when I'm not here is going to look a lot like
11 it has looked in the last 50 years. And we have to be
12 careful to not impact the most vulnerable, vulnerable
13 customers who have to use the system by doing all of
14 this study and coming up with something that looks a
15 lot different than it does today.

16 And that's why I'm cautious. I'm cautious
17 about using old data. I'm an engineer. I like to
18 learn how things work. Well, I've got to learn -- I've
19 got to start learning by looking at data, and then
20 seeing what is the data telling me. And that's one
21 reason that the staff has supported AMI, because it
22 gives us the glimpse that we've never had. We could
23 have had it in the last 50 years, but it costs a
24 fortune to do. It's not as costly today on a unit

1 basis going forward.

2 We've got AMI data. The Company has started
3 looking at how that data is impacting load shakes.

4 Load shakes drive cost of service. Cost of service is
5 going to drive rate design. But those load shakes
6 change their character based on the rates people pay.

7 And here's something else to keep in mind.

8 Mr. Harris reminded me of this the other day. Is that
9 most customers are pretty satisfied with the electric
10 utility service they have. They don't want a whole lot
11 of manipulation. They don't want a whole lot of
12 sophistication. They want to keep things fairly
13 simple, and that's something we, as regulators and at
14 the Company, need to keep in mind.

15 There are people out there that do want
16 different types of electric utility services, whether
17 it's electric vehicles, or solar panels, or things like
18 that, but there are healthy crop of customers who just
19 want to be left alone, and we need to figure out a way
20 to do both. And that's why a comprehensive study
21 starting from scratch is important.

22 Q. Well, thank you for your answer. I think you
23 know my view about doing things the way it was being
24 done just because that's the way they've always been

1 done. I think you know my views on that subject.

2 A. I agree.

3 Q. But I want -- I want you to take me to the
4 next step on this. If we get -- because I'm really
5 looking for assistance on how we go forward here and
6 not take another 50 years to get through this
7 comprehensive study.

8 So if everything is up for grabs from, as you
9 say, from scratch, how are we going to avoid getting
10 into that kind of swamp, where it takes us another 50
11 years, and we still may not have a new road map? What
12 kind of guardrails, what kind of parameters does the
13 Public Staff recommend that the Commission establish in
14 order to make sure this is not just a free-for-all?

15 A. It's -- I'm not sure I have a good answer for
16 that question yet. But I will try to answer it this
17 way.

18 Q. I don't mean to interrupt you, because I'm
19 not looking really today to get your top-of-the-head
20 answer. I'm putting the question out there, because I
21 think if the Commission -- if the Commission majority,
22 at the end of hearing all of the evidence, decides that
23 the suggestion the Company has made and that the Public
24 Staff has made -- and I have already heard a lot of

1 opposition to the principle -- is a good one of a
2 comprehensive study, I think we're probably going to
3 need some assistance on developing the parameters, I
4 call them guardrails, the sort of directions the study
5 needs to focus on and the prioritization of topics.
6 Otherwise, I'm afraid we're really wasting everyone's
7 time if we don't do that.

8 So I don't expect you to answer today, but I
9 want the question out there, because I think the
10 Commission may need to come back to the parties and ask
11 for some answers on that.

12 A. Let me give a couple of quick responses to
13 that. Is that my testimony outlines some very basic
14 principles, and there's a reason you don't see a lot of
15 meat on those bones, is because I think a lot of folks
16 would have a lot of different ways to interpret those
17 half a dozen or so principles. But rate design -- I
18 don't think the Commission should take this as a static
19 endeavor. This is something that future Commissions
20 are going to have to constantly deal with in every rate
21 case. Because if we think about it, just in the last
22 13 -- or 10 to 13 years we've been looking at rate
23 cases, how service has changed in terms of in use of
24 electricity, the efficiency of use, the proliferation

1 of distributed generation, storage is staring us in the
2 face going forward.

3 These are -- these are formidable things that
4 are impacting utility service. But I don't think the
5 Commission -- if you're thinking you have to put a --
6 as we say in church, a stake in the ground behind the
7 barn, and that's it, I don't think that's what we're
8 suggesting. We need to start with a framework of where
9 do we want rates to go in the future? What do we want
10 what rates to accomplish? There may be some existing
11 rate schedules that are perfectly fine. I'm not
12 willing to throw everything out just because I want a
13 new study. There may be some justification for keeping
14 what we have.

