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DATE: Tuesday, September 8, 2020

TIME: 1:32 P.M. - 4:32 P.M.

DOCKET NO.: E-7, Sub 1214

E-7, Sub 1213

E-7, Sub 1187

BEFORE: Chair Charlotte A. Mitchell, Presiding

Commissioner Tolola D. Brown-Bland

Commissioner Lyons Gray

Commissioner Daniel G. Clodfelter

Commissioner Kimberly W. Duffley

Commissioner Jeffrey A. Hughes

Commissioner Floyd B. McKissick, Jr.

IN THE MATTER OF:

DOCKET NO. E-7, SUB 1214

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

Petition of Duke Energy Carolinas, LLC,  
for Approval of Prepaid Advantage Program

DOCKET NO. E-7, SUB 1187

Application 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

VOLUME 15

1 A P P E A R A N C E S:

2 FOR DUKE ENERGY CAROLINAS, LLC:

3 Camal Robinson, Esq., Associate General Counsel

4 Brian Heslin, Esq., Deputy General Counsel

5 Duke Energy Corporation

6 550 South Tryon Street

7 Charlotte, North Carolina 28202

8

9 Lawrence B. Somers, Esq., Deputy General Counsel

10 Duke Energy Corporation

11 410 South Wilmington Street

12 Raleigh, North Carolina 27601

13

14 James H. Jeffries, IV, Esq.

15 McGuireWoods LLP

16 201 North Tryon Street, Suite 3000

17 Charlotte, North Carolina 28202

18

19 Andrea Kells, Esq.

20 McGuireWoods LLP

21 501 Fayetteville Street, Suite 500

22 Raleigh, North Carolina 27601

23

24

1       A P P E A R A N C E S Cont'd:  
2       Molly McIntosh Jagannathan, Esq., Partner  
3       Kiran H. Mehta, Esq., Partner  
4       Troutman Pepper Hamilton Sanders LLP  
5       301 South College Street, Suite 3400  
6       Charlotte, North Carolina 28202  
7  
8       Brandon F. Marzo, Esq.  
9       Troutman Pepper  
10      600 Peachtree Street, NE, Suite 3000  
11      Atlanta, Georgia 30308  
12  
13      FOR SIERRA CLUB:  
14      Bridget Lee, Esq.  
15      Sierra Club  
16      9 Pine Street  
17      New York, New York 10005  
18  
19      Catherine Cralle Jones, Esq.  
20      Law Office of F. Bryan Brice, Jr.  
21      127 W. Hargett Street  
22      Raleigh, North Carolina 27601  
23  
24

1       A P P E A R A N C E S Cont'd:

2       FOR NC JUSTICE CENTER, NC HOUSING COALITION, NATURAL

3       RESOURCES DEFENSE COUNCIL and SIERRA CLUB:

4       Gudrun Thompson, Esq., Senior Attorney

5       David L. Neal, Esq., Senior Attorney

6       Tirri III Moore, Esq., Associate Attorney

7       Southern Environmental Law Center

8       601 West Rosemary Street, Suite 220

9       Chapel Hill, North Carolina 27516

10

11       FOR CAROLINA INDUSTRIAL GROUP FOR FAIR UTILITY

12       RATES III:

13       Christina D. Cress, Esq.

14       Bailey & Dixon, LLP

15       Post Office Box 1351

16       Raleigh, North Carolina 27602

17

18       FOR CAROLINA UTILITY CUSTOMERS ASSOCIATION, INC.:

19       Robert F. Page, Esq.

20       Crisp & Page, PLLC

21       4010 Barrett Drive, Suite 205

22       Raleigh, North Carolina 27609

23

24

1 A P P E A R A N C E S Cont'd:

2 FOR NC WARN:

3 Matthew D. Quinn, Esq.

4 Lewis & Roberts PLLC

5 3700 Glenwood Avenue, Suite 410

6 Raleigh, North Carolina 27612

7

8 FOR VOTE SOLAR:

9 Thadeus B. Culley, Esq., Regulatory Counsel

10 Senior Regional Director

11 1911 Ephesus Church Road

12 Chapel Hill, North Carolina 27517

13

14 FOR NORTH CAROLINA LEAGUE OF MUNICIPALITIES:

15 Deborah Ross, Esq.

16 Fox Rothschild LLP

17 434 Fayetteville Street, Suite 2800

18 Raleigh, North Carolina 27601

19

20 FOR NORTH CAROLINA CLEAN ENERGY BUSINESS ALLIANCE:

21 Karen Kemerait, Esq.

22 Fox Rothschild LLP

23 434 Fayetteville Street, Suite 2800

24 Raleigh, North Carolina 27601

1 A P P E A R A N C E S Cont'd:

2 FOR THE COMMERCIAL GROUP:

3 Al an R. Jenki ns, Esq.

4 Jenki ns At Law, LLC

5 2950 Yel lowtai l Avenue

6 Marathon, Fl ori da 33050

7

8 Bri an O. Beverl y, Esq.

9 Young Moore and Henderson, P.A.

10 3101 Gl enwood Avenue

11 Ral ei gh, North Carol i na 27622

12

13 FOR NORTH CAROLINA SUSTAINABLE ENERGY ASSOCIATION:

14 Peter H. Ledford, Esq., General Counsel

15 Benj ami n Smi th, Esq., Regul atory Counsel

16 North Carol i na Sustai nabl e Energy Associ ation

17 4800 Si x Forks Road, Sui te 300

18 Ral ei gh, North Carol i na 27609

19

20

21

22

23

24

1 A P P E A R A N C E S Cont'd:

2 FOR THE TECH CUSTOMERS:

3 Marcus W. Trathen, Esq.

4 Craig D. Schauer, Esq.

5 Matthew B. Tynan, Esq.

6 Charles E. Coble, Esq.

7 Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P.

8 150 Fayetteville Street, Suite 1700

9 Raleigh, North Carolina 27601

11 FOR BIOLOGICAL DIVERSITY AND APPALACHIAN VOICES:

12 Howard M. Crystal, Esq.

13 Senior Attorney

14 Jean Su, Esq.

15 Staff Attorney and Energy Director

16 Biological Diversity

17 1411 K Street NW, Suite 1300

18 Washington, DC 20005



1 A P P E A R A N C E S Cont'd:

2 FOR HARRIS TEETER:

3 Kurt J. Boehm, Esq.

4 Jody Kyler Cohn, Esq.

5 Boehm, Kurtz, & Lowry

6 36 East Seventh Street, Suite 1510

7 Cincinnati, Ohio 45202

8

9 Benjamin M. Royster, Esq.

10 Royster and Royster, PLLC

11 851 Marshall Street

12 Mount Airy, North Carolina 27030

13

14 FOR THE USING AND CONSUMING PUBLIC AND ON BEHALF OF

15 THE STATE AND ITS CITIZENS IN THIS MATTER THAT AFFECTS

16 THE PUBLIC INTEREST:

17 Margaret A. Force, Esq., Assistant Attorney General

18 Teresa Townsend, Esq., Special Deputy Attorney General

19 North Carolina Department of Justice

20 Post Office Box 629

21 Raleigh, North Carolina 27603

22

23

24

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## P R O C E E D I N G S

CHAIR MITCHELL: All right. It's about 1:30. Let's go back on the record, please.

Ms. Cralle Jones, we are with you.  
Ms. Bednarcik, we are with you. All right,  
Ms. Cralle Jones, you may proceed.

MS. CRALLE JONES: Thank you.

Whereupon,

JESSICA L. BEDNARCIK,  
having previously been duly affirmed, was examined  
and continued testifying as follows:

CONTINUED CROSS EXAMINATION BY MS. CRALLE JONES:

Q. Ms. Bednarcik, in your testimony, you indicated that your first job, I think, out of college was as an engineer for the partnership of Duke/Fluor Daniel, and that there you designed processes for new combined cycle power generation plants with a focus on wastewater treatment.

Combined cycle plants are gas plants, correct?

A. Yes.

Q. Can you describe, just in general terms, the types of wastewater treatment systems that you helped design in those early days?

1           A.     So, in those early days, for the combined  
2     cycle plants, I worked on reverse osmosis system, and  
3     also a demineralization system with some clarifiers in  
4     order to make sure that water that was taken in from  
5     the river and used in combined cycle was at a standard  
6     that could be utilized for the process.

7           Q.     Okay.

8           A.     For the process.

9           Q.     And when mineral, or whatever the pollutants  
10    were, were removed from the water, what happened to  
11    those pollutants?

12          A.     So, in those systems, the material that would  
13    be removed, it would be captured and treated in a  
14    different way. I don't remember specifically, since  
15    that was 20-something years ago, exactly how that was  
16    removed and how it was disposed of.

17          Q.     Okay. Now, going back to your time, 2013,  
18    2015 as manager of remediation and decommissioning  
19    group, what coal plants were being decommissioned at  
20    that time?

21          A.     So I think I mentioned them earlier. I'm  
22    going off of memory.

23          Q.     That's all right.

24          A.     It was couple years ago, but I do remember --

1 I remember physically going when I was in that group  
2 and visiting the Dan River site, Buck, River Bend,  
3 specifically. And there may have been one or two  
4 others, but I do remember physically going and visiting  
5 those sites as part of the demolition project.

6 Q. Who did you report to at that time?

7 A. The gentleman's name was David Mitchell.

8 Q. Okay. Was Don Faulkner part of that group,  
9 or was he in the chain of command anywhere?

10 A. So while I remember the name Don Faulkner, I  
11 can't remember telling of him, how I remember that  
12 name. But I do not -- I do not remember him as being  
13 part of the environmental health and safety  
14 organization that was part of my chain.

15 Q. Okay. Were you involved at all in  
16 decision-making about the decommissioning process, in  
17 terms of budgeting and priorities?

18 A. No.

19 Q. And I'm guessing, did you ever work with  
20 plant manager Steve Townsend who was at Dan River or in  
21 Buck?

22 A. So I don't know when Mr. Townsend was the  
23 plant manager at those times. I do -- I visited those  
24 sites. I don't know if he was the plant manager when I

1 visited those since I did other work at those sites or  
2 not. That's a name I recognize, but that's probably  
3 the extent.

4 Q. Okay. At the time you visited the Dan River  
5 station as manager of that group, were you even aware  
6 of the 48-inch stormwater pipe that was underneath the  
7 primary ash basin at Dan River?

8 A. When I visited the site as part of the  
9 decommissioning, we were focusing on the demolition of  
10 the building, itself. I do not remember any  
11 discussions we had about specific components related to  
12 the ash basin or even anything outside of the building.  
13 I have the demolition group actually that reports to me  
14 right now, and we typically focus on let's remove the  
15 material, the processes, the water, the waste, the oils  
16 out of the plant first. So I remember that was our  
17 first actions also at the Dan River site.

18 Q. Do you recall when you learned of the 48-inch  
19 stormwater pipe underneath the primary ash basin?

20 A. I don't know, specifically. Of course, I did  
21 hear about it when the incident did happen, but I do  
22 not remember if that ever came up in conversations  
23 before or not.

24 Q. Okay. When the Company decommissioned those

1 coal plants, it did not close those coal ash  
2 impoundments immediately; we discussed that some,  
3 correct?

4 A. Correct. And those impoundments were  
5 continued to be utilized for stormwater, processed  
6 water for some of the combined cycles. So still  
7 treatment systems.

8 Q. Okay. So was -- one of the waste streams, I  
9 think you mentioned, that was being used is wastewater,  
10 correct? I'm sorry, stormwater was going into the  
11 impoundment still?

12 A. Yes, that is correct.

13 Q. And I believe, when you were discussing this  
14 topic with Ms. Townsend, you testified that there were  
15 other treatment options for those waste streams that  
16 were available before CAMA, correct?

17 A. Yes.

18 Q. And stormwater was one of those waste -- or  
19 streams that was going into the impoundment.

20 Stormwater wouldn't typically contain arsenic  
21 or other heavy metals, would it?

22 A. So I would say it depends on what the  
23 stormwater contacts. So stormwater -- there's -- as it  
24 moves through a site, and if it contacts soil and



1 travels along, or if it contacts concrete and moves  
2 around. So, for the most part, I would expect it not  
3 to contain that, but really depends upon the stormwater  
4 conveyance and what is in that conveyance area. But I  
5 would say, for the most part, I do not expect  
6 stormwater to have those in it.

7 Q. And when the Company decommissioned those  
8 coal plants, the Company did not quickly dewater the  
9 coal ash impoundments for the reason we just talked  
10 about, correct?

11 A. As we mentioned -- as I mentioned before,  
12 those impoundments continued to be used in the  
13 operation of electricity in our generating units,  
14 specifically at Dan River and at Buck, for the  
15 generation of electricity and were part of that whole  
16 operation.

17 Q. So the ash and the water in the surface  
18 impoundments was just left sitting in those unlined  
19 ponds next to lakes and rivers for quite some time  
20 after decommissioning, correct?

