
Kiran H. Mehta
kiran.mehta@troutman.com

November 23, 2020

VIA ELECTRONIC FILING

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

RE: Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Response
to the Attorney General Office's Motion to File Late-Filed Exhibit and Supplemental
Authorities
DOCKET NO. E-7, SUB 1213
DOCKET NO. E-7, SUB 1214
DOCKET NO. E-7, SUB 1187
DOCKET NO. E-2, SUB 1219
DOCKET NO. E-2, SUB 1193

Dear Ms. Campbell:

On behalf of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively, the "Companies"), please find enclosed for electronic filing the Companies' *Response to the Attorney General Office's Motion to File Late-Filed Exhibit and Supplemental Authorities*.

Please do not hesitate to contact me should have you have any questions. Thank you for your assistance in this matter.

Sincerely,

/s/ Kiran H. Mehta

Kiran H. Mehta

Enclosure

cc: Parties of Record

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, SUB 1213
DOCKET NO. E-7, SUB 1214
DOCKET NO. E-7, SUB 1187
DOCKET NO. E-2, SUB 1219
DOCKET NO. E-2, SUB 1193

In the Matter of)	
Application of Duke Energy Carolinas, LLC)	
for Adjustment of Rates and Charges)	RESPONSE OF DEC AND DEP
Applicable to Electric Utility Service in North)	TO AGO MOTION TO FILE
Carolina)	LATE FILED EXHIBIT AND
)	SUPPLEMENTAL
)	AUTHORITIES
In the Matter of)	
Application of Duke Energy Progress, LLC)	
for Adjustment of Rates and Charges)	
Applicable to Electric Utility Service in North)	
Carolina)	

Duke Energy Carolinas, LLC (DEC) and Duke Energy Progress, LLC (DEP, and together with DEC, the Companies) hereby respond to the Attorney General Office’s (AGO) Motion to File Late Filed Exhibit and Supplemental Authorities (AGO Motion or Motion), filed November 20, 2020. The Companies respectfully submit that the AGO Motion comes far too late, would prejudice the Companies, and should be denied.

The DEC-specific expert evidentiary hearings ended on September 18, 2020, over two months before the AGO filed its Motion. The DEP-specific expert evidentiary hearings ended on October 6, 2020, over six weeks before the AGO filed its Motion. In both cases, the completion of the evidentiary hearings brought to a close the evidence introduced and to be considered by the Commission, apart from late-filed exhibits specifically requested

by the Commission. As to these late-filed exhibits, all parties were aware of the requests, and knew what to expect. The AGO Motions seeks to introduce into the Companies' individual evidentiary records a document that did not even exist as of the close of the Companies' respective hearings; a document that the Commission has not sought; and a document that neither the Companies, nor any other party, nor the Commission itself, can place into full and proper context, because the evidentiary hearings in which such context can be developed have long been concluded.

The AGO also asks in its Motion that the Commission consider two supplemental authorities. These authorities in fact have nothing to do with these rate cases, in that they relate to "takings" arguments in contexts completely different from these cases. In any event, the briefing in the DEC matter is now complete, and has been since November 4, 2020 – over two weeks before the AGO Motion was filed. The AGO Motion thus acts as a completely improper reply brief – a process not contemplated or sanctioned by the Commission and completely inappropriate given the burden of proof framework required by the General Statutes and followed by the Commission.¹ The party with the ultimate burden of proof in the DEC case is DEC – if any party deserves the opportunity to file a reply brief, it is DEC, not the AGO. Briefing in the DEP case is not yet complete. The AGO may of course submit any arguments it wishes in its to-be-filed DEP briefing.

For these reasons, the Companies request that the AGO Motion be denied.

¹ The Company notes that the AGO did not consult with the Companies, or ostensibly any other party to the proceedings since no representations by other parties were made in the Motion, prior to filing its Motion.

Respectfully submitted this 23rd day of November, 2020

**DUKE ENERGY CAROLINAS, LLC
DUKE ENERGY PROGRESS, LLC**

/s/ Kiran H. Mehta

Kiran H. Mehta (NC Bar No. 11011)
Troutman Pepper Hamilton Sanders LLP
301 South College Street, Suite 3400
Charlotte, North Carolina 28202
Tel: 704-998-4072
kiran.mehta@troutman.com

CERTIFICATE OF SERVICE

**DOCKET NO. E-7, SUB 1213
DOCKET NO. E-7, SUB 1214
DOCKET NO. E-7, SUB 1187
DOCKET NO. E-2, SUB 1219
DOCKET NO. E-2, SUB 1193**

I hereby certify that a copy of the foregoing **DUKE ENERGY CAROLINAS, LLC'S AND DUKE ENERGY PROGRESS, LLC'S RESPONSE TO THE AGO'S MOTION TO FILE LATE-FILED EXHIBIT AND SUPPLEMENTAL AUTHORITIES** 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 23rd day of November 2020.

/s/ Kiran H. Mehta

Kiran H. Mehta

Troutman Pepper Hamilton Sanders LLP

301 S. College Street, Suite 3400

Charlotte, North Carolina 28202

Telephone: 704.998.4072

kiran.mehta@troutman.com