15 But my point with a comprehensive study is
16 that we have adjusted rates on an across-the-board
17 percentage increase basis for so long that I think
18 we've lost the integrity of the actual rate structure,
19 itself. And that's why we need the study. It cannot
20 happen overnight; it needs to involve a bunch of
21 stakeholders; and there's going to be a lot of
22 argument. And there's certainly the high potential for
23 disagreement. I'm sure the parties, if they disagree
24 with something that Duke comes up with, is going to

1 argue about it.

2 But at the same time, it took us two years,
3 roughly, to get a consolidated OPT class. I use that,
4 it's a great example. And the parties literally had to
5 be forced to the table by the Commission. And we ended
6 up sitting down having conversations about it, and we
7 developed a load-based, time-of-use, nonresidential
8 schedule. And I'm using that. I'm expecting the
9 parties to do the same thing with everything else, rate
10 design. Thank you.

11 A. (Xames S. McLawhorn) And,
12 Commissioner Clodfelter, if I could just follow on to
13 that. It very well may be that, after this study, we
14 have a rate design, and we say, "Eureka, this is the
15 greatest thing. Why didn't we think of this 25 years
16 ago? This is absolutely the way we need to charge
17 ahead." But when we look at implementing it, as I said
18 earlier on cross, there may be some issues where, by
19 moving to that rate design, it causes some significant
20 cost shifts or cost -- and in this case I'm talking
21 about bill cost, the bill costs to the customer, that
22 we can't go all the way in one step. It would be
23 unreasonable to the customer to do that.

24 We may have to use gradualism to implement

1 the design and get there. I'm not predetermining that
2 it will, I'm just saying that is a very distinct
3 possibility. And we all need to keep that in mind and
4 not be afraid to take this step because we're so
5 concerned that we won't like the outcome that we refuse
6 to even look at it.

7 Q. Thank you, gentlemen. I could spend a lot of
8 time, and we don't have a lot more time this afternoon,
9 asking you a lot of detailed questions about some of
10 the things that the various intervenors asked you
11 about. It wouldn't be very productive. I'm not going
12 to do it. Thank you for your time.

13 CHAIR MITCHELL: All right.

14 Commissioner Duffley?

15 COMMISSIONER DUFFLEY: Thank you,
16 gentlemen, for your testimony today. I'm going to
17 pass on asking you any questions.

18 CHAIR MITCHELL: Commissioner Hughes?

19 EXAMINATION BY COMMISSIONER HUGHES:

20 Q. This will probably make
21 Commissioner Clodfelter even more concerned, but --
22 about as far as the timeliness of this study. But when
23 I read some of the descriptions of the affordability
24 stakeholder process, I have a hard time seeing where

1 the relationship to that is in this comprehensive rate
2 study. And it seems like they have so much overlap.
3 Are they parallel? Are they together? And does that
4 just make an even longer, more complicated study?

5 If someone could just comment briefly on
6 that. I see the testimony, particularly of Mr. De May,
7 has a lot of rate design in what he's calling
8 affordability issues. So if you could just quickly
9 comment on that, quickly.

10 A. (Jack L. Floyd) Yeah. Mr. Hughes, I
11 mentioned a little bit the other day in the
12 consolidated hearing that I don't think you can
13 separate the two issues. At the end of the day, what
14 we need to try to start with is developing rates based
15 on cost causation. And let's look at a purely
16 cost-based rate design suite of rates, and then the
17 Commission can start to evaluate the different policies
18 of what affordability conjures up, in terms of what
19 types of discounts or what types of programs we want to
20 provide, and then how to pay for it, and let that fit
21 into the rate design study.

22 I don't see them as separate issues. I see
23 them, that they have to almost be done together. But
24 at the end of the day, I think if we are going to ask

1 the customers of Duke Energy, Duke Progress, Duke
2 Carolinas to help fund things that are not so easily
3 fundable in terms of utility service -- we're shifting
4 costs from one group of customers to another -- we need
5 to be as transparent as possible in what that cost
6 shift might be.

7 And that's one reason why I want to try to
8 take as close to a cost-causation approach to this rate
9 design, and then let's look at the different policies
10 that the Commission and future Commissions might adopt,
11 and how those policies fit into and affect the rates
12 that customers are going to be asked to pay.

13 Q. Okay. Thank you. No further questions.

14 CHAIR MITCHELL: All right.

15 Commissioner McKissick?

16 COMMISSIONER MCKISSICK: Just one or two
17 quick questions.

18 EXAMINATION BY COMMISSIONER MCKISSICK:

19 Q. And I'd certainly like to thank the panel for
20 the testimony you've provided today, Mr. Floyd, for the
21 testimony you provided previously. I know I asked a
22 number of questions relating to your thoughts
23 concerning these issues, and I certainly understand the
24 inextricable linkages between rate design and cost of

1 service and trying to come up with the right policies
2 that kind of wed them along with the cost-causation
3 theory and the practicalities of implementing it
4 systematically.

