



Camal O. Robinson  
Associate General Counsel

Duke Energy  
550 South Tryon St  
DEC45A  
Charlotte, NC 28202

o: 980.373.2631  
f: 704.382.4439

[camal.robinson@duke-energy.com](mailto:camal.robinson@duke-energy.com)

January 29, 2021

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

**RE: Duke Energy Progress LLC's Motion for an Order Accepting the Company's  
Notice of Its Second Extension of Its Waiver of Its Right to Implement Its  
Original Proposed Rates Per N.C.G.S. § 62-134(b)  
Docket No. E-2, Sub 1219  
Docket No. E-2, Sub 1193**

Dear Ms. Campbell:

Enclosed for filing in the above-referenced dockets is Duke Energy Progress LLC's Motion for an Order Accepting the Company's Notice of Its Second Extension of Its Waiver of Its Right to Implement Its Original Proposed Rates Per N.C.G.S. § 62-134(b).

If you have any questions, please let me know.

Sincerely,

/s/ Camal O. Robinson  
Camal O. Robinson

Enclosures

cc: Parties of Record

OFFICIAL COPY

Jan 29 2021

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1219

DOCKET NO. E-2, SUB 1193

DOCKET NO. E-2, SUB 1219	)	
	)	
In the Matter of	)	
Application of Duke Energy	)	
Progress, LLC	)	
For Adjustment of Rates and	)	<b>DUKE ENERGY PROGRESS, LLC'S</b>
Charges	)	<b>MOTION FOR AN ORDER</b>
Applicable to Electric Service in	)	<b>ACCEPTING THE COMPANY'S</b>
North	)	<b>NOTICE OF ITS SECOND</b>
Carolina	)	<b>EXTENSION OF ITS WAIVER OF ITS</b>
	)	<b>RIGHT TO IMPLEMENT ITS</b>
DOCKET NO. E-2, SUB 1193	)	<b>ORIGINAL PROPOSED RATES PER</b>
	)	<b>N.C.G.S. § 62-134(b)</b>
In the Matter of	)	
Application by Duke Energy	)	
Progress, LLC, for an Accounting	)	
Order to Defer Incremental Storm	)	
Damage Expenses Incurred as a	)	
Result of Hurricanes Florence and	)	
Michael and Winter Storm Diego	)	

---

NOW COMES Duke Energy Progress, LLC ("DEP" or the "Company"), by and through its legal counsel and hereby moves for the North Carolina Utilities Commission ("Commission") to issue an Order acknowledging and accepting DEP's notice, contained in the body of this Motion, of its second extension of its waiver (to April 1, 2021) of its right to seek Commission authority to implement its original proposed rates by operation of N.C. Gen. Stat. § 62-134(b).

In support of this motion, DEP shows as follows:

### **DETAILED RECITATION OF THE GROUNDS FOR THIS MOTION**

1. On October 30, 2019, DEP filed its rate case Application in this docket. On November 14, 2019, the Commission issued its Order Establishing General Rate Case and Suspending Rates (“Rates Suspension Order”) and on December 6, 2019, the Commission issued its Order Scheduling Investigation and Hearings, Establishing Intervention and Testimony Due Dates and Discovery Guidelines, and Requiring Public Notice (“Scheduling Order”). Pursuant to the Scheduling Order, an evidentiary expert witness hearing was scheduled to begin on May 4, 2020.

2. As a result of the COVID-19 pandemic, on March 24, 2020, the Commission issued its Order Suspending Procedural Schedule and Continuing Hearing, which suspended the deadline for the filing of direct and rebuttal testimony and exhibits and continued the evidentiary hearing until further order of the Commission.