21 A. So those ponds, as I just mentioned, were  
22 still part of a -- the water treatment from those  
23 operating plants. So they were still managed, they  
24 were still evaluated and maintained, and, of course, we

1 still had our permitted NPDES discharge out of those  
2 basins. So that -- of course, we would continue to  
3 maintain them, because we had permitted discharge out  
4 of them, and that's a compliance requirement.

5 Q. On page 5, line 6 of your testimony, you talk  
6 about -- you discuss the federal and state regulatory  
7 requirements that apply to the Company's coal ash  
8 ponds. And for the North Carolina ponds, you mentioned  
9 the federal CCR rule and the state CAMA law, but you  
10 don't discuss the North Carolina 2L rules at all.

11 Does the Company consider the North Carolina  
12 2L groundwater rules to be requirements that apply to  
13 its coal ash ponds?

14 A. So can you also -- can you remind me which  
15 page you're looking on in my testimony? I want to make  
16 sure I'm looking exactly there.

17 Q. And it's just in general. It was on page 5,  
18 line 6 is where you begin, but you have a discussion  
19 about federal -- the federal CCR rule and the state  
20 CAMA law, but I didn't see in any of your testimony any  
21 discussion -- well, you don't discuss the application  
22 of the North Carolina 2L rules.

23 So the question was, does the Company  
24 consider the North Carolina 2L groundwater rules to be

1 requirements that apply to its coal ash pond?

2 A. And yes, the 2L rules, also, when you look  
3 through CAMA, it provides, of course, statutory  
4 governance over to DEQ. There are multiple things  
5 that -- multiple areas of compliance that we have to  
6 manage our plants to, any operation. So if there is a  
7 statute in North Carolina, specifically for  
8 North Carolina, our North Carolina plants, if there is  
9 a law, a regulation that applies to our plants, then we  
10 need to comply with that, of course.

11 Q. And those North Carolina 2L rules were in  
12 place before the enactment of CAMA, correct?

13 A. Yes.

14 Q. Earlier today you mentioned that  
15 environmental audits that took place at the plant level  
16 prior to the establishment of the CCP team; do you  
17 recall that discussion?

18 A. Yes.

19 Q. Did those audits include determinations about  
20 compliance with the 2L rules?

21 A. So going off of memory, when I was over in  
22 that group, one of the things we did look at as whether  
23 the compliance regulations we had to follow. And I  
24 know Mr. Wells will be able to talk about this also.

1 We had a long history of working with our agencies on  
2 the installation of wells, and the monitoring of those  
3 wells, and what's needed in order to -- working back  
4 and forth with the regulator.

5 So we started groundwater monitoring -- I  
6 know, in that time period, we did have groundwater  
7 monitoring around all of our basins and were working  
8 with the agencies to address things that came up around  
9 the compliance boundary as well. So we did look at,  
10 are we complying with the rules and regulations and  
11 working with the agencies at that time?

12 Q. Did those plant-level audits include  
13 conclusions about infiltration of coal ash constituents  
14 into groundwater?

15 A. They did not go to that level. The level  
16 they went are, are we meeting -- are we -- do we have  
17 the monitoring wells in and are we working with the  
18 agencies? So the auditors would not -- the auditors  
19 who worked for me would not have done interpretation of  
20 the groundwater results. It would have been are we  
21 meeting our requirements and doing the groundwater  
22 monitoring?

23 Q. So the Company wouldn't consider whether or  
24 not coal ash constituents were infiltrating

1 groundwater?

2 A. So, Ms. Cralle Jones, I think you  
3 misinterpreted what I said before.

4 Q. I'm sorry.

5 A. I'm glad you asked so I can clarify. The  
6 group that worked specifically for me that was doing  
7 the audits was ensuring that the work was being  
8 conducted. We had groundwater subject-matter experts  
9 who were taking the samples and working with the  
10 agencies based upon what was seen in the groundwater  
11 around the basins in order to determine what those next  
12 steps would be.

13 So communications back and forth with the  
14 regulatory agencies, communications within the Company  
15 as well. Of course, we looked at the groundwater  
16 results. That was more on -- the subject-matter  
17 experts for each one of the sites was looking at the  
18 data while the audit team that reported to me was  
19 focusing on, are we meeting our regulatory  
20 requirements; are we doing the groundwater monitoring;  
21 are we disposing of our waste appropriately following  
22 the rules and regulations, just to use as an example.

23 Q. Okay. So I think you just said those audits  
24 were informed by groundwater monitoring, but your --

1 your focus was whether there was any regulatory  
2 violation or additional steps that needed to be done  
3 under the regulatory requirement; is that correct?

4 A. So the compliance audits were to ensure that  
5 we were meeting our compliance obligations, were the  
6 rules and regulations. So the specifics as to what are  
7 the actions that are needed to be taken, that would not  
8 have been brought forth on an audit. Audit was, are  
9 you doing what you need to do for compliance? The  
10 subject-matter experts would have been working with the  
11 state agency to evaluate the results of the groundwater  
12 monitoring networks and the wells that were in that  
13 place and determining what the next steps would need to  
14 be.

15 Q. Do you recall when the Company began  
16 conducting those audits?

17 A. I do not.

18 Q. Have you reviewed any of those audit reports?

19 A. Well, of course, when I was the manager over  
20 that group, I did, but I have not reviewed those since  
21 that time.

22 Q. Do you know when the earliest exceedances of  
23 the 2L groundwater standards occurred near one of the  
24 Company's coal ash impoundments, how early on?

1           A.     I do not, and that would probably be a better  
2     question for Mr. Wells when he comes up.

3           Q.     Okay. On page 7, line 7 of your testimony --  
4     and I'm just kind of framing this. I'm not going to  
5     ask you to read or quote anything specifically. But  
6     you begin discussing the part of the federal CCR rule  
7     that requires siting requirements for new and existing  
8     unlined ash ponds and the closure of ponds that don't  
9     meet those siting requirements.

10           And specifically you note that the ponds  
11     located within 5 feet of the uppermost aquifer must be  
12     closed; is that correct?

13           A.     Yes, that is one of the location restrictions  
14     that was part of the analysis under the federal CCR  
15     rule.

16           Q.     Do you understand the reason for that  
17     restriction?

18           A.     As I sit here today, I don't remember  
19     specifically what's in the federal CCR rule related to  
20     that -- the -- how they set that distance, but --

21           Q.     But, in general -- but, in general, would it  
22     be to protect against migration of contaminants from  
23     the unlined pond into the state's water resources?

24           A.     So my understanding is that that is -- as

1 time has gone on and things -- and we've gotten more  
2 information around our groundwater and what's going on  
3 related to basins, that is my understanding of why the  
4 federal CCR include that as one of the things that you  
5 would evaluate for location restrictions and how they  
6 set that distance.

7 Q. The risk of migration of coal ash  
8 constituents to water resources is something that the  
9 Company understood before the EPA finalized the CCR  
10 rule in 2014, correct?

11 A. So can you ask your question again, please.

12 Q. Sure. The risk of such migration from  
13 unlined ponds to water resources, groundwater, is  
14 something that the Company understood before EPA  
15 finalized its rule in 2014, correct?

16 A. Yes. We had groundwater monitor wells within  
17 the compliance boundary, and we were working with the  
18 agencies at that time understanding what was on our  
19 site and within our compliance boundary. What was  
20 going outside of our compliance boundary also. So we  
21 did have some monitoring wells there and understanding  
22 that there was some groundwater impacts around our  
23 basins.

24 Q. And the risk of those groundwater impacts was



1 clearly known to the Company at least by 2007; was it  
2 not?

3 A. So when -- you mention risks. So if there  
4 was any indication that there was a risk of it  
5 migrating offsite and impacting any of our neighbors,  
6 well before that happened, the Company responded and  
7 provided -- made sure that our neighbors were  
8 protected. So if there was a risk to human health, we  
9 addressed that.

10 For groundwater impacts around the basin  
11 going towards the compliance boundary, if it was not an  
12 imminent risk or something that looked like it was  
13 going towards human health, then that was something, of  
14 course, we continued to have discussions with our  
15 regulators, working with regulators as to what were the  
16 next actions that would be needed. But, of course, if  
17 we saw anything around our ponds that gave us any  
18 indication that there it might be an impact or a  
19 migration of an impact going towards, for example, a  
20 neighbor's well, we took care of that.

21 Q. So now I want to turn your attention to what  
22 is marked as Sierra Club 3. It's the 2007 Duke Energy  
23 environmental management program for coal combustion  
24 products. It was previously entered as the Kerin

1 Direct Cross 3 in 2017. And it describes the  
2 environmental program for the management of coal  
3 combustion products and provides the basis for  
4 developing future management strategies.

5 MS. CRALLE JONES: I would -- at this  
6 time, Chair, I would ask that the exhibit be marked  
7 for the record as Sierra Club Bednarci k Cross 1.

8 CHAIR MITCHELL: The document will be  
9 marked Sierra Club Bednarci k Direct Cross Exhibi t  
10 Number 1.

11 (Sierra Club Bednarci k Direct Cross  
12 Exhibi t Number 1 was marked for  
13 identification.)

14 Q. Ms. Bednarci k, is this a document you're  
15 familiar with?

16 A. Yes.

17 Q. Is this the first 10-year plan?

18 A. No.

19 Q. Okay. When was the first 10-year plan?

20 A. As I sit here today, I can't remember the  
21 date of the first. There was a number of 10-year  
22 plans, but this is not it. But I can't remember the  
23 date, as I sit here right now.

24 Q. Okay. And I want to kind of get us oriented

1 to that document by hitting a couple of pages. The  
2 pages are at the top --

3 CHAIR MITCHELL: And Ms. Cralle Jones,  
4 just for purposes of the record here, the document  
5 that I am looking at is marked at the bottom  
6 confidential subject to protective order. Can you  
7 explain to me whether this document actually is  
8 confidential or contains confidential information?

9 MS. CRALLE JONES: In the document that  
10 was part of the official record there -- on the  
11 first page, there is an asterisk, and it says "Per  
12 DEC, this is not confidential, Volume 14, page  
13 250. "

14 CHAIR MITCHELL: Okay.

15 MR. MARZO: That's correct,  
16 Chair Mitchell. It was removed, in terms of  
17 confidential. Chair Mitchell, once again, I just  
18 want to remind folks that Ms. Bednarcik is  
19 returning in her rebuttal, and perhaps we're  
20 eliminating some of these questions that would be  
21 asked in her rebuttal, but it seems like we're  
22 bleeding over in lines of cross into rebuttal.

23 CHAIR MITCHELL: All right. Thank you,  
24 Mr. Marzo. And I'd just ask counsel to remember

1           that Ms. Bednarcik will be up on her rebuttal  
2           testimony later in the proceeding.

3                       And, Ms. Cralle Jones, again, just  
4           abundance of caution, for purposes of the record,  
5           the notation you've referenced is on the first page  
6           only, so I'd like for you to confirm that nothing  
7           in the document -- there is no confidential  
8           information in the entirety of the document.

9                       MR. MEHTA: Chair Mitchell, this is  
10          Kiran Mehta, and I can confirm that the document,  
11          as a whole, is not confidential.

12                      CHAIR MITCHELL: All right. Thank you,  
13          Mr. Mehta.

14                      All right, please proceed,  
15          Ms. Cralle Jones.

16                      MS. CRALLE JONES: Thank you.

17          Q.       So just to get an orientation as to where  
18          we're going, but there are document numbers at the top  
19          of the page. If you'll go to the document Exhibit 3905  
20          is at the top of the page, and that's the section that  
21          talks about coal combustion products management in  
22          North Carolina.

23                      Do you see where I am?

24          A.       Yes, I'm on that page.

1 Q. Okay. And it discusses various uses. On  
2 that page, it talks about raw material for agricultural  
3 applications. And then you go to the next page, on  
4 3906, and it begins a discussion of disposal options,  
5 landfills, engineered fills. And then on 3908, it  
6 talks about disposal in surface impoundments. So  
7 that's the section of the document we're in.

8 And then finally, what I wanted to ask you  
9 about is on the top of page 3909. It's that section  
10 that says "rationale."

11 Do you see where I am?

12 A. Yes, I'm on that page and on that section.

13 Q. Great. In describing North Carolina's  
14 surface impoundment, it states that surface  
15 impoundments are, quote, unlined and have a large  
16 constant hydraulic head.

17 Now, I know you're trained as a chemist and  
18 not as a hydrologist, but for just general  
19 understanding, can you explain the significance of a  
20 large constant hydraulic head?

21 A. So, Ms. Cralle Jones, I'm actually a chemical  
22 engineer, not a chemist.

23 Q. Oh, I'm sorry, chemical engineer. I  
24 apologize.

1           A.     And one of the things, of course, that  
2     engineers look at is fluid flow, so this is something  
3     that I would be able to talk about. So a large  
4     hydraulic head, to make it nice and simple, is that  
5     there is, of course, a -- by having the water on top of  
6     the ash, water has to move its way down, right? So by  
7     having the water on the ash, it will continue to push  
8     down through the ash and going into the groundwater.