5 I guess the thing I'm trying to understand,
6 assuming we go down this path, I always like to think
7 that there are other places that have visited this same
8 territory previously. Other jurisdictions that have at
9 least attempted to modernize this all. Because,
10 obviously, it needs modernization, and -- but can you
11 all identify places or jurisdictions that have either
12 attempted it successfully or unsuccessfully, or where
13 they went so far but didn't get to the next two or
14 three levels? Is there anything you can share?

15 A. (Jack L. Floyd) On a comprehensive basis,
16 I'm not aware of anything, but there are certainly
17 jurisdictions that have addressed issues of low-income
18 customers.

19 Q. Sure.

20 A. And I -- one of my exhibits in my direct
21 testimony has a list of those. Mr. Howat, the Justice
22 Center witness, provided some good examples of what
23 that would look like across the country. There are
24 other -- I think what you're going to find is a lot of

1 policy -- individual policy-driven rate design
2 questions that get answered. And I go and think, you
3 know, California is always a good example to look at in
4 terms of things to promote certain policies, they want
5 to use rate design to do that. I mean, they have a --
6 they have a time-of-use -- a somewhat mandatory
7 time-of-use structure there for customers. I'm not
8 sure, you know, we need to go there in North Carolina,
9 but that's something that's a policy-driven type of
10 rate design.

11 Short of getting something from the General
12 Assembly that says to the Commission, "Thou shalt do
13 X," it's tough to answer your question. What I
14 envision -- and this may, you know, my limited capacity
15 to think forward. What I envision is a comprehensive
16 study involving all the parties, and put everything on
17 the table. But at the end of the day, it is Duke
18 Energy who has the responsibility to provide utility
19 service. And we agree with the rates that provide them
20 sufficient revenues to earn a return.

21 And how they do that, we hold them
22 accountable in it lots of ways, and we chastise them
23 when we see that accountability strained. But at the
24 same time, we also ask customers to pay their bills and

1 to pay fair and equitable, just and reasonable rates,
2 and however you want to describe them. And my point
3 all along has been that the structure that we have --
4 if you hear anything out of my testimony, the structure
5 that we have today is based on traditional cost of
6 service rate design and ultimately utility service.

7 We are not facing that traditional paradigm
8 going forward. We need to start looking at cost of
9 service, cost of causation in terms of what we expect
10 to happen with the utility system going forward,
11 whether that's electric vehicles, whether that's
12 microgrids, whether that's storage, distributed
13 generation, all of those have cost implications. And
14 at the end of the day, like I said earlier to
15 Mr. Clodfelter, is that the most vulnerable customers
16 are the ones that we need to watch out for the most.

17 And, you know, the Public Staff is going to
18 be very involved in this effort, should the Commission
19 order it, and we're going to have a lot of debate about
20 it with the other parties and Duke Energy. It is a big
21 issue for the Public Staff going forward. And we hope
22 the Commission gives some guidance, but also gives the
23 parties some latitude to have an open debate. Thank
24 you.

1 Q. Thank you. And I guess the thing I would
2 simply follow up with is this. I mean, just thinking
3 out loud, would the Commission for even a stakeholder
4 process generate input, at least be well-advised
5 perhaps to articulate goals, aspirational goals as to
6 what types of policy should be thoughtfully reflected
7 upon and considered as things that we want to see
8 embodied in a new rate design structure. You know,
9 and, of course, try to set up some timeline. And when
10 I say that, aspirational dates and targets where
11 certain goals, objectives might be obtained, feedback
12 is provided through stakeholders with some type of
13 timeline for eventually getting to where we need to be
14 in advance of the next rate case.

15 You know, and I'm just trying to think, I
16 don't want to see something that establishes -- first,
17 is an exercise in futility; secondly, which potentially
18 breaks down without any significant change of past
19 policies in terms of what we're trying to modernize;
20 and then thirdly, where we don't get there quite quick
21 enough and we get caught in the quicksand along the
22 way. So, I mean, what are your thoughts on that?

23 A. Well, I definitely think you need to
24 establish a time frame for this work. That's for sure.

1 The parties, I mean, we could -- we could talk
2 ad nauseam about these issues, but it -- but in order,
3 I think -- if you're going -- in my mind, if you're
4 going to expect and impose a time frame, I think the
5 Commission needs to give some goals, some objectives
6 that we expect you to undertake X, Y, and Z and to show
7 us what you accomplish by a certain period of time.

