

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

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

DOCKET NO. E-7, SUB 1214 )  
)  
In the Matter of )  
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 )  
)  
In the Matter of )  
Application for Approval of Proposed )  
Prepaid Advantage Program )  
)  
DOCKET NO. E-7, SUB 1187 )  
)  
In the Matter of )  
Petition 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 )

**MOTION OF THE PUBLIC  
STAFF REQUESTING THAT  
THE COMMISSION TAKE  
JUDICIAL NOTICE OF  
CERTAIN EVIDENCE IN THE  
DUKE ENERGY CAROLINAS,  
LLC, PROCEEDING**

NOW COMES the Public Staff, by and through its Executive Director, Christopher J. Ayers, pursuant to the Commission's October 13, 2020 *Order Establishing Procedures and Dates for Filing Motions Requesting Judicial Notice and Allowing Filing of Amended Motion*, and respectfully moves that the Commission take judicial notice of the following evidence:

1. From the expert witness hearing in Docket No. E-2, Sub 1219, the live testimony of Duke Energy Progress, LLC (DEP), witness Jessica L. Bednarcik

located at Confidential Tr. Vol. 17, p. 432, line 12, through p. 462, line 10, and Bednarcik Rebuttal Public Staff Cross Examination Exhibit 7, Bednarcik Rebuttal Confidential Public Staff Cross Examination Exhibit 8, and Bednarcik Rebuttal Public Staff Cross Examination Exhibit 9. This testimony, provided by witness Bednarcik in response to cross examination questions by the Public Staff, and the exhibits introduced by the Public Staff during witness Bednarcik's testimony, address the issues of DEP's and Duke Energy Carolinas, LLC's (DEC), beneficiation projects and the fulfillment fee the Companies paid to Charah, Inc., related to the planned disposal of ash at the Brickhaven and Sanford Mines. These issues are the subject of disallowances recommended by Public Staff witnesses L. Bernard Garrett and Vance F. Moore in both the pending DEC rate case proceeding and the pending DEP rate case proceeding.

2. From the expert witness hearing in Docket No. E-2, Sub 1219, the live testimony of Public Staff witnesses Jay B. Lucas and Michael C. Maness located at Tr. Vol. 15, p. 1818, line 20, through p. 1823, line 22, and Lucas/Maness Public Staff Redirect Exhibit 2. This testimony, provided in response to cross examination questions by DEP and redirect examination by the Public Staff, and the exhibit introduced by the Public Staff during the redirect examination, address the issues of the Public Staff's equitable sharing recommendation and the feasibility of conducting a prudence evaluation of the Company's historical actions or inactions. These issues are the subject of recommendations made by Public Staff witnesses Charles Junis and Michael C. Maness in the pending DEC rate

case proceeding, and Public Staff witnesses Jay B. Lucas and Michael C. Maness in the pending DEP rate case proceeding.

3. In the DEP-specific hearing, during the cross examination of Carolina Utility Customers Association witness O'Donnell, the Public Staff requested that the Commission take judicial notice of DEP's 2020 Integrated Resource Plan (IRP) filed on September 1, 2020, in Docket No. E-100, Sub 165. The Commission granted this request. Likewise, the Public Staff requests that the Commission also take judicial notice of DEC's 2020 IRP filed on September 1, 2020, in Docket No. E-100, Sub 165. This document is relevant in regard to issues regarding cost of service allocation methodology, load forecasts, and activation of demand response.

4. The Corrective Action Plans submitted by DEC to the North Carolina Department of Environmental Quality (DEQ) on December 31, 2019, for the Belews Creek, Marshall, Allen, and Cliffside facilities. These documents are relevant to issues regarding the Company's remediation and closure activities at its coal ash sites, which are the subject of recommendations made by Public Staff witnesses Charles Junis and Michael C. Maness in this proceeding. These documents are located at the following web links:

- Belews Creek: [https://files.nc.gov/ncdeq/Coal%20Ash/2019-caps/01\\_BelewsCreek\\_CAPUpdate\\_FullReport\\_20191231.pdf](https://files.nc.gov/ncdeq/Coal%20Ash/2019-caps/01_BelewsCreek_CAPUpdate_FullReport_20191231.pdf)
- Marshall: [https://files.nc.gov/ncdeq/Coal%20Ash/2019-caps/01\\_Marshall\\_CAPUpdate\\_FullReport\\_20191231.pdf](https://files.nc.gov/ncdeq/Coal%20Ash/2019-caps/01_Marshall_CAPUpdate_FullReport_20191231.pdf)

- Allen: [https://files.nc.gov/ncdeq/Coal%20Ash/2019-caps/01\\_Allen\\_UpdatedCAP\\_FullReport\\_20191231.pdf](https://files.nc.gov/ncdeq/Coal%20Ash/2019-caps/01_Allen_UpdatedCAP_FullReport_20191231.pdf)
- Cliffside: [https://files.nc.gov/ncdeq/Coal%20Ash/2019-caps/01\\_Cliffside\\_CAPUpdate\\_FullReport\\_20191231.pdf](https://files.nc.gov/ncdeq/Coal%20Ash/2019-caps/01_Cliffside_CAPUpdate_FullReport_20191231.pdf)

The Public Staff has consulted with the other parties to this proceeding and all parties indicated that they do not object to the Public Staff's request.

WHEREFORE, the Public Staff prays:

1. That the Commission take judicial notice in the DEC rate case proceeding of (a) the live testimony of witness Bednarcik during the DEP hearing located at Confidential Tr. Vol. 17, p. 432, line 12, through p. 462, line 10, along with Bednarcik Rebuttal Public Staff Cross Examination Exhibit 7, Bednarcik Rebuttal Confidential Public Staff Cross Examination Exhibit 8, and Bednarcik Rebuttal Public Staff Cross Examination Exhibit 9 referenced during that testimony; (b) the live testimony of Public Staff witnesses Jay B. Lucas and Michael C. Maness located at Tr. Vol. 15, p. 1818, line 20, through p. 1823, line 22, and Lucas/Maness Public Staff Redirect Exhibit 2; (c) DEC's 2020 IRP filed on September 1, 2020, in Docket No. E-100, Sub 165; and (d) the Corrective Action Plans submitted by DEC to DEQ on December 31, 2019, for the Belews Creek, Marshall, Allen, and Cliffside facilities.

2. For such other and further relief as the Commission may deem just and proper.

This the 22nd day of October, 2020.

PUBLIC STAFF  
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Dianna W. Downey  
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Electronically submitted  
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## CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing Motion on all parties of record in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by electronic delivery upon agreement of the receiving party.

This the 22nd day of October, 2020.

Electronically submitted  
/s/ Megan Jost