3. On April 3, 2020, DEP filed a motion requesting that the Commission issue an order addressing several procedural issues, including ordering the partial resumption of the procedural schedule. As part of the motion, DEP recognized that one complicating factor involved in the Commission’s suspension of the procedural schedule and postponing the hearing in this matter was the potential running of the 270-day suspension period specified in the Rates Suspension Order and the potential mandatory placement of DEP’s proposed rates into effect under N.C.G.S. § 62-134(b). To alleviate any concern of the Commission with regard to the 270-day suspension period, and subject to its right to implement temporary rates under

N.C.G.S. § 62-135,<sup>1</sup> on April 3, 2020, DEP provided notice of the prospective waiver of its right to seek to implement its original proposed rates in this proceeding by operation of N.C.G.S. § 62-134(b) through December 31, 2020 in the event that the postponement rendered issuance of a Commission determination on just and reasonable rates in this proceeding prior to the end of the suspension period infeasible.

4. On April 7, 2020, the Commission issued an Order Addressing Procedural Matters, rescheduling pre-filed testimony deadlines for the Public Staff, intervenors and the Company and accepting the Company's prospective waiver of its right to seek to implement its original proposed rates by operation of N.C.G.S. § 62-134(b) in the event that the postponement of the hearing renders it infeasible for the Commission to issue an order prior to the rate suspension period under N.C.G.S. § 62-134.

5. On August 10, 2020, the Commission issued an Order Rescheduling Separate Expert Witness Hearings to be Conducted Remotely, rescheduling the DEP-specific hearing on the remaining issues to be held remotely, with the DEP hearing to begin after the conclusion of the Duke Energy Carolinas, LLC ("DEC")-specific rate case hearing. Thus, the DEP hearing was not anticipated to, and in fact did not conclude, until October 2020. With the DEP hearing not concluding until October, the Company recognized that it would be difficult for the Commission

---

<sup>1</sup> On August 7, 2020, DEP filed a Motion for Approval of Notice Required by N.C.G.S. § 62-135 to Implement Temporary Rates, Subject to Refund, and Authorization of EDIT Riders and on August 11, 2020, the Commission its Order Approving Public Notice of Interim Rates Subject to Refund and Financial Undertaking.

to issue its written order of decision in this case prior to December 31, 2020, and as a result, on September 16, 2020, provided notice that it was extending its waiver of its right to seek to implement its original proposed rates in this proceeding by operation of N.C.G.S. § 62-134(b), initially waived through December 31, 2020, to March 1, 2021.

6. On September 18, 2020, the Commission issued its Order Acknowledging the Notice Given by DEP of its Prospective Waiver of its Right to Seek to Implement its Original Proposed Rates by Operation of N.C.G.S. § 62-134(b) through March 1, 2021.

7. On December 11, 2020, the North Carolina Supreme Court issued an opinion on the appeal of, *inter alia*, certain Commission coal ash cost recovery findings and conclusions in the 2018 DEC and DEP Rate Case orders issued in Docket Nos. E-2, Sub 1142 and E-7, Sub 1146. The North Carolina Supreme Court's decision upheld the Commission's findings and conclusions on the coal ash cost recovery issues on appeal and remanded the cases to the Commission for further findings and analysis regarding the Public Staff's Equitable Sharing proposal. The 2017 DEC and DEP rate case coal ash cost recovery issues and evidence are substantially similar to the 2019 DEC and DEP rate case coal ash cost recovery issues, currently awaiting decision by the Commission.

8. On January 22, 2021, the Companies reached a Coal Combustion Residuals Settlement Agreement ("CCR Settlement Agreement") with the Public Staff, the Office of the Attorney General, and Sierra Club resolving all coal ash cost

recovery issues for the 2017 and 2019 rate cases as well as providing for a coal ash cost recovery framework through early 2030.

9. The CCR Settlement Agreement was filed on January 25, 2021 and Settlement Supporting Testimony is being filed by DEC and DEP today along with a motion requesting that the Commission reopen the DEC and DEP 2019 Rate Case record to include these settlement agreement and testimony as part of the record for its consideration before issuing its orders in the 2019 rate cases.

