



**NORTH CAROLINA  
PUBLIC STAFF  
UTILITIES COMMISSION**

November 6, 2020

Ms. Kimberley A. Campbell, Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4300

Re: Public Staff Late-Filed Exhibit No. 5  
Docket Nos. E-7, Subs 1213, 1214, and 1187

Dear Ms. Campbell:

Per the Commission's request during the Duke Energy Carolinas, LLC (DEC) rate case evidentiary hearing on September 14, 2020, enclosed for filing on behalf of the Public Staff is Public Staff Late-Filed Exhibit No. 5.

By copy of this letter, we are forwarding copies to all parties of record.

Sincerely,

s/ Gina C. Holt  
Staff Attorney  
[gina.holt@psncuc.nc.gov](mailto:gina.holt@psncuc.nc.gov)

Attachment

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## **Public Staff Late Filed Exhibit No. 5**

### **Docket Nos. E-7, Sub 1213, E-7, Sub 1214, and E-7, Sub 1187**

On Monday, September 14, 2020, during the Duke Energy Carolinas, LLC (DEC) evidentiary hearing in the above-captioned dockets, the panel of Public Staff witnesses Charles Junis and Michael C. Maness was asked by Commissioner Kimberly W. Duffley to provide requested prior Commission decisions, if any, denying cost deferral for other types of deferral requests described by witness Maness as being more similar to the deferral of non-ARO coal combustion residual (CCR) costs. In addition, Commissioner Duffley asked the Public Staff to confirm whether this issue was settled between the Public Staff and DEC in the Second Agreement and Stipulation of Partial Settlement. In response, the Public Staff respectfully offers the following:

#### **Proposed Treatment of Non-ARO CCR Costs in Future Proceedings**

In the current proceeding, the Public Staff did not object to the deferral of non-ARO CCR costs incurred through January 31, 2020, with carrying costs through July 31, 2020. However, the Public Staff and DEC did not settle the issue of whether deferral of non-ARO CCR costs incurred after January 31, 2020 should be “automatically” allowed for deferral pursuant to the Commission’s Order in Docket No. E-7, Subs 1110 and 1146.

**Duke Energy Carolinas, LLC Requested Deferral of Cliffside Unit 6  
Advanced Clean Coal, Dan River Natural Gas Combined Cycle Generating  
Plant, and Modifications at McGuire Nuclear Generating Plant Costs**

Concurrent with the filing of its rate increase application, DEC, on February 4, 2013, filed a petition in Docket No. E-7, Sub 1029 (Sub 1029) requesting that the Commission issue an accounting order for regulatory accounting purposes authorizing the Company to defer certain post-in-service costs being incurred in connection with (1) the Advanced Clean Coal Cliffside Unit 6 Steam Generating Plant (Cliffside), (2) the Dan River Natural Gas Combined Cycle Generating Plant (Dan River), and (3) the McGuire Unit 1 and Unit 2 capacity-related modifications (McGuire Uprates).

On April 3, 2013, the Commission issued an *Order Approving in Part and Denying in Part Request for Deferral Accounting* (Sub 1029 Order). In the Sub 1029 Order, the Commission approved DEC's request to defer all incremental costs associated with the addition of Cliffside and Dan River and the incremental depreciation expense associated with the addition of the McGuire Uprates to utility plant in service, and approved a deferral period from the in-service dates of the plant additions and modifications to the time the annual costs of the facilities were reflected in electric rates approved by the Commission in DEC's pending rate increase application. The Public Staff and DEC agreed to the amount of costs to be deferred with regard to the Cliffside and Dan River additions and to the depreciation expense associated with the McGuire Uprates.

The Commission denied DEC's deferral request with respect to the McGuire-related cost of capital component of the request. In making its decision to deny deferral accounting treatment, the Commission held that DEC had "not clearly and convincingly shown that, absent deferral, it will suffer materially adverse consequences such that its financial condition would be significantly and inappropriately impaired." The Commission based its decision on the fact that during the timeframe in which the McGuire-related costs were incurred, DEC's realized ROE of 10.41% appeared "robust and, arguably, in excess of its current cost of common equity capital" in light of the 10.20% ROE agreed to and recently approved by the Commission in Dominion Energy North Carolina's (DENC) general rate case in Docket No. E-22, Sub 479. The Public Staff did not take a definitive position as to whether the McGuire deferral should be approved, but rather questioned the appropriateness of the Commission's doing so; because in the Public Staff's opinion, the modifications described in the Petition that increased the maximum net dependable capability (MNDC) of the McGuire Units 1 and 2 did not appear to be the kind of new generation that is normally the subject of deferral requests.

