

**STATE OF NORTH
CAROLINA UTILITIES
COMMISSION RALEIGH**

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

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	ATTORNEY GENERAL'S
Application of Duke Energy Carolinas, LLC, and)	OFFICE
Duke Energy Progress, LLC, for)	MOTION TO FILE
Adjustment of Rates and Charges Applicable to)	LATE-FILED EXHIBIT
Electric Service in North Carolina)	AND SUPPLEMENTAL
)	AUTHORITIES

The North Carolina Attorney General's Office ("AGO"), respectfully requests that the Commission accept a late-filed exhibit and supplemental case authorities for reasons discussed in this Motion.

1. In the general rate cases for both Duke Energy Carolinas, LLC (DEC) and Duke Energy Progress, LLC (DEP), one of the issues addressed by multiple witnesses related to the financial impact that the Commission's decisions in the cases will have on the companies.

2. Duke Energy Corporation held an Earnings Call on 5 November 2020 regarding Q3 2020, in which senior executives responded to questions from financial analysts on topics that included a brief discussion of the potential outcome of the rate cases as well as future plans for funding coal ash expenditures with debt. An edited transcript of the call is available on the Duke Energy website at this link:

<https://www.duke-energy.com/ /media/pdfs/our-company/investors/news-and->

[events/2020/3qresults/3q20-earnings-call-transcript.pdf?la=en.](#)

3. The transcript was not available at evidentiary hearings but provides information pertinent to the issues before the Commission, and the AGO requests permission to provide the transcript for admission as a late-filed exhibit in the rate cases.

4. In addition, the AGO requests that the Commission accept as supplemental authorities two cases that relate to the argument DEC makes that a constitutional “takings” issue is presented concerning the request to recover coal ash costs from future customers. Noticeably missing from the discussion briefed by DEC is the seminal case *Duquesne Light Co. v. Barasch*, 486 U.S. 299, 102 L.Ed.2d 646 (1989) (*Duquesne*). Also absent from DEC’s argument is our Supreme Court’s decision in *State ex rel. Utilities Com. v. Thornburg*, 325 N.C. 463, 466, 385 S.E.2d 451, 452 (1989) (*Thornburg*), where the Court made specific and favorable reference to the *Duquesne* decision. The AGO asks that the Commission accept these supplemental authorities in its consideration of the constitutional takings issue argued by DEC.

WHEREFORE, the AGO requests that:

1. The Commission allow the filing and admission into evidence of the Duke Energy Corporation Q3 2020 Earnings Call Transcript as AGO Late Filed Exhibit No. 1 in these proceedings.

2. The Commission take into consideration as supplemental authorities in these proceedings the *Duquesne* and the *Thornburg* cases referenced herein.

Respectfully submitted this the 20th day of November, 2020.

/s/

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CERTIFICATE OF SERVICE

The undersigned certifies that she has served a copy of the foregoing Attorney General's Office Motion to File Late-Filed Exhibit and Supplemental Authorities upon the parties of record in this proceeding by email, this the 20th day of November, 2020.

/s/

Margaret A. Force
Assistant Attorney General