10. DEP acknowledges that if the Commission approves the settling parties motion to reopen the record and include the CCR Settlement Agreement and Settlement Supporting Testimony in the 2019 DEC and DEP rate case records for Commission consideration, that it may be difficult for the Commission to adequately review, consider, and issue its written order in this docket by March 1, 2021. Therefore, DEP provides notice that it is further extending its waiver of its right to seek to implement its original proposed rates in this proceeding by operation of N.C.G.S. § 62-134(b), initially waived through December 31, 2020, and subsequently extended to March 1, 2021, for a second time to extend its waiver to April 1, 2021.<sup>2</sup>

11. No party will be prejudiced by the entry of an Order granting the relief sought by the Company through this Motion. To the contrary, the relief sought will

---

<sup>2</sup> In the joint motion to re-open the record filed today in both DEC and DEP's 2019 Rate Cases, DEC notified the Commission that it will be unable to implement the new Commission-approved rates once the Commission issues its order in the 2019 NC DEC Rate Case until June 1, 2021 due to the Customer Connect computer information system implementation schedule. The Customer Connect implementation scheduling issue applies solely to DEC. DEP is prepared to implement new Commission-approved rates once the Commission issues its Order in the 2019 NC DEP Rate Case.

be to the benefit of all parties, by providing additional flexibility and time for the Commission to consider the CCR Settlement Agreement and Settlement Supporting Testimony and issue a written order detailing its findings of fact and conclusions of law.

### **CONCLUSION**

For the foregoing reasons, DEP respectfully requests that the Commission issue an order granting the relief sought by this Motion.

Respectfully submitted, this the 29<sup>th</sup> day of January 2021.

*/s/ Kiran H. Mehta*  
Kiran H. Mehta  
Troutman Sanders LLP  
301 S. College Street, Suite 3400  
Charlotte, North Carolina 28202  
Telephone: 704.998.4072  
[Kiran.mehta@troutman.com](mailto:Kiran.mehta@troutman.com)

*/s/ Lawrence B. Somers*  
Lawrence B. Somers  
Deputy General Counsel  
Duke Energy Corporation  
P.O. Box 1551 / NCRH 20  
Raleigh, North Carolina 27602-1551  
Telephone: 919.546.6722  
[bo.somers@duke-energy.com](mailto:bo.somers@duke-energy.com)

*/s/ Brian S. Heslin*  
Brian S. Heslin  
Deputy General Counsel  
Duke Energy Corporation  
550 S. Tryon Street  
Charlotte, North Carolina 28202  
Telephone: 980.373.0550  
[brian.heslin@duke-energy.com](mailto:brian.heslin@duke-energy.com)

*/s/ Camal O. Robinson*  
Camal O. Robinson  
Associate General Counsel

Duke Energy Corporation  
550 S. Tryon Street  
Charlotte, North Carolina 28202  
Telephone: 980.373.2631  
[camal.robinson@duke-energy.com](mailto:camal.robinson@duke-energy.com)

ATTORNEYS FOR DUKE ENERGY  
PROGRESS, LLC



**CERTIFICATE OF SERVICE**

**DOCKET NO. E-2, SUB 1219**

**DOCKET NO. E-2, SUB 1193**

I hereby certify that a copy of the foregoing **DUKE ENERGY PROGRESS, LLC'S MOTION FOR AN ORDER ACCEPTING THE COMPANY'S NOTICE OF ITS SECOND EXTENSION OF ITS WAIVER OF ITS RIGHT TO IMPLEMENT ITS ORIGINAL PROPOSED RATES PER N.C.G.S. § 62-134(b)** was served electronically or by depositing a copy in United States Mail, first class postage prepaid, properly addressed to the parties of record.

This the 29<sup>th</sup> day of January, 2021.

/s/ Kiran H. Mehta

Kiran H. Mehta

Troutman Pepper Hamilton Sanders  
LLP

301 South College Street, Suite 3400  
Charlotte, North Carolina 28202

Telephone: 704-998-4072

[kiran.mehta@troutman.com](mailto:kiran.mehta@troutman.com)

ATTORNEY FOR DUKE ENERGY  
PROGRESS, LLC