8 Again, this is -- this is -- this is my
9 perspective on behalf of the Public Staff what we
10 expect this study to look like. But I'm also cognizant
11 of the fact that there may be disagreement at the end
12 of the day. And we need to be prepared for it.

13 But maybe I can give you an example of
14 something. You know, I've been in this -- in the
15 electric division, or energy division now for little
16 over 15 years. I started out in the water division,
17 and before that I worked for DEQ's predecessor
18 Environmental Management. I have done rate design in
19 water and electric, and there's a lot of similarity.

20 But we need to -- we just -- I'm trying to be
21 conscious of it. Duke and Dominion come to the Public
22 Staff routinely when they have a new rate proposal.
23 That's happened in the last -- multiple times in the
24 last 13, 14 years in my experience. We discuss those

1 proposals. Some of them are totally new services and
2 rates that go along with them. But we look at those,
3 we analyze it, we issue discovery on it, and we try to
4 reach consensus amongst ourselves and the utilities.
5 And then they file these things. We get them on your
6 agenda and recommend approval.

7 That type of process is kind of a miniature
8 version of what I'm talking about. And I believe that
9 that may provide a good example going forward for a
10 bigger study. I'm starting to repeat myself, I know,
11 but I want to make clear that this is a wide-open
12 study, and the Commission, in addition to a time frame,
13 I think for purposes -- I think all the parties really
14 are looking to you to give us kind of some marching
15 orders. Thank you.

16 A. (Xames S. McLawhorn) Commissioner McKissick,
17 if I could, I would agree pretty much with everything
18 Mr. Floyd said. And I do think it would be beneficial
19 for the Commission to give guidance, both in terms of
20 what specific policies you would like to see
21 incorporated in this rate design study as well as put
22 some timeline parameters around it. You know, I'm sure
23 the Commission is well aware, the parties will come
24 back and ask for additional time if we need it, but I

1 believe it's better to do that than for the Commission
2 to just say just go out and do this study and let us
3 know when you're finished with it. We need parameters
4 to keep everybody focused. So I certainly would
5 encourage the Commission to do that as well. So I
6 agree with -- I agree with what Mr. Floyd said.

7 Q. Thank you both for your input and
8 perspective. I certainly hope that the Commission, in
9 its deliberations, will give serious thought and
10 reflection to the testimony the two of you and many
11 others have provided during the course of this hearing,
12 and that there will be an opportunity to provide that
13 guidance, that structure, those timelines, those
14 policies. It's inevitable that there will be
15 disagreements along the way. There may be unintended
16 outcomes that might perhaps result. Things may not
17 work out necessarily as one might anticipate
18 theoretically as part of the exercise, but you won't
19 know it until you try to collaborate and come up with
20 something that will work.

21 And I am optimistic that, you know, this will
22 be in the near term, and that perhaps North Carolina
23 can provide some national guidance in terms of what can
24 be done in other jurisdictions as a model for

1 reevaluating the way this works in a new environment
2 and to modernize it the same way they're modernizing
3 the grid, the same way they're modernizing the way you
4 generate electricity, the same way you're looking at
5 distributing energy resources and how they're all tying
6 together, and the way people can use and consume
7 electricity with the new meters that are available, the
8 knowledge exchange and transfer of information through
9 enhanced technology. There's tremendous potential, and
10 I hope that potential will be realized.

11 COMMISSIONER MCKISSICK: Thank you,
12 Madam Chair. I have no further questions.

13 CHAIR MITCHELL: All right.
14 Commissioner Duffley?

15 COMMISSIONER DUFFLEY: Yes. Actually, I
16 have a follow-up question.

17 EXAMINATION BY COMMISSIONER DUFFLEY:

18 Q. With respect to the timeline, what would the
19 Public Staff recommend? When should the stakeholder
20 process end before the next rate case begins?

21 A. (Jack L. Floyd) My testimony shed a little
22 bit of light on that. It's -- I think Duke needs to
23 try to accomplish this before its next rate case, but
24 certainly not limited to waiting for the next rate

1 case.

2 A. (James S. McLawhorn) I would agree that has
3 certainly been our goal, Commissioner Duffley. Of
4 course, we don't know when the next rate case will be
5 filed, and this case -- when we have made our original
6 recommendation, we had all thought these cases would
7 have been over long before now. So I certainly still
8 hope and believe we can get this done before the next
9 rate case. But, you know, if the next rate case occurs
10 in six months, then that might not be possible, but
11 we'll just have to see.

12 Q. Right. But let's assume that there's three
13 years between these rate cases. We can all dream,
14 right? So -- but would you want the stakeholder
15 process to end six months before the actual hearing, or
16 six months before the filing of the next rate case if
17 we had time?