9           Q.     Thank you. Because I'm not a hydrologist or  
10    a chemical engineer, so I just wanted to make sure that  
11    we were on the same page.

12                   And then that second full sentence says:

13                   "As a result, this management practice has  
14    greater potential to impact groundwater than dry  
15    handling options. The risk is greatest while the  
16    operate- -- while in operation when the ash sluicing  
17    process provides a continuing supply of sluice water in  
18    source material."

19                   Do you have any reason to disagree with that  
20    statement?

21           A.     No, I agree with that statement.

22           Q.     Okay. How many years after 2007, the date of  
23    this document, did the ash sluicing process continue at  
24    the Duke Energy Carolinas plant?

1           A.       So the -- it depends on which plant you're  
2       talking about. Of course, the ones that retired, the  
3       sluicing stopped earlier than the plants that are  
4       continuing to operate. Those, of course, the sluicing  
5       of the ash stopped per our requirement, whether it be  
6       from the -- from CAMA, CCR, or the SOC's that we signed  
7       with the state as well. Those had dates associated  
8       with them to stop sluicing of basins.

9                 So I would say that there was -- the  
10       operation continued. But I would go back to that the  
11       operation was -- had been approved NPDES discharge,  
12       they would continue to have the ability, that had  
13       volume in it to be continued to use. And also this was  
14       a couple of years before the federal CCR -- the draft  
15       CCR rule that came out. But I do know that, in 2010,  
16       when the draft CCR rule came out, they were looking at  
17       a couple different options for closure of basins, and  
18       one of the options they were looking at, I think it was  
19       called -- and Ms. Williams will be able to talk about  
20       this in more detail when she's on with the rebuttal --  
21       but there was a -- at that time in 2010, the federal --  
22       the EPA was looking at do we go subtitle C, which is a  
23       hazardous waste; subtitle D, which is nonhazardous  
24       waste; or subtitle D prime. And my understanding of D

1 prime was continue operating the basin as is until its  
2 capacity is full.

3 So I would say that I agree with the words  
4 that are in this document 100 percent, but you have to  
5 look at the operation as a whole. And even in 2010,  
6 EPA was evaluating whether to allow sluicing and use of  
7 impoundments up until the volume of those impoundments  
8 was full and it was no longer needed for operation.

9 Q. So we're talking about risks, and I think we  
10 discussed that, after the plants were decommissioned,  
11 dewatering didn't begin right away at each of the  
12 plants.

13 Were there risks associated with not  
14 dewatering right away, and what were they?

15 A. So, Ms. Cralle Jones, I want to clarify  
16 something. So dewatering -- there is dewatering, there  
17 is decanting, there is -- and even in this document, it  
18 talks about the sluicing of the ash. So when you're  
19 operating the basin, there are multiple -- multiple  
20 things that go into the basin, including the sluiced  
21 water, and the stormwater, and the processed water.

22 At the retired plants, because the operations  
23 were not needed for operating the coal plant and were  
24 really for stormwater purposes for the most part, the



1 amount of water that was going into those basins was  
2 significantly reduced. And so the water that was in  
3 those basins would, of course, over time through  
4 evaporation, through decanting, out through the NPDES  
5 stormwater, would have reduced over time, because the  
6 amount of water we're adding just from stormwater of  
7 course was less than during the operations when we were  
8 sluicing material in.

9 So they continued to be a treatment system, a  
10 permitted treatment system at those sites, at those  
11 retired sites, specifically at Dan River and at Buck.  
12 They continued to be utilized during that time period  
13 for the operation of the combined cycle plant. But the  
14 water would have been going down, because we were not  
15 adding as much, because we were no longer sluicing.

16 Q. Okay. Fair enough. But were there still  
17 some risks associated with not dewatering, or  
18 decanting, or whichever word you want to use to remove  
19 the liquid from those ash ponds? Was there still some  
20 risk associated with that?

21 A. So I would say yes, but again, we were  
22 monitoring groundwater around, and we were looking at  
23 does this charge through the NPDES. So when we looked  
24 at whether or not to continue utilizing those basins as

1 treatment systems, or stop using them as a treatment  
2 basin, the decision was that we would continue to  
3 utilize them for the operation of the combined cycle  
4 plants.

5 Q. Would you agree that there was a risk of a  
6 release to the environment, whether through groundwater  
7 or otherwise, as long as those basins had water in them  
8 and ash in them?

9 A. I would say that yes, as long as they had  
10 water in them, they would continue to have that  
11 hydraulic head, yes.

12 Q. And so, for example, one of the risks that  
13 was faced was a catastrophic spill like we saw in 2014  
14 at Dan River, correct?

15 A. (No response.)

16 Q. And -- I'm sorry. And then I believe there  
17 have been other releases from other facilities in the  
18 wake of hurricanes.

19 Do you recall, in 2016 and 2018, releases  
20 from ash impoundments related to extreme weather  
21 events?

22 A. Well, first of all, I'll say, related to Dan  
23 River, that was a failure of a pipe that was  
24 underneath. So that was a moment in time of one

1 incident. The Company has had a long operating history  
2 of operating successfully and in compliance. So that  
3 was one thing, and that was, again, discussed --  
4 discussed a lot in the last case.

5 And you are correct, is that we have had  
6 hurricanes. And in some areas where we have had  
7 hurricanes, in some of our ponds there has been some  
8 releases of material. At Sutton, it was while we were  
9 excavating and having that area open and moving  
10 material out. The risk actually was greater while we  
11 were excavating than it was before. Looking at some of  
12 our retired locations that were covered and had trees  
13 on it, we do realize that even -- there is always --  
14 there's a risk in everything that you do. We manage  
15 that risk, we evaluate that risk, and make decisions  
16 based upon the information at the time when those  
17 decisions were made.

18 So yes, there's a risk in everything, but  
19 based upon looking at the past history of the Company  
20 and what we have done, the risk evaluation was  
21 conducted and decisions were made upon that.

22 Q. And so there was clearly a risk of releases  
23 to the environment, which we saw at Dan River and then  
24 in the wake of hurricanes.

1                   Is there also a risk to human health from  
2                   those types of releases?

3           A.       So I would -- if you look at -- I'm trying to  
4           think of how to answer this, because I've already  
5           talked about the risk of human health from groundwater  
6           impacts and how, if the Company saw a plan going  
7           towards our property barter, or understanding -- even  
8           if it wasn't -- it didn't look but there was -- we  
9           didn't know quite where it was going and working with  
10          the agencies, the Company, of course, managed any home  
11          and health risks to our neighbors.

12                   The Company has -- our neighbors -- our  
13          customers, they're our neighbors, the people we work  
14          with, so that's very important, so we make sure of  
15          that. Now, the releases that you mentioned for Dan  
16          River and for the hurricanes, what -- of course, after  
17          that happened, Dan River happened, that we did take  
18          samples in the river and did not see anything that was  
19          of, based upon my memory, any impacts to human health.  
20          And we did extensive sampling within the river. And  
21          also, after any type of releases that happen due to  
22          hurricanes, again, we take samples in those rivers. We  
23          work with the agencies to ensure. And as far as I  
24          know, there has been no impacts or risks to human

1        heal th.

2            Q.        Are you aware that the CDC has actually  
3        issued a warning to stay out of floodwater because it  
4        can contain, quote, coal ash waste that can contain  
5        carcinogenic compounds such as arsenic, chromium, and  
6        mercury; were you aware of the CDC warning?

7            A.        So I do know that the CDC has a blanket  
8        warning like that. But I also -- I'm not a  
9        toxicologist, and the CDC does have toxicologists, and  
10       they look at this. But I also know that risk is based  
11       upon dosage, and it's based upon concentration. So you  
12       have to have something at a high enough dosage and a  
13       high enough concentration and exposure time period in  
14       order for it to be a risk.

15                    I have done -- in my history of Duke, have  
16       worked on many projects that have lots of risk  
17       assessments that have been done with it. So I know  
18       that it is -- it's not a simple science. There's lots  
19       of things that is go into determination of human health  
20       risks, risks to the environment, risks to the  
21       ecosystem. There's lots of different factors that need  
22       to be taken into account.

23            Q.        So in setting its decommissioning and closure  
24        schedule, did your team consider the risk to human

1 health and the environment in setting those schedules?

2 A. So if you're talking specifically of when we  
3 decommission as we no longer need the plants for  
4 electric generation, and doing the demolition of the  
5 plants, we look at the -- what we need to do in order  
6 to manage the environmental risks and structure risk.  
7 So we do look at that. So I'm not quite sure what  
8 you're asking, but we do evaluate, first of all, making  
9 sure we produce electricity, and then as we no longer  
10 need those plants for electric generation, how to make  
11 sure that they are demolished, the plants themselves,  
12 in an environmentally friendly manner.

13 Q. I guess my question was more in setting --  
14 and perhaps this is what you're saying, is that your  
15 team did not set the closure schedule for the  
16 impoundments?

17 A. So when I was over the remediation and  
18 decommissioning team, as I mentioned before, we focused  
19 on the plants themselves. The timing for the closure  
20 of any type of basins, that was part of the process,  
21 but my team did not set those time frames. But -- and  
22 I think actually in that document that you were  
23 pointing to me before, it does say that in there -- and  
24 I'm looking at page 8. So this is document example

1 3908, specifically says:

2 "Closure and post-closure activities for ash  
3 ponds or surface impoundments are subject to Division  
4 of Water Quality requirements."

5 And that it does say NCDENR, at the time,  
6 does not have a specific requirement for the final  
7 closure of an ash pond, but that they will be subject  
8 to requirements of the regulatory agency's discretion.

9 So, of course, we would work with our  
10 regulatory agencies to make sure that not only how they  
11 were closed, when they were closed was all worked out  
12 with them in order to make sure that they are closed  
13 appropriately.

14 Q. All righty. Turning to a new document.

15 Are you familiar with the Electric Power  
16 Research Institute?

17 A. Yes.

18 Q. And it conducts research for the electric  
19 sector; is that correct?

20 A. Yes.

21 Q. Are you -- and is that group called EPRI; is  
22 that a typical term used for it, the EPRI report?

23 A. Yes. We typically refer to the Electric  
24 Power Research Institute as EPRI.

1 Q. Are you aware that the EPRI board of  
2 directors includes a Duke Energy executive?

3 A. I was not aware that it had a Duke Energy  
4 executive on it.

5 Q. Okay. Do you know Douglas Esamann; is that a  
6 name familiar to you?

7 A. Yes, yes, I do know Doug Esamann.

8 Q. Okay. I believe he's on the board. So now  
9 I'd like to direct your attention to Joint Exhibit 7,  
10 and it was the 1981 EPRI coal ash disposal manual,  
11 second edition.

12 MR. MARZO: Chair Mitchell, I would just  
13 renew my general objection that we're now clearly  
14 getting into rebuttal parts of testimony. And once  
15 again, if we're going to bleed over and maybe cut  
16 the back half of this case, maybe it's worth it,  
17 but I do want to just point it out to the chair.

18 CHAIR MITCHELL: All right. Ms. Cralle,  
19 how do you respond? Can you --

20 MS. CRALLE JONES: One section of  
21 questions on this document trying to lay the  
22 groundwork for what will be addressed later in  
23 rebuttal, and then one other line of question based  
24 upon her final conclusions as to reasonableness and



1           prudence. So I'm coming very close to the end of  
2           my cross.

3                   CHAIR MITCHELL: All right. I'll allow  
4           you to proceed, Ms. Cralle Jones.

5                   MS. CRALLE JONES: Okay. We would ask  
6           that that exhibit be marked for the record as  
7           Sierra Club Bednarci k Cross 2.

8                   CHAIR MITCHELL: All right.

9                   MR. MEHTA: Chair Mitchell, this is  
10          Kiran Mehta. I think we actually had, in effect, a  
11          stipulation that those joint exhibits would come in  
12          as joint exhibits at the appropriate time, which is  
13          not necessarily right now based on what Mr. Marzo  
14          just said. But I do not believe they need to be  
15          marked individually, unless the Commission,  
16          obviously, wants them to be marked individually.  
17          Just so that we can keep track of them better.  
18          Because they are going to come up again, and again,  
19          and again, and again. If it's all right with the  
20          Chair and the parties, we should just call them  
21          Joint Exhibit whatever it was.

22                   MS. CRALLE JONES: I have no objection.

23                   CHAIR MITCHELL: All right. Well,  
24          Mr. Mehta and Ms. Cralle Jones, I'm looking at the

1 document. I believe you indicated it was Number 7,  
2 Ms. Cralle Jones?

3 MS. CRALLE JONES: Yes, ma'am.

4 CHAIR MITCHELL: So, Mr. Mehta, help me  
5 understand, I mean, obviously she is not referring  
6 to the first of these joint documents. So was the  
7 intention that they be identified as joint --  
8 identified in the order in which they were  
9 presented to us?