**Dominion Energy North Carolina Requested Deferral of Warren County  
Combined Cycle Facility Costs**

On March 29, 2016, in Docket No. E-22, Sub 519, the Commission issued an *Order Denying Deferral Accounting for Warren County Combined Cycle Generating Facility* (Sub 519 Order). In the Sub 519 Order, the Commission denied the application of Virginia Electric and Power Company d/b/a Dominion North

Carolina Power (now d/b/a Dominion Energy North Carolina (DENC)) to defer capital and operating costs of the Warren County combined cycle generating facility (Warren County CC). The specific costs for which deferral was requested were the post-in-service financing costs, depreciation expense, property taxes, and non-fuel operation and maintenance (O&M) expenses incurred between December 10, 2014 (the facility's in-service date) and June 30, 2016 (the expected effective date of DENC's expected next general rate case. In the Sub 519 Order, the Commission set forth several reasons for its denial, including, perhaps most importantly, the fact that DENC's "reasonably expected" return on equity (ROE) in the timeframe in which the Warren County CC was placed in service (after consideration of several adjustments recommended by the Public Staff) was "well above" the 10.20% ROE then most recently authorized by the Commission (in DENC's general rate case in Docket No. E-22, Sub 479), even when taking into consideration the pro forma financial impacts of placing the Warren County CC in service.

On March 29, 2016, DENC filed for reconsideration of the Commission's Sub 519 Order, and on May 17, 2016, the Commission issued an order consolidating the motion for reconsideration with DENC's then-pending general rate case application, Docket No. E-22, Sub 532 (Sub 532), which had been filed with the Commission on March 1, 2016.

In Sub 532, the Public Staff reversed its opposition to the deferral of post-in-service costs of the Warren County CC. Public Staff witness Katherine A. Fernald testified in the proceeding that DENC had filed additional information

regarding its earnings calculations in the relevant time period, information that, had it been known by the Public Staff at the time of the original deferral request, would have changed the Public Staff's opinion regarding the appropriateness of the deferral, due to it causing the reasonably expected ROE to fall substantially below DENC's authorized ROE. The Public Staff thus reached a stipulation with DENC that provided for the approval of the deferral.

In its *Order Approving Rate Increase and Cost Deferrals and Revising PJM Regulatory Conditions* (Sub 532 Order), issued on December 22, 2016, the Commission approved the deferral of the applicable post-in-service costs of the Warren County CC.

**Carolina Water Service's Request to Defer the Post-In-Service Costs of its Automated Meter Reading Meters Projects**

On June 28, 2019, Carolina Water Service, Inc. of North Carolina (CWSNC) filed a *Petition for an Accounting Order to Defer Post-In-Service Depreciation and Financing Costs Relating to Major New Projects* (Sub 365 Petition), requesting authority to defer incremental post-in-service depreciation expenses and financing costs associated with four new projects that were projected to be in service prior to the effective date of rates to be set in CWSNC's then newly-pending general rate case, Docket No. W-354, Sub 364 (Sub 364). Two of these projects were the Conestee Falls Automated Meter Reading Meters project and the Fairfield Mountain Automated Meter Reading Meters project (collectively, the AMR Projects). The AMR Projects involved the installation of approximately 2,529 new

AMR meters. On November 19, 2019, the Commission issued an order consolidating Sub 365 with Sub 364.

In its comments filed in Sub 365, and thus in the Sub 364 general rate case proceeding, the Public Staff opposed the deferral of the costs of the AMR Projects. The basis for the Public Staff's opposition was its assertion that CWSNC had failed to make a clear, complete, and convincing showing, in view of the entire record, that the costs of the AMR meters were of an unusual or extraordinary nature and, absent deferral, would have a material impact on the Company's financial condition. More specifically, the Public Staff asserted that meter replacement of any kind should not be considered extraordinary or unusual, but instead routine.

On March 31, 2020, the Commission issued its *Order Granting Partial Rate Increase and Requiring Customer Notice* in Sub 364 (Sub 364 Order). In the Sub 364 Order, the Commission concluded that it agreed with the Public Staff's position and reasoning, and denied deferral of the costs of the AMR Projects.<sup>1</sup>

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<sup>1</sup> Although it denied deferral accounting treatment, the Commission did state that CWSNC and the Public Staff should work together to mitigate regulatory lag using the Water System Improvement Charge (WSIC) recovery process.