18 A. Well, certainly, Duke would need time to
19 incorporate any of the recommendations into their
20 filing. So I don't know if six months is the ideal
21 time, but it would need to be some period of time prior
22 to the filing of the case that they were going to
23 incorporate it in. So that's -- I would -- I guess I
24 would like -- would want to hear feedback from Duke on

1 that. They have to put the case together, so.

2 Q. Okay. Thank you.

3 A. They definitely would need some time.

4 A. (Jack L. Floyd) And I would add,

5 Commissioner Duffley, I actually don't see this rate

6 stakeholder process ending. I think it's going to be

7 an ongoing thing. I think it was either

8 Commissioner Clodfelter or one of the intervening

9 attorneys that -- you know, this is an ongoing process,

10 and as -- future Commissions, I think, are going to

11 have to deal with how utility service is changing. And

12 policies may change and those kinds of things. So

13 hopefully if we can get a good stakeholder process

14 going in terms of rate designer and cost of service, we

15 can -- that can endure well beyond the next rate case.

16 Q. Okay. Thank you both.

17 CHAIR MITCHELL: Anything further,

18 Commissioner Duffley?

19 (No response.)

20 CHAIR MITCHELL: All right. Questions

21 on Commissioners' questions?

22 (No response.)

23 CHAIR MITCHELL: Any questions from the

24 Public Staff on Commissioners' questions?

1 MS. EDMONDSON: No questions.

2 CHAIR MITCHELL: All right.

3 Mr. McLawhorn, Mr. Floyd, thank you for your
4 testimony this afternoon. I'll entertain motions.

5 MS. EDMONDSON: Yes. Chair, I move that
6 McLawhorn Direct Exhibits 1 and 2 that have been
7 marked for identification as McLawhorn DEC Direct
8 Exhibits 1 and 2 be entered and copied into the
9 record in the DEC rate case dockets. And I move
10 that Floyd Direct Exhibits 1 through 4, Floyd
11 Corrected First Supplemental Exhibits 1 through 4,
12 and Floyd Second Supplemental Exhibits 1 through 4
13 that have been marked for identification as Floyd
14 DEC Direct Exhibits 1 through 4, Floyd DEC
15 Corrected First Supplemental Exhibits 1 through 4,
16 and Floyd DEC Second Supplemental Exhibits 1
17 through 4 be entered and copied into the record in
18 the DEC rate case dockets.

19 CHAIR MITCHELL: All right,
20 Ms. Edmondson, hearing no objection to your motion,
21 it will be allowed.

22 MS. EDMONDSON: Thank you.

23 (McLawhorn DEC Direct Exhibits 1 and 2,
24 Floyd DEC Direct Exhibits 1 through 4,

1 Floyd DEC Corrected First Supplemental
2 Exhibits 1 through 4, and Floyd DEC
3 Supplemental Exhibits 1 through 4 were
4 admitted into evidence.)

5 CHAIR MITCHELL: All right. Any
6 additional motions?

7 (No response.)

8 CHAIR MITCHELL: All right. With that,
9 gentlemen, you may step down. And we have come to
10 the end of our day. We will go on the record in
11 the morning at 8:30, and we will begin with the
12 Garrett and Moore panel unless, Ms. Downey, there
13 is a reason we will not be doing that.

14 MS. DOWNEY: Chair Mitchell, I believe
15 that Mr. O'Donnell is now available, and Mr. Page
16 has asked if he could be heard out of turn, and we
17 don't have an objection to that, depending upon
18 what the Commission would like to do.

19 CHAIR MITCHELL: All right. Then
20 let's -- I'm not hearing objections from any other
21 party. Let's begin with Mr. O'Donnell in the
22 morning at 8:30, and then we will proceed with
23 Public Staff's witnesses in the order they appear
24 on this witness list, which would be Garrett and

1 Moore next.

2 MR. PAGE: Thank you, Madam Chair, and
3 thank you, Ms. Downey.

4 CHAIR MITCHELL: All right, Mr. Page.

5 All right. We are in recess until 8:30.

6 (The hearing was adjourned at 4:24 p.m.
7 and set to reconvene at 8:30 a.m. on
8 Friday, September 11, 2020.)
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CERTIFICATE OF REPORTER

STATE OF NORTH CAROLINA)

COUNTY OF WAKE)

I, Joann Bunze, RPR, the officer before whom the foregoing hearing was taken, do hereby certify that the witnesses whose testimony appear in the foregoing hearing were duly affirmed; that the testimony of said witnesses were taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

This the 12th day of September, 2020.



JOANN BUNZE, RPR

Notary Public #200707300112