10 MR. MEHTA: Well, actually, I think  
11 because they will all be used, they would just be  
12 identified the way they are identified. And I do  
13 recall, frankly, a specific email exchange with  
14 Ms. Lee -- I don't know if Ms. Cralle Jones was  
15 involved in that -- in which they would all be  
16 introduced as a group at the beginning of the  
17 intervenor testimony, which, of course, is not yet,  
18 so that they could then be used throughout the  
19 intervenor testimony and the rebuttal testimony,  
20 because they will be used over, and over, and over  
21 again.

22 Again, I don't have any problem with how  
23 anybody wants to refer to them. And if they need  
24 to be referred to in terms of the normal way we do

1 things, which is XYZ Cross Exhibit Number 4, that's  
2 fine. It's just that we're going to have a hard  
3 time keeping track two weeks from now what XYZ  
4 Cross Exhibit Number 4 was, and we will have a very  
5 easy time saying Joint Exhibit 7, or whichever the  
6 number is.

7 CHAIR MITCHELL: All right.

8 Ms. Cralle Jones, let's do this, then. Unless  
9 there is an objection, let's just -- we can refer  
10 to the document -- I'm looking at it right now, and  
11 we will mark it for identification as -- evidently,  
12 as the parties had agreed to at the beginning of  
13 the intervenor's testimony, so that all of these  
14 documents come in as one group. All of the joint  
15 exhibits come in as a group.

16 Any objections to that approach?

17 MS. CRALLE JONES: No objection.

18 CHAIR MITCHELL: Any objection from the  
19 Sierra Club or any other party?

20 (No response.)

21 CHAIR MITCHELL: All right. Let's  
22 proceed, then.

23 (Joint Exhibits 1 through 13 were marked  
24 for identification.)

1 Q. Ms. Bednarcik, are you familiar with this  
2 document?

3 A. Yes.

4 Q. I'd ask you to turn to page 2-17, PDF page 79  
5 if that helps.

6 A. I'm on that page.

7 Q. Okay. And it begins with that discussion of  
8 leachate down at the bottom of the page.

9 A. I see that.

10 Q. Okay. And I'm just going to read this first  
11 couple of sentences:

12 "Leachate from ash disposal sites is a  
13 concern due to the possibility that heavy metals and  
14 ionic complexes [sic] such as SO<sub>4</sub> present in the ash  
15 may enter the groundwater system and contaminate  
16 present or future drinking water sources."

17 Did I read that correctly?

18 A. Yes. And I think there is really good  
19 information further on in that paragraph where it says  
20 the -- not the next sentence, the one after that:

21 "Evidence is still inconclusive as to the  
22 degree of hazard of the ash materials."

23 And then after that:

24 "EPA recognizing that coal combustion

1 products are of relatively low concern, and define coal  
2 ashes as being nonhazardous while they conduct a site  
3 monitoring and evaluation program, which is designed to  
4 assess the potential hazards associated with ash  
5 disposal."

6 So yes, it does discuss leachate; it also  
7 discusses that the EPA is continuing to do the  
8 evaluation.

9 Q. And just for completeness, since you finished  
10 out the rest of the paragraph, we might as well get  
11 that -- catch that second sentence that says:

12 "For this reason, a disposal site should be  
13 designed in such a way as to minimize this effect of  
14 impacts to groundwater."

15 A. And yes, that is the sentence I left out.  
16 But I will also say that, because it talks about a  
17 disposal site should be designed, it's good to note  
18 that this joint exhibit that EPRI put together was for  
19 design and to help a utility engineer with designing of  
20 a new unit, not for the operation of an existing unit.  
21 So it has good information in it, but I do want to call  
22 out that that one sentence you read in that says that a  
23 disposal site should be designed. The purpose of the  
24 manual was for the design of new units.

1           Q.       But based on this document, there's no doubt  
2           that the Company knew of the risk of groundwater  
3           contamination at least as early as 1981, correct?

4           A.       So I would say, based upon this document,  
5           again, new -- for design of new. And there was  
6           actually a sister document in 1982 for upgrading  
7           systems. I have reviewed both of those documents. I  
8           have reviewed the vast majority of historical  
9           documents, and I would say that my understanding of it  
10          is that, while there was continuing knowledge,  
11          continuing science going on on a site-specific basis,  
12          that more information was coming out and that more  
13          information was helping with the design of new basins;  
14          but there was also what do we need to do with the  
15          existing basins and modification.

16                 So I would say yes, this is a great document.  
17          It does state -- it states what it states about  
18          groundwater and leachate, and I would agree with the  
19          statements. But I would say the sentence I called out,  
20          evidence is still inconclusive as to the degree.  
21          Continuing monitoring, continuing looking at it on a  
22          site-by-site basis based upon information at those  
23          sites working our regulators.

24          Q.       Is it your position that, based on this

1 document, it was inconclusive, and therefore, the  
2 Company had no responsibility to take any steps to  
3 protect current or future groundwater supply, drinking  
4 supply?

5 A. So again, I read through this document --  
6 went through it a couple of times, actually, this  
7 document and the sister document on upgrading systems.  
8 I looked at it. I truly tried to put myself in as a  
9 utility engineer sitting and reading this document in  
10 1981 or 1982 with the knowledge that I knew at the  
11 time, with the information I knew on a site-specific  
12 basis, and the discussions that we had also had with  
13 our regulators, what we saw with operations, what we  
14 saw at the site.

15 And I would go, great information. I need to  
16 continue to keep my eyes on where things are heading,  
17 keep my eyes on the operation of my basins. But there  
18 was nothing in these documents that led me to believe,  
19 if I was sitting in that time frame with what I knew at  
20 that time, trying to suspend what I know today in 2020,  
21 to say could things -- should have things been done  
22 differently. I did not see anything that would have  
23 led me to believe that the Company should have done  
24 different than what they did, based upon the knowledge

1 at that time.

2 Q. What steps did the Company take after 1981 to  
3 protect present or future drinking water systems?

4 A. So I know Mr. Wells will be able to talk  
5 about the groundwater monitoring around our sites. I  
6 do have something I believe as early as the -- I'm  
7 going off of memory here -- 1970s, 1980s. The Company  
8 started doing some groundwater monitoring at our DEC  
9 sites, the Duke Energy Carolina sites. I don't have in  
10 front of me exactly when that started, but it would  
11 be -- we did start doing some groundwater monitoring in  
12 some areas.

13 Actually, I believe in a couple of the EPRI  
14 documents, and in the -- and in some of the EPA  
15 documents it discussed activities that were happening  
16 at Duke Energy sites. So we were actually contributing  
17 information that we were finding to these studies as  
18 well.

19 So Mr. Wells will be able to tell you when  
20 sampling started at each site, but again, we did not  
21 see any indication that there was any harm to human  
22 health based upon the operations at that time.

23 Q. So is it your position that, as a result of  
24 the Company's coal ash management practices, there were



1 no impacts to present or future drinking water sources  
2 prior to 2015?

3 A. So I go back to what I know. What I know is  
4 that, over the lifetime of the operation of these  
5 basins, and based upon our groundwater data, we have  
6 not seen any impacts to drinking water sources. Where  
7 we saw some groundwater going towards a compliance  
8 boundary, or even an idea that may be going towards an  
9 area, we did take those homeowners and provide them  
10 with drinking water. So before there was any  
11 indication that their wells had been impacted. That's  
12 my understanding of the history.

13 Q. But there was an impact or potential to  
14 impact those drinking water sources, that's why you  
15 supplied a different water supply, correct?

16 A. So there was a -- the data was showing that  
17 there might be a potential. In some cases, it was -- I  
18 believe it was inconclusive whether it was 100 percent  
19 coming from the basins or from something else, or when  
20 there was a potential that a plume might be in an area  
21 that might be harming any of our homeowners that are  
22 next to the basins, we did put them on water. But I  
23 have not seen, as I reviewed all the documents, nothing  
24 that says that we absolutely impacted drinking water

1 systems.

2 Q. On page 26 of your direct testimony, you  
3 offered your opinion that the costs the Company  
4 incurred to close ash ponds were reasonable and  
5 prudent, and you list the factors that you considered  
6 when forming that opinion. You listed whether the  
7 activities performed and to be performed are necessary,  
8 whether the costs for necessary activities are  
9 appropriate, and whether the closure projects are  
10 meeting Company and regulatory deadlines.

11 Other than those three, did you consider any  
12 other factors when forming your opinion about the  
13 reasonableness and prudence presented in your direct  
14 testimony?

15 A. So I'm going to let my testimony stand.  
16 Those are the areas when I looked at were the costs  
17 reasonable and prudently incurred, those are the things  
18 I looked at.

19 Q. Were you looking at only documents post 2018  
20 in preparing your testimony?

21 A. So it's when -- the costs that we are asking  
22 for recovery in this case for Duke Energy Carolinas is  
23 January 1, 2018, through January 31st of this year. So  
24 to talk about specifically the costs that were incurred

1 and were the costs that were included during that same  
2 period there in that test period, were those costs, in  
3 order to meet our regulatory requirements, in order to  
4 make sure that they were -- going back to my testimony,  
5 make sure I have the terms right -- that the activities  
6 performed are necessary based upon where we sit today,  
7 whether the costs were necessary activities are  
8 appropriate in order to meet those regulatory  
9 commitments, and whether the closure projects are  
10 meeting the Company and regulatory deadlines. That is  
11 what I evaluated.

12 And I looked through the documents that are  
13 associated with executing the work or the costs that  
14 we're asking for recovery in this case.

15 Q. Did you or anyone else at the Company attempt  
16 to evaluate whether the current costs would be lower if  
17 the Company had switched to dry ash handling earlier?

18 A. So, Ms. Cralle Jones, when I read through the  
19 2017 case, I know that was something that came up a lot  
20 and was discussed a lot. And I would agree, with what  
21 I'm remembering from the order, is that it's hard to do  
22 a hindsight review. It's hard to go back and say what  
23 would you have done at a certain point at a certain  
24 time to make certain things different today?

1           What I do know is that we have to meet the  
2       regulatory requirements of today, and we are -- the  
3       costs that are incurred to meet those regulatory  
4       requirements that came through with CAMA and the CCR  
5       rule, things we have to meet today, that those costs,  
6       in order to execute that work and make sure it gets  
7       done appropriate, that those costs are appropriate and  
8       prudently incurred.

9           Q.     Did you or anyone else at the Company attempt  
10      to evaluate whether prudent costs would be lower if the  
11      Company did not commit the violations of the Clean  
12      Water Act that it admitted to in the federal  
13      enforcement action that followed the Dan River spill?

14           MR. MEHTA: Chair Mitchell, I'm going to  
15      object. I believe this question has been asked and  
16      answered previously.

17           CHAIR MITCHELL: Ms. Cralle Jones?

18           MS. CRALLE JONES: This is a distinct  
19      question about was there an evaluation whether or  
20      not the violations of the Clean Water Act that were  
21      admitted to gave rise to legal requirements that  
22      would not have otherwise been in place.

23           CHAIR MITCHELL: All right.

24      Ms. Cralle Jones, I'm going to overrule the

1 objection and let you proceed with the question,  
2 but it's awfully similar to your previous question,  
3 so please proceed to pace here.

4 MS. CRALLE JONES: I will ask the  
5 question one more time, and this is my last  
6 question.

7 Q. Did you or anyone else at the Company attempt  
8 to evaluate whether current costs would be lower if the  
9 Company had not committed the violations of the Clean  
10 Water Act that it admitted to in the federal  
11 enforcement action that followed the Dan River spill?

12 A. So, Ms. Cralle Jones, I would reiterate that  
13 that is dealing in hypotheticals and going back. And I  
14 cannot go back in time and evaluate what ifs. There is  
15 an infinite number of what ifs that could have been  
16 evaluated. We are dealing with what we know today,  
17 costs that are incurred today to meet the regulations  
18 as of today of where we sit today, so that is what I  
19 evaluated.

20 MS. CRALLE JONES: I have no further  
21 questions. And at this time I would ask -- I  
22 believe that we only have one exhibit, Sierra Club  
23 Bednarcik Direct Exhibit 1, which was the Sierra  
24 Club Cross 3, that be admitted into the record.

1 CHAIR MITCHELL: All right. Hearing no  
2 objections, your motion will be allowed.

3 (Sierra Club Bednarci k Direct Cross  
4 Exhibit Number 1 was admitted into  
5 evidence.)

6 CHAIR MITCHELL: All right. Any  
7 designation cross examination for the witness?

8 (No response.)

9 CHAIR MITCHELL: All right. Redirect  
10 from Duke?

11 MR. MARZO: Thank you, Chair Mitchell.  
12 Just a few questions, Chair Mitchell.

13 REDIRECT EXAMINATION BY MR. MARZO:

14 Q. Ms. Bednarci k, you were just asked -- and I  
15 think we'll go in reverse order with the last line of  
16 cross. You were just asked several questions by Sierra  
17 Club related to what you did, in terms of your review  
18 going into this case, the Company's intentions behind  
19 the presentation in this case, I believe, was one, and  
20 I believe there was others around industry standard and  
21 the closing of the basins.

22 And I believe you indicated, in part, early  
23 on that the Company's filing in this case is in  
24 compliance, in the Company's view, with the final rate

1 case order issued in Docket E-7, Sub 1446; is that  
2 correct?

3 A. Yes, that's correct.

4 Q. And you reviewed that order, I take it, prior  
5 to preparing your testimony and testifying in this  
6 case, correct?

7 A. Yes, I did.

8 Q. And is it your understanding that the  
9 Commission considered the Company's historical  
10 compliance as it relates to its practices restoring  
11 coal ash in the last rate case?

12 A. Yes, that's my understanding.

13 Q. And my recollection of that was that was a  
14 fully litigated proceeding, correct?

15 A. Yes.

16 Q. And is it fair to say that the Commission  
17 consider what was industry standard practicing --  
18 practice restoring CCRs in service impoundments as  
19 well; is that correct?

20 A. Yes, that is correct.

21 Q. And let me direct you to page -- do you have  
22 the order? Let me ask you this. Do you have the  
23 order? It's also DEC Cross Exhibit 1. I will not mark  
24 it at this time, but do you have it?

1           A.     Yes.  If you give me one moment to grab it.  
2     So I have the order in front of me.

3           Q.     Now, I'd like to direct you to page 208 of  
4     the order, and this is under -- this is under evidence  
5     and conclusions for findings of fact number 69 through  
6     72.

7           A.     I am on page 208.

8           Q.     Okay.  And right around the center of the  
9     page, in the middle of the page, there begins a  
10    paragraph with the term -- word, "coal-fired power  
11    plants."

12          A.     Yes, I am there.

13          Q.     Would you mind reading that paragraph.

14          A.     "Coal-fired power plants have played a  
15    predominant role in electricity generation by DEC  
16    throughout its history, and the Company is dependent  
17    upon coal-fired generation today.  With coal-fired  
18    generation comes a bi-product, coal ash, also known as  
19    coal combustion residuals or CCRs.  At least since the  
20    1950s, standard industry practice, particularly in the  
21    southeastern United States, has been reliant -- has  
22    been reliant on coal ash basins.  Such basins were  
23    constructed and used at all of the Company's coal-fired  
24    generating units."



1 Q. Okay. Am I correct that you would have read  
2 that, and you'd expect the Company would have read that  
3 order in preparation for this case?

4 A. Yes.

5 Q. Am I correct that, just for the coal ash  
6 portion of this order, if I were to look just for the  
7 words "industry standard," it appears approximately  
8 120 -- I'm sorry, of the 120 single pages, it appears  
9 approximately at least 20 times in the order; is that  
10 correct?

11 A. Yes. It was discussed significantly in the  
12 last case.

13 Q. Okay. And could you please turn to page 301  
14 of the order?

15 A. I am on that page.

16 Q. Okay. And would you for me, again, read the  
17 paragraph starting with the word "the limitations,"  
18 which is at the bottom of page 301.

19 A. Do you want me to continue all throughout the  
20 following page?

21 Q. Yes.

22 A. Okay.

23 "The limitation of the intervenors and the  
24 Public Staff's approach is the fact that the kinds of

1 actions they appear to have favored, such as lining ash  
2 ponds when others in the industry were not lining them,  
3 are creating dry ash basins when the Company's industry  
4 peers were sluicing coal ash into wet basin  
5 impoundments would; A, have increased costs that would  
6 have been charged to customers; or B, would have left  
7 the Company open to credible claims of gold plating,  
8 and therefore, cost disallowance, which would have  
9 prevented the Company from moving forward with these  
10 suggested improvements in the first place. These  
11 parties advance inconsistent positions. They fault the  
12 Company for not undertaking steps that others were not,  
13 but at the same time, disavow any responsibility of  
14 paying for that which they, in 20/20 hindsight, wish  
15 the Company had undertaken. As noted at the hearing  
16 during questioning of Company witness Wells, these  
17 parties criticized the Company's coal ash management  
18 practices dating back decades, yet took no action  
19 themselves to address coal ash until within the past  
20 five years. For all of these reasons and based on the  
21 evidence presented, the Commission is not persuaded,  
22 with exceptions noted below and later in this order,  
23 that any past violations by DEC for many of its past  
24 coal ash management practices, support the discrete

1 amounts of cost disallowances advocated by the  
2 intervenors and the Public Staff in this case."

3 Q. And the Company considered -- not the  
4 entirety of the order, but this provision would have  
5 also been part of what the Company considered when  
6 putting together its case in this case, correct?

7 A. Absolutely.

8 Q. Now, were the CCR work undertaken at Allen,  
9 Belows Creek, Buck, Cliffside, Dan River, Marshall,  
10 River Bend, and W.S. Lee a continuation of activities  
11 that were discussed in the last rate case?

12 A. Yes.

13 Q. Now, you were asked about Jon Kerin's  
14 testimony from the last case and -- by Sierra Club, and  
15 specifically his position of reasonableness and  
16 prudence of the Company's actions.

17 Do you have a copy of Jon Kerin's prefiled  
18 testimony from Docket E-7, Sub 1146?

19 A. Yes, I do.

20 Q. Okay. If you would for me, would you mind  
21 turning to page 42 of that testimony.

22 A. I'm there.

23 Q. Okay. And I'm reading from the question at  
24 the bottom of page 42, and the question is:

1 "Regarding the ash pond closure costs already  
2 incurred or expected to be incurred prior to  
3 November 30, 2017, what do those costs comprise and why  
4 are they reasonable and prudent costs?"

5 Would you mind reading the answer for me.

6 A. "In Exhibits 10 and 11 to my testimony," to  
7 Mr. Kerin's testimony, "I have broken down those  
8 costs -- I have broken those costs down into their core  
9 components and described the plants to which those  
10 costs apply. In detailing these costs, I have also  
11 provided narrative summaries as to why these costs were  
12 incurred and why the compliance actions which led to  
13 those costs were the most reasonable and cost-effective  
14 options given the applicable facts and circumstances.  
15 These exhibits, coupled with the balance of my  
16 testimony and exhibits, demonstrate that these costs  
17 are reasonable and prudent."

18 Q. Now, do you agree that the Company's  
19 historical handling of CCR compliance has been  
20 reasonable, prudent, and consistent with industry  
21 standard over time?

22 A. Yes.

23 Q. And do you believe that DE Carolinas has done  
24 nothing historically in causing the Company to incur

1 any unjustified costs today to comply with post-2015  
2 CCR regulations?

3 A. Yes. And that's based upon the information  
4 that Mr. Kerin presented and also based upon my review  
5 of the historical documents.

6 Q. Okay. Thank you, Ms. Bednarcik. I want to  
7 ask you some questions from last Friday, which now  
8 seems a world apart. But I want to bring your  
9 recollection to some questions that Ms. Jost had asked  
10 you, and she'd asked you some questions about your  
11 experience with some of the -- some specific issues  
12 that are matters that are being discussed in this case.

13 And Ms. Jost had asked you if you had  
14 firsthand knowledge with negotiating the charter  
15 contract; do you recall that?

16 A. I do.

17 Q. And although the contract was executed prior  
18 to your promotion, can you describe for me, as vice  
19 president of coal combustion products for Duke Energy,  
20 how you evaluated the reasonableness and prudence of  
21 the contract?

22 A. So when I came into my role at NCCP, I dug  
23 into contracts, I dug into actions, I dug into what was  
24 going on in the sites, going on with the organization

1 as a whole. And one of the things I did do was look at  
2 the contract. Of course, reading the contract, every  
3 amendment, and also talking with the people that were  
4 involved in negotiating the contract when it was put  
5 together.

6 So not only the general manager over our  
7 supply chain organization who was directly involved,  
8 but also the legal department with some of the  
9 provisions of the contract and what they mean, because  
10 I am a chemical engineer, I'm not a contract person.  
11 So I wanted to go to them and say, what does this mean.  
12 I also had discussions with the vice president of our  
13 CCP projects organization. He was also involved in  
14 negotiating that contract and setting that up. With  
15 the senior vice president, my boss, over CCP as to  
16 what -- why this contract was put together -- what was  
17 the state at that time.

18 Also had conversations with the team members  
19 who were negotiating the final payments for the  
20 fulfillment fee and how -- what did they do to come up  
21 with the dollar amounts, what did they do for  
22 negotiations and discussions which are -- so I spent a  
23 lot of time specifically on that contract digging in  
24 and understanding why it was written, how it was

1 written, what was meant behind the information in those  
2 contracts, as well as how the final dollar amounts were  
3 allocated and how the final fulfillment fee was  
4 calculated.

5 Q. And similarly -- thank you for that,  
6 Ms. Bednarski.

7 And similarly, Ms. Jost had asked you whether  
8 you were in your current role when Duke conducted the  
9 RFI and RFP proposal for beneficiation; do you recall  
10 that?

11 A. I do remember that.

12 Q. And did individuals that report to you  
13 develop the RFI and RFP for beneficiation?

14 A. So yes. When I came into my current role,  
15 one of the gentlemen who was a key person who developed  
16 that RFI reported to me. He has since retired from the  
17 Company. But I, very similar what I did with the  
18 charter contract, grabbed that contract, dug into it.  
19 Understood why the sites were chosen; why the three  
20 sites were chosen; why did we go with CEFA; why did  
21 we -- what were the other type of technologies  
22 available; how that RFI went about; looking at the time  
23 frame between when CAMA, the House Bill 630 was passed,  
24 versus when did we go out for the RFI, versus when did

1 we have the contract written; and how did we go from  
2 the RFI to actually having a contract in hand with  
3 Zachary, through the bidding process with Zachary, and  
4 also the subsequent, after we got the bid from Zachary,  
5 working to come up with the final contract amount when  
6 the contract was signed.

7 So talking to not only the gentleman who  
8 wrote the RFI, but also people who were directly  
9 involved with the bidding of the contract and putting  
10 together that contract with Zachary.

11 Q. And I think you answered -- my next question  
12 was about Zachary.

13 Now, as vice president of coal combustion  
14 products, you're here today, as Mr. Kerin was in the  
15 last case, to support the reasonableness and prudence  
16 of Company's coal ash expenditure; is that correct?

17 A. Yes, that is correct.

18 Q. And is it fair to say -- and I think it's  
19 probably absolutely fair to say based on just the  
20 testimony we've heard in the last several days -- are  
21 you well versed in the federal and state regulatory  
22 obligations related to DE Carolinas CCR storage  
23 facilities?

24 A. Yes. So when I came into the role, of



1 course, I had experience with CCRs, and I was also the  
2 key project manager for provision of CAMA. So when I  
3 came in, I dug in even deeper on the regulations,  
4 requirements, what needed to happen. One of the  
5 gentlemen that reports to me is our regulatory affairs  
6 manager. So working with him -- he basically has the  
7 CCR rule memorized. So working him to understand the  
8 nuances of the CCR rule, the nuances of CAMA. Working  
9 with, of course, our environmental health and safety  
10 brethren to make sure we understand what needs to  
11 happen on the groundwater side as well.

12 But I am -- especially since I'm over on the  
13 regulatory side, governance -- that is in my title. I  
14 take that very seriously. And the only way that I can  
15 move forward with that is truly understanding what are  
16 the regulations, what do we need to do to actually meet  
17 those regulations, and are we doing it appropriately?

18 Q. Thank you, Ms. Bednarcik. And I assume with  
19 that is also the activities and costs being incurred at  
20 the various sites, correct?

21 A. Absolutely. I mean, I sit in on monthly  
22 review of cost evaluations. What are we spending? I  
23 look at the budget. I sit in -- it mentioned that the  
24 monthly roles on the actions that are going forward,

1 reviewing where are we today to where are we going,  
2 what are the activities? Are on we on cost, schedule,  
3 scope, all of those. And so I take an active part in  
4 reviewing and making sure I understand, and pushing  
5 back, and making sure that I ask the questions if I  
6 don't, and are part of that process of determining  
7 where do we go next and what do we do. I --

8 Q. And -- I'm sorry. Go ahead, Ms. Bednarcik.

9 A. So although there is a vice president over  
10 project implementation, my role, especially that  
11 governance role, is that I work hand in hand with them  
12 as that -- and one way of looking at it, a little bit  
13 on the outside, holding them also accountable to make  
14 sure that we are implementing everything appropriately.

15 Q. So it sounds like you've been living and  
16 breathing the CCR closures; is that a fair way of  
17 putting it?

18 A. I would say absolutely.

19 Q. Okay. Now, if I can turn your attention back  
20 to Mr. Kerin's testimony on page 42 again from the  
21 prior case. I want to ask you one more question  
22 related to this.

23 A. I am there.

24 Q. Okay. You see the question at the top of the

1 page? And the question is:

2 "You spend a substantial portion of your  
3 testimony discussing DE Carolinas' historical CCR  
4 handling and compliance practices. How, if at all, do  
5 these historical practices impact the compliance costs  
6 that DE Carolinas is seeking in this proceeding?"

7 Mr. Kerin responds:

8 "I make clear, in prior sections of my  
9 testimony, that DE Carolinas' historical handling of  
10 CCR costs was reasonable, prudent, and consistent with  
11 industry standards over time. These facts are  
12 important to show that nothing that DE Carolinas has  
13 done historically is causing the Company to incur any  
14 unjustified costs today to comply with post-2015 CCR  
15 regulations. "

16 Did I read that correctly?

17 A. Yes, you did.

18 Q. Do you agree with that? Do you agree with  
19 Mr. Kerin?

20 A. I absolutely agree with Mr. Kerin. That is  
21 another reason why I did look through the historical  
22 documents as well, and the historical record, to be  
23 able to make sure, as I sit her today, to say yes, I  
24 agree with Mr. Kerin. I have done my own review of it

1 and absolutely agree with him.

2 Q. Okay. Thank you, Ms. Bednarci k.

3 MR. MEZZO: Chair Mitchell, I have no  
4 further redirect.

5 MS. TOWNSEND: Chair Mitchell, just an  
6 administrative thing. This is Teresa Townsend with  
7 the AG's office.

8 CHAIR MITCHELL: All right,  
9 Ms. Townsend, you may proceed.

10 MS. TOWNSEND: Yes. I would just like  
11 to make sure that the exhibits AGO Bednarci k Cross  
12 Exhibits 1 through 6 are entered into the record.

13 CHAIR MITCHELL: All right. Hearing no  
14 objection to your motion, Ms. Townsend, it will be  
15 allowed.

16 MS. TOWNSEND: Thank you.

17 (AGO Bednarci k Direct Cross Exhibit  
18 Numbers 1 through 6 were admitted into  
19 evidence.)

20 CHAIR MITCHELL: All right. We are now  
21 with the Commissioners for questions for  
22 Ms. Bednarci k, beginning with  
23 Commissioner Brown-Bland.

24 EXAMINATION BY COMMISSIONER BROWN-BLAND:

1           Q.     Ms. Bednarcik, I do have one. It's mostly a  
2     request, but let me set it up. Back in the last rate  
3     case, the Sierra Club exhibit -- they introduced Sierra  
4     Club Kerin Cross Examination Exhibit Number 6 that  
5     shows the cumulative quantities of the CCR to each of  
6     the DEC basins through 2014. On April 2, 2018, DEC  
7     filed a late-filed exhibit that showed the cumulative  
8     quantities from 2015 through 2017.

9                     Are you or your group there at the Company  
10    able to update that document or that issue there from  
11    April 2, 2018, update that exhibit, that late-filed  
12    exhibit for each basin up through 2019 to show the  
13    cumulative quantities?

14          A.     Yes, Commissioner Brown-Bland, we would be  
15    able to provide that to you.

16          Q.     All right. Then I request that.

17                     COMMISSIONER BROWN-BLAND: And,  
18    Madam Chair, I would like that as a late-filed  
19    exhibit in this docket.

20                     CHAIR MITCHELL: Okay. Any additional  
21    questions from Commissioner Brown-Bland?

22                     COMMISSIONER BROWN-BLAND: No. That's  
23    it. Thank you.

24                     CHAIR MITCHELL: Okay.

1           Commi ssi oner Gray?

2                       COMMI SSIONER GRAY: No questi ons.

3                       CHAIR MITCHELL: Commi ssi oner

4           Cl odfel ter?

5                       COMMI SSIONER CLODFELTER: Yes. Thank

6           you. Just a few.

7           EXAMI NATION BY COMMI SSIONER CLODFELTER:

8           Q. Ms. Bednarcik, can you hear me okay?

9           A. Yes, I can.

10          Q. Great. I got a few questi on, and i t would  
11          help i f you would have i n front of you the table on  
12          page 17 of your direct testimony. And while you're  
13          getting that, I need to be sure to confi rm something  
14          wi th Mr. Marzo.

15                      COMMI SSIONER CLODFELTER: You sai d  
16          you're bringi ng Ms. Bednarcik back for her  
17          supplemental testimony as well as her rebuttal  
18          testimony?

19                      MR. MARZO: Yes. Can you hear me,  
20          Commi ssi oner Cl odfel ter?

21                      COMMI SSIONER CLODFELTER: Yes, I can.

22                      MR. MARZO: Yes, sir, we are bringi ng  
23          her back for rebuttal and for the supplemental  
24          testimony.

1                   COMMISSIONER CLODFELTER: So the  
2                   questions I've got on the supplemental, I'll hold  
3                   those. So thank you for that.

4                   MR. MARZO: Okay.

5                   THE WITNESS: So,  
6                   Commissioner Clodfelter, I have page 17 open.

7                   Q. Thank you. I'm looking at Table 1 there on  
8                   page 17, and I -- you've worked with this an awful lot,  
9                   and I haven't worked with it so much, so some of the  
10                  categorization here is a little bit opaque to me, so I  
11                  need to ask some questions.

12                 In the first line of that table, you're  
13                 describing some costs that are grouped as EHS costs. I  
14                 know what EHS is, but that doesn't really tell me a lot  
15                 about what kinds of things are embraced in those costs,  
16                 in that line of the table. Can you elaborate?

17                 A. Of course. So for EHS, the cost -- and I  
18                 will mention my supplemental had a breakdown of costs  
19                 for each one. So if I don't mention one of those, let  
20                 me know and I'll go back and let you know where that  
21                 goes. But for in general, EHS included our -- all of  
22                 our CAMA, CCR, and all of our wells, both at the  
23                 installation -- for the most part, the installation of  
24                 the wells as well as the sampling of the wells.

1           Our groundwater protective action plan was  
2           required for both submitting that plan and any type of  
3           pilot studies that we will be doing, which we actually  
4           have just submitted those groundwater caps to the  
5           state, and anything related to groundwater costs,  
6           itself.

7           Q.     That's very helpful, thank you. And the  
8           second line there is "basin closure/engineering  
9           design." I think I understand what that is, but let me  
10          ask you one question about that category, and it may  
11          bleed a little bit into your supplemental testimony.  
12          In your supplemental testimony, you have -- you  
13          categorized projected expenses by engineering a design  
14          that are internal to Duke and that by -- and then  
15          you've got an outside Duke third-party contractor line.

16                 In this table on page 17 of your direct  
17          testimony, is that -- is that inclusive of both  
18          internal and third-party design and engineering work,  
19          or just the internal work?

20          A.     It would both be internal and external.

21          Q.     Thank you again. The third line, basin  
22          support projects, not much going at Allen, Belows  
23          Creek, or Cliffside, but then I read a large chunk at  
24          Marshall. What is that?



1           A.       So the basin support projects, how we lump  
2       those together. So those are dry ash conversions that  
3       aren't needed for operation at the plant. So if it's  
4       directly related to continue operation of the plant,  
5       that was a capital cost. So there was something --  
6       some small areas there, actually I think that dry ash  
7       conversion is very small. But any stormwater,  
8       processed water, that, again, is not directly related  
9       to the operation of the plant.

10                So Marshall is a great example. There is --  
11       when we did our stormwater reroute around the landfill,  
12       itself, there was a portion, I think it was a  
13       stormwater pond, if I remember correctly, that even  
14       after we're done with all of our CCR-type work, the  
15       plants still utilize it. So that went to a capital  
16       cost associated with the plant so they may continue to  
17       utilize it. Any of that stormwater reroute that is  
18       rerouting so that we can execute the requirements under  
19       CAMA and CCR, that would have been attributed directly  
20       to the ARO and what's included in my cost.

21                So we look at each task and say is it needed  
22       for continuing operation, or is it needed for -- only  
23       for being able to execute the work that we need under  
24       CCR and CAMA. So that -- I think that's the one high.

1 I'm going off the memory of high costs before Marshall.  
2 It also includes alternative spillways, if needed, or  
3 any type of water treatment projects that are needed  
4 for CAMA and CCR operations, not for continuous  
5 operations of the plant, itself.

6 Q. This category, using Marshall as an  
7 example -- and that's a very good, thorough answer.  
8 Thank you. So this category for Marshall, for example,  
9 includes some -- something that you've been calling  
10 non-ARO costs as well as some items that might be --  
11 you would call ARO costs, correct?

12 A. So, in my testimony, we are only showing the  
13 ARO costs.

14 Q. So this \$11 million is all associated with  
15 what you would classify as part of your ARO account?

16 A. Absolutely, yes.

17 Q. All right. Lastly, the last line there is  
18 "other." What's an other?

19 A. So other is everything that doesn't fit into  
20 those larger buckets. I mean, it's exactly how it  
21 states it, right?

22 Q. What would that be?

23 A. So you know what, that is the one thing I do  
24 not have written down in front of me. And I do know

1       that there was a data request specifically on that, and  
2       I'm racking my brain right now.

3           Q.     I tell you what, when you come back up for  
4       your rebuttal and supplemental testimony, you'll have a  
5       chance maybe to refresh on that, and I will come back  
6       with the same questions. Okay?

7           A.     I will have it absolutely available. Thank  
8       you.

9           Q.     All right. Now, last question on this table.  
10      When I'm looking down the column that's the Allen  
11      column, I get a total of \$18 million and some  
12      additional money. I had understood that you told  
13      Ms. Townsend that, at the Allen plant, the Company has  
14      installed a new treatment system to handle the non-coal  
15      ash waste streams, and that's cost about \$39 million.  
16      So obviously that is not in the \$18 million total,  
17      correct?

18          A.     So you're absolutely right. So the costs  
19      that Ms. Townsend was asking about were actually  
20      capital costs, because they were required to continue  
21      operation of the plant. So even though the  
22      organization I am part of actually executed that work,  
23      we make sure, as we are looking at the costs, and we  
24      work with our accounting counterparts -- and Mr. Doss

1 will be up later on, and I know he also has  
2 supplemental testimony that had a table in there, kind  
3 of how we slice and dice the costs.

4 So we work with them to make sure that the  
5 costs are allocated appropriately. So if it is  
6 something that's associated with ongoing operation of  
7 the plants, that's a capital cost and non-ARO.

8 Q. And therefore, that's why it doesn't show on  
9 Table 1?

10 A. That is correct.

11 Q. Got it. Thank you. Next question I want to  
12 ask you is about page 20. And I'm looking particularly  
13 at the sentence on lines 10, 11, 12. It says:

14 "Additional" -- this is in reference to the  
15 Dan River plant. "Additional excavated material that  
16 did not meet standards for CCR landfill disposal was  
17 sent to offsite landfills."

18 What -- can you tell me more about what that  
19 additional material was and what the quantity was?

20 A. So the quantity, I don't have. Give me one  
21 moment. Let me look through my table and see if I can  
22 find that.

23 (Witness peruses document.)

24 So, unfortunately, I don't have that. The

1 table I have is only for the ash material and what went  
2 offsite. And we can get you the actual volume that  
3 went offsite, but my understanding and my memory is  
4 that it had -- our CCR landfills are only, of course,  
5 for what is permitted to go inside of that, so CCR. So  
6 if there was any type of material such as tree stumps,  
7 sometimes we're not allowed to put tree stumps inside  
8 of the landfill. Other kind of -- if there was any  
9 rocks or any debris that we found in there that was not  
10 permitted, it would go into the landfill.

11 I'm thinking through of some of the things  
12 we're doing on the beneficiation sites, also looking  
13 and saying, well, where does this material go if we  
14 come across tree stumps, is a great example. So my  
15 recollection is it's mainly that type of material, but  
16 we can double-check on that and get you the volume. It  
17 wasn't a significant amount.

18 Q. I thank you for the answer, because it's  
19 beginning to refresh my recollection from the prior  
20 case, too. I think there was an area at Dan River that  
21 was taking maybe some construction debris, maybe some  
22 asbestos-containing materials from construction,  
23 demolition as well, so thank you for that.

24 Last question I have for you really relates

1 to the W.S. Lee plant. And on page 26, you've got a  
2 table there summarizing your costs at the W.S. Lee  
3 plant.

4 A. Yes, I see that.

5 Q. My question for you is a simple one. It's  
6 this: Of the \$13,511,000 and change that you're  
7 showing there, was any of that incurred in connection  
8 with activities at the inactive ash basin or the ash  
9 fill area at the W.S. Lee plant?

10 A. I would have to go back and look at  
11 specifically those areas.

12 Q. If you could do that -- if you could do  
13 that --

14 A. The majority --

15 Q. I really -- another way of phrasing the  
16 question is to say, was all of the work at the inactive  
17 basin and the ash fill area completed before the period  
18 of time covered by this exhibit? That's really what  
19 I'm trying to get at.

20 A. I know the significant amount of the work was  
21 completed as part of the last case. I know the  
22 majority of the costs associated with this case is  
23 moving the material from the secondary basin into the  
24 primary so we could start filling that landfill. But I

1 also know that, in the inactive ash area, that the IFA  
2 and the AFA, those two areas, we are continuing to have  
3 discussions with DEQ about doing sampling in the area  
4 and doing our final closure plan. So I do know there's  
5 some small costs associated with that. But the  
6 overall -- overall excavation was substantially in the  
7 last one, but we can check on that for you.

8 Q. If you could do that, and we can confirm that  
9 again when you come back on supplemental, that would be  
10 great. Last couple of questions.

11 Do you know a gentleman named John Elnitsky?

12 A. So I never worked directly with Mr. Elnitsky  
13 when he was with the Company. He is no longer with the  
14 Company, but I know of him, but I never worked directly  
15 for him.

16 Q. Did not? You did not work for him?

17 A. No, I did not.

18 Q. Okay. Great. Several people have referred  
19 me to you.

20 Can you give me Mr. Zarzar's current title  
21 and the scope of his responsibilities?

22 A. So I know Mr. Zarzar well. He and I talk  
23 almost weekly, sometimes multiple times a week. He is  
24 on our CCP projects organization, and he is currently a

1 general manager of CC projects for the central region.  
2 So the scope of his responsibilities is that he has  
3 project managers that work for him that is -- that are  
4 directly involved with executing the excavation work at  
5 the beneficiation sites, so at Buck, and at H. F. Lee,  
6 and Cape Fear.

7 He also has people underneath him who are  
8 executing the excavation -- or executing the excavation  
9 work at Weatherspoon. And also we -- he is also in the  
10 last year, year and a half, assumed responsibilities  
11 for finalizing the excavation work and the landfill  
12 work at the Sutton site.

13 Q. Thank you.

14 COMMISSIONER CLODFELTER: Madam Chair,  
15 that's all I have. Thank you.

16 CHAIR MITCHELL: All right.  
17 Commissioner Duffley?

18 COMMISSIONER DUFFLEY: Yes. I have one  
19 just clarification question.

20 EXAMINATION BY COMMISSIONER DUFFLEY:

21 Q. So if you could turn to -- Ms. Townsend was  
22 asking you about Hart exhibits. And if you could  
23 specifically go to Hart Exhibit 52.

24 A. (Witness peruses document.)



1 I have that one in front of me,  
2 Commissioner Duffley.

3 Q. Okay. Thank you. And then there's also an  
4 Attachment B that kind of -- and I know you stated  
5 witness Wells is probably more familiar with these well  
6 testing results, but it looks like on Attachment B to  
7 this exhibit, that there are well sampling data,  
8 collection data. And it states that the sample  
9 collection date is in 2018. It's showing a lot of 2018  
10 results; do you see that?

11 A. Yes, I do.

12 Q. And then in my copy there's highlighted  
13 portions where it is over 2L, they've highlighted. And  
14 so I'm just trying to get clarification because I think  
15 I misheard something. In Mrs. Townsend's cross of you,  
16 going to page 3-1 of Exhibit 52, she was asking you  
17 about this language based on the review of the 2018  
18 CAMA groundwater -- groundwater monitoring analyses,  
19 that some constituents were above the 2L groundwater  
20 standards.

21 And I thought I heard you say that it wasn't  
22 necessarily limited to 2018, but it was historical  
23 testing. Did I mishear you?

24 A. So no. And I can understand that that was

1       probably a little confusing as I was describing that.  
2       What I was trying to say is that the court-appointed  
3       monitors, in their -- when they were doing this review,  
4       they were only looking at data that had been collected  
5       in the previous year, since their previous time being  
6       at the site and doing the audit in the previous year.

7               But if you look at the previous  
8       court-appointed monitor audit results, every year they  
9       look at one year's worth of data. And this finding  
10      actually is the same finding that has been in every  
11      single one of their audit reports.

12             And so I was trying to convey that the  
13      finding wasn't new, it wasn't an aha that only came up  
14      in the 2019 audit based upon the 2018 data. What I was  
15      trying to convey was that they had their blinders on  
16      looking at 20 -- the last year data, but it was  
17      something we knew about, the court-appointed monitor  
18      knew about, because they saw it every year, and that we  
19      were working with the department on cleaning that up.

20             Q.     Okay. So that makes sense to me.

21                    So in the 2017 report, there was a similar  
22      paragraph that talked about the 2017 monitoring data;  
23      is that accurate?

24             A.     That -- you're absolutely correct. And

1 actually, since all of this is posted on Duke's public  
2 website, there's even our response to every single one  
3 of their findings. And that's one of the things I did  
4 is I went back and looked and said the findings were  
5 the same year over year. And, of course, our response  
6 was the same, is that we were working with state  
7 agencies on that. But I just wanted to make sure that  
8 clarification was out there since we are only looking  
9 at 2019 report.

10 Q. Okay. Thank you, that helps clarify that  
11 issue.

12 COMMISSIONER DUFFLEY: I have nothing  
13 further.

14 CHAIR MITCHELL: All right.  
15 Commissioner Hughes?

16 (No response.)

17 CHAIR MITCHELL: All right. I believe  
18 Commissioner Hughes has no questions.

19 Commissioner McKissick?

20 COMMISSIONER MCKISSICK: Madam Chair, I  
21 have no questions at this time. Thank you.

22 CHAIR MITCHELL: All right. Thank you,  
23 Commissioner McKissick.

24 All right. Questions on Commissioners'

1 questions, beginning with the Public Staff.

2 MS. JOST: No questions from the Public  
3 Staff. Thank you.

4 CHAIR MITCHELL: All right. Thank you,  
5 Ms. Jost.

6 Ms. Townsend?

7 MS. TOWNSEND: No questions.

8 CHAIR MITCHELL: All right. Sierra  
9 Club?

10 MS. CRALLE JONES: No questions.

11 CHAIR MITCHELL: Any additional  
12 intervenors have questions on Commissioners'  
13 questions?

14 (No response.)

15 CHAIR MITCHELL: Questions from Duke?

16 MR. MARZO: No questions,  
17 Chair Mitchell. I just ask that Ms. Bednarci k's  
18 testimony exhibits be moved into the record.

19 CHAIR MITCHELL: All right. Hearing no  
20 objections to your motion, Mr. Marzo, it will be  
21 allowed.

22 (Bednarci k Exhibi ts 1 through 17, and  
23 Confidential Appendi x H to Exhibi ts 12  
24 and 15 were admitted into evidence.)

1 CHAIR MITCHELL: Any additional motions  
2 for me to entertain at this time?

3 (No response.)

4 CHAIR MITCHELL: I think we've taken  
5 care of all the exhibits. All right,  
6 Ms. Bednarcik, you are off the hot seat for now.  
7 You may step down. Thank you.

8 All right. We are still with Duke.  
9 Mr. Marzo, Mr. Robinson, Mr. Somers, do you-all  
10 need a few minutes to change your witnesses out?

11 MR. ROBINSON: Chair Mitchell, just two  
12 minutes. I think most of our witness are situated.  
13 I just want to make sure they are where they need  
14 to be.

15 CHAIR MITCHELL: Actually, looking at  
16 the clock, we are at the point in time for our  
17 afternoon break. So why don't we go ahead and take  
18 about 15 minutes, and we'll go back on at 3:20.

19 MR. ROBINSON: Thank you.

20 (At this time, a recess was taken from  
21 3:06 p.m. to 3:28 p.m.)

22 CHAIR MITCHELL: Let's go back on the  
23 record, please. I see Ms. McManeus, and there is  
24 Mr. Speros. All right. Ms. Jagannathan, there you

1           are. Okay. All right. Let's go ahead and get  
2           your witnesses under oath.

3       Whereupon,

4           JANE L. MCMANEUS AND NICHOLAS G. SPEROS,  
5           having first been duly affirmed, were examined  
6           and testified as follows:

7           CHAIR MITCHELL: All right. Thank you,  
8           Ms. Jagannathan, you may proceed.

9           MS. JAGANNATHAN: Thank you, Chair  
10          Mitchell.

11       DIRECT EXAMINATION BY MS. JAGANNATHAN:

12          Q.       Ms. McManeus, welcome back. Would you please  
13       state your name and business address for the record?

14          A.       (Jane L. McManeus) Yes. My name is  
15       Jane McManeus. My business address is 550 South Tryon  
16       Street in Charlotte, North Carolina.

17          Q.       And can you please remind us of your position  
18       with Duke Energy Carolinas?

19          A.       I am a director of rates and regulatory  
20       planning.

21          Q.       And, Ms. McManeus, you previously appeared  
22       during the consolidated hearing to discuss EDIT and the  
23       Company's proposal to defer the grid improvement cost.  
24       Today you're here to answer questions about the

1 remainder of your testimony; isn't that right?

2 A. That's correct.

3 Q. And did you prepare a summary of that  
4 testimony?

5 A. Yes, I did.

6 MS. JAGANNATHAN:

7 Chair Mitchell, I would like to move Ms. McManeus'  
8 DEC-specific testimony summary into the record as  
9 if given orally from the stand.

10 CHAIR MITCHELL: All right. Hearing no  
11 objection to your motion, it will be allowed.

12 MS. JAGANNATHAN: Thank you.

13 (Whereupon, the prefiled testimony  
14 summary of Jane L. McManeus was copied  
15 into the record as if given orally from  
16 the stand.)

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**Duke Energy Carolinas, LLC**  
**Summary of Testimony of Jane L. McManeus**  
**Docket No. E-7, Sub 1214**

I am the witness who supports Duke Energy Carolinas' requested revenue requirement, pro forma adjustments, and various accounting requests. As a result of the settlement agreements the Company has entered into with the Public Staff and other intervenors, the majority of revenue requirements issues have been resolved, pending Commission approval. The most significant issue still in dispute that is covered in my testimony is the appropriate ratemaking treatment for the Company's coal ash compliance costs.

The particular coal ash-related costs at issue are the costs incurred by the Company in connection with its coal ash basin closure activities from January 1, 2018 through January 31, 2020. All of these costs were incurred due to a change in the law that required the Company to manage coal ash differently than it had done in the past, and to retire long-lived assets that the Company had been using for purposes of coal ash management and storage. The costs are accounted for in AROs as explained by Company witnesses Riley and Doss. These costs have been deferred in accordance with the Commission's order in the Company's previous rate case, decided in June 2018. In the current case, the Company proposes a five-year amortization period, along with inclusion of the unamortized deferred balance in rate base – identical to the treatment approved and ordered by the Commission in the Company's previous rate case. Inclusion of the unamortized balance in rate base of course means that the Company would earn a return on that balance at its weighted average cost of capital during the amortization period. This is precisely what the Commission ordered in the prior case.

In this case, the Public Staff again proposes a lengthy amortization period for recovery of deferred coal ash costs and a disallowance of a return on the unamortized balance in order to achieve what it calls an "equitable sharing" between customers and shareholders. The Public Staff's "equitable sharing" adjustment runs directly contrary to well-established ratemaking and



**Duke Energy Carolinas, LLC**  
**Summary of Testimony of Jane L. McManeus**  
**Docket No. E-7, Sub 1214**

cost recovery principles and, in particular, the basic principle that a public utility's reasonable and prudently incurred costs are recoverable in rates. The Commission has rejected Public Staff's arbitrary approach on at least four occasions and should do so again in this case.

The Public Staff's proposal acknowledges that financing costs during the initial period of deferral – that is, from the time the costs are incurred until they are brought into rates – should include the Company's financing costs. It is during the period over which the costs are amortized after being brought into rates that the Public Staff indicates no financing costs should be allowed. This runs contrary to well established ratemaking and cost recovery principles.

The costs at issue include the cost of money. The financing costs related to funds advanced by investors are no less costs associated with the provision of service to customers than the depreciation, O&M, or other costs of the power plants that generate electricity or the towers, poles, and lines that transmit and distribute that electricity to customers' homes and businesses. None of the costs at issue have previously been brought into rates and paid for by customers. All of these costs have been funded by investors. Because the costs are wholly financed by the Company and its investors, the Public Staff appropriately recognizes that the Company's financing costs during the deferral period are legitimately incurred and recoverable. That same principle applies during the amortization period as well.

As the Commission found in the Company's 2017 rate case, "if in the process of bringing the deferred costs into rates the costs are amortized over a period of years, not allowing a return on the unamortized costs again impairs the Company's ability to earn at its authorized rate of return." The Commission concluded that denying the Company the opportunity to earn its allowed rate of return on prudently incurred costs results in rates that are unjust and unreasonable. The same conclusion continues to hold today.

**Duke Energy Carolinas, LLC**  
**Summary of Testimony of Jane L. McManeus**  
**Docket No. E-7, Sub 1214**

I am aware that the Commission came to a different conclusion in its Order in Dominion North Carolina's most recent rate case, based on the evidence and record in that case, although I am not completely familiar with that record. However, the record on this issue for Duke Energy Carolinas was fully developed in the Company's previous rate case, and the evidence presented in the current case is no different from the evidence in the prior case.

In its prior rate case, the Company had requested a "run rate" to collect at least a portion of ongoing coal ash basin closure costs, which would have shifted the funding source for those costs from the Company and its investors to customers. The Commission rejected the Company's proposal. Noting that the Company had requested – and that the Commission had approved – deferral of the costs into an ARO, the Commission indicated that the Company had therefore conceded that treating coal ash basin closure costs as recurring test year expense was inadequate. The Commission held instead, and I quote:

CCR remediation costs incurred by DEC during the period rates approved in this case will be in effect shall be booked to an ARO that shall accrue carrying costs at the approved overall cost of capital approved in this case (the net of tax rate of return, net of associated accumulated deferred income taxes). The Commission will address the appropriate amortization period in DEC's next general rate case, and, unless future imprudence is established, will permit earning a full return on the unamortized balance.

The costs referenced in the 2018 order are the costs that are at issue now in this rate case. The Commission's direction seems clear to me, and the Company has done what it was ordered to do – it has raised the money to fund its ongoing coal ash costs from its investors, and now seeks recovery of those costs. The costs include the cost of money, as this Commission recognized in the 2018 Order.

This concludes my summary.

1 Q. Mr. Speros, would you please state your name  
2 and business address for the record.

3 A. (Nicholas G. Speros) Yes. Nicholas Speros.  
4 My business address 550 South Tryon Street, Charlotte,  
5 North Carolina.

6 Q. And by whom are you employed and in what  
7 capacity?

8 A. I'm employed by Duke Energy Business Services  
9 as accounting manager for Duke Energy Carolinas.

10 Q. Thank you. And on September 30, 2019, did  
11 you cause to be prefiled in this docket, direct  
12 testimony consisting of nine pages as well as four  
13 exhibits to that testimony?

14 A. Yes.

15 Q. And on October 23, 2019, did you cause to be  
16 filed, Revised Speros Exhibit 4?

17 A. Yes.

18 Q. And on February 14, 2020, did you cause to be  
19 prefiled in this docket, supplemental direct testimony  
20 consisting of four pages as well as Speros Supplemental  
21 Exhibit 2 and Speros Supplemental Exhibit 3?

22 A. Yes.

23 Q. And did you cause to be prefiled in this  
24 docket, rebuttal testimony consisting of 12 pages on

1 March 4, 2020, as well as one exhibit to your rebuttal  
2 testimony?

3 A. Yes.

4 Q. And, Mr. Speros, do you have any changes or  
5 corrections to any of your prefiled testimony?

6 A. Yes, I do have a correction to my rebuttal  
7 testimony that is included in the errata page provided  
8 with my testimony summary.

9 Q. And with the correction that is noted in your  
10 errata page, if I asked you the same questions here  
11 today, would your answers be the same?

12 A. Yes, they would.

13 Q. Thank you.

14 MS. JAGANNATHAN: Chair Mitchell, I  
15 would move that Mr. Speros' prefiled testimony,  
16 testimony summary, and errata sheet be entered into  
17 the record as if given orally from the stand.

18 CHAIR MITCHELL: Hearing no objection to  
19 your motion, it is allowed.

20 (Whereupon, the prefiled direct,  
21 supplemental direct, rebuttal testimony  
22 and summary with errata of  
23 Nicholas G. Speros was copied into the  
24 record as if given orally from the

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stand. )

1 **I. INTRODUCTION AND PURPOSE**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Nicholas G. Speros, and my business address is 550 South Tryon  
4 Street, Charlotte, North Carolina.

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed by Duke Energy Business Services, LLC as Accounting  
7 Manager for Duke Energy Carolinas, LLC (“DE Carolinas” or the “Company”).  
8 DE Carolinas is a subsidiary of Duke Energy Corporation (“Duke Energy”).

9 **Q. PLEASE SUMMARIZE YOUR EDUCATION AND PROFESSIONAL**  
10 **QUALIFICATIONS.**

11 A. I graduated from the University of Cincinnati with a bachelor’s degree in  
12 Business Administration.

13 **Q. PLEASE SUMMARIZE YOUR WORK EXPERIENCE.**

14 A. I have 12 years of professional experience with Duke Energy in various  
15 accounting and finance roles. I was named to my current position as  
16 Accounting Manager of DE Carolinas in December 2018.

17 **Q. PLEASE BRIEFLY DESCRIBE YOUR DUTIES AS ACCOUNTING**  
18 **MANAGER.**

19 A. I am responsible for ensuring that the accounting impacts of the Company’s  
20 business activities and transactions are understood and properly recorded to the  
21 general ledger and that such accounting impacts, as well as any applicable  
22 related variances to budget and prior year results, are clearly explained and  
23 properly presented in internal and/or external financial reports. I am also

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1 responsible for ensuring that the accounting team performs its tasks in an  
2 accurate and timely manner in accordance with published deadlines while  
3 strictly adhering to Company policies and controls.

4 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS OR ANY**  
5 **OTHER COMMISSION?**

6 A. No. I have not.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

8 A. My testimony will cover the financial position of DE Carolinas at December  
9 31, 2018, and the actual results of the Company's operations for the twelve  
10 months ending December 31, 2018 (the "Test Period"). The Company's  
11 financial position and operating results and the actual data required under Rule  
12 R1-17(b) of the North Carolina Utilities Commission's (the "NCUC" or the  
13 "Commission") Rules and Regulations are set forth in Speros Exhibit 1. I  
14 discuss the amount of the Company's nuclear decommissioning costs allocated  
15 to the Company's North Carolina retail electric operations and that the  
16 Company is not including any decommissioning expense in its rate request  
17 based on the results of the 2019 TLG Services Cost Studies and the Company's  
18 projected nuclear decommissioning trust fund balances. I also discuss the  
19 amount of investor funds for operations included in rate base, calculated on the  
20 basis of a lead-lag study. A summary of the calculation of investor funds for  
21 operations is presented in Speros Exhibit 2 and the detailed Lead Lag Study  
22 prepared by Ernst & Young LLP is included as Speros Exhibit 3. I also discuss  
23 the amount of DE Carolinas' depreciation expense based on the Company's

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1 revised depreciation study being filed in this docket (the "Depreciation Study"),  
2 and included as Exhibit 1 to the direct testimony of Company witness John  
3 Spanos. Finally, in compliance with the Commission's Order in Docket No. E-  
4 7, Sub 1146, I provide a detailed accounting of the Company's Cost of Removal  
5 Reserve for its steam assets as Exhibit 4 to my testimony.

6 **Q. WERE SPEROS EXHIBITS 1, 2, 3 AND 4 PREPARED OR PROVIDED**  
7 **HEREIN BY YOU, UNDER YOUR DIRECTION AND SUPERVISION?**

8 A. Yes. They were.

9 **Q. ARE YOU FAMILIAR WITH THE ACCOUNTING PROCEDURES**  
10 **AND BOOKS OF ACCOUNT OF DE CAROLINAS?**

11 A. Yes. The books of account of DE Carolinas follow the Uniform System of  
12 Accounts prescribed by the Federal Energy Regulatory Commission. This  
13 Uniform System of Accounts has been adopted by the Commission and is  
14 followed by the investor-owned utilities subject to its jurisdiction.

15 **Q. WHAT STEPS DOES THE COMPANY TAKE TO ENSURE THAT ITS**  
16 **BOOKS AND RECORDS ARE ACCURATE AND COMPLETE?**

17 A. DE Carolinas maintains and relies upon an extensive system of internal  
18 accounting controls and audits by both internal and external auditors. The  
19 system of internal accounting controls provides reasonable assurance that all  
20 transactions are executed in accordance with management's authorization and  
21 are recorded properly.

22 The system of internal accounting controls is reviewed annually, tested,  
23 and documented by the Company to provide reasonable assurance that amounts

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1 recorded on the books and records of the Company are accurate and proper. In  
2 addition, independent certified public accountants perform an annual audit to  
3 provide assurance that internal accounting controls are operating effectively and  
4 that the Company's financial statements are materially accurate.

5 **II. FINANCIAL POSITION AND RESULTS**

6 **Q. PLEASE DESCRIBE WHAT IS PRESENTED ON SPEROS EXHIBIT 1.**

7 A. Speros Exhibit 1 sets forth the Company's financial statements. Pages 1 and 2  
8 contain the Company's Balance Sheet as of December 31, 2018. Page 3 is the  
9 Company's Income Statement for the twelve months ending December 31,  
10 2018. Page 4 is the Company's Statement of Capitalization at December 31,  
11 2018. Certain information shown on Speros Exhibit 1 is also included in  
12 Exhibit C to the Company's Application.

13 **Q. ARE THE CAPITAL EXPENDITURES AND OPERATING EXPENSES**  
14 **REPRESENTED ON SPEROS EXHIBIT 1 ACCURATE?**

15 A. Yes. An integral part of the Company's system of internal accounting controls  
16 includes various budgeting, planning, and review procedures to establish and  
17 monitor the capital and operating budgets, as well as actual expenditures.

18 **III. NUCLEAR DECOMMISSIONING**

19 **Q. WHAT AMOUNT OF NUCLEAR DECOMMISSIONING EXPENSE IS**  
20 **INCLUDED IN DE CAROLINAS' PER BOOK AMOUNT FOR**  
21 **DEPRECIATION EXPENSE?**

22 A. DE Carolinas is currently not collecting any funds from North Carolina Retail  
23 customers for decommissioning of nuclear units, and therefore the amount of

---

1 nuclear decommissioning expense included in DE Carolinas' per book amount  
2 for depreciation expense is \$0 in the Test Period. On August 2, 2019, pursuant  
3 to the Commission's November 3, 1998 *Order Approving Guidelines* in Docket  
4 No. E-100, Sub 56, DE Carolinas filed its Decommissioning Cost and Funding  
5 Report ("DCF Report"). The DCF Report indicated no additional funding was  
6 necessary for nuclear decommissioning of the DE Carolinas' nuclear fleet based  
7 on updated Cost Studies received from TLG Services in 2018 and economic  
8 assumptions at that point in time. As a result, DE Carolinas is not seeking to  
9 collect an expense provision in cost of service for nuclear decommissioning  
10 costs as part of this rate case proceeding.

11 **IV. INVESTOR ADVANCED FUNDS**

12 **Q. PLEASE EXPLAIN SPEROS EXHIBIT 2.**

13 A. Speros Exhibit 2 shows the calculation of the Company's North Carolina retail  
14 amount for investor funds invested in operations. This Exhibit applies the  
15 revenue lags and expense leads to the applicable components of the Test Year  
16 cost of service per books as allocated to the Company's North Carolina retail  
17 operations. The resulting working capital requirement for investor funds for  
18 North Carolina retail operations in the amount of \$177,740,237 shown on Line  
19 19 of Speros Exhibit 2 and is included as a component of working capital as  
20 shown in Column 2, Line 2 on McManeus Exhibit 1, Page 4d. This amount is  
21 derived from the detailed lead-lag study. In the Commission's *Order Accepting*  
22 *Stipulation, Deciding Contested Issues, and Requiring Revenue Reduction*  
23 issued on June 22, 2018 in Docket No. E-7, Sub 1146, the Commission directed

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1 DE Carolinas to prepare and file an updated lead-lag study in its next general  
2 rate case, as agreed to by the Company and the Public Staff. In accordance with  
3 this order, the Company engaged Ernst and Young to perform a detailed lead-  
4 lag study which was completed on May 22, 2019. This updated lead-lag study  
5 was submitted in Item 14 of the E-1 that is a part of this filing and is also Exhibit  
6 3 of my testimony. The results of the lead-lag study were applied to the updated  
7 Test Year cost of service to produce the per books cash working capital  
8 requirement requested in this case.

9 **Q. WHAT IS THE PURPOSE OF A LEAD-LAG STUDY?**

10 A. The purpose of a lead-lag study is to provide a measure of the amount of  
11 investor funds used to sustain utility operations from the time expenditures are  
12 made until the time payment is received. Generally, a utility provides service  
13 prior to receipt of payment from customers, and there is also a delay in payment  
14 for goods and services acquired by the utility. A lead-lag study is used to  
15 analyze transactions throughout the year to determine the number of days  
16 between the time services are rendered and payment is received (revenue lag),  
17 and the number of days between the time expenditures are incurred and  
18 payment is made for such services (expense or payment lead). In some  
19 instances, revenue may be received prior to payment for the related expense  
20 (*i.e.*, a net lead or alternatively a negative net lag). The revenue lag is compared  
21 to the expense lead and the net lag is applied to each category of cost of service  
22 to determine the DE Carolinas' cash working capital requirements.

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1 **Q. PLEASE EXPLAIN THE DEPRECIATION RATES SHOWN ON**  
2 **MCMANEUS EXHIBIT 1, PAGE 4B.**

3 A. The depreciation rates shown on Page 4b of McManeus Exhibit 1 are the  
4 depreciation rates from the Depreciation Study as of December 31, 2018 that is  
5 being filed in this Docket. The Depreciation Study was prepared by Gannett  
6 Fleming Valuation and Rate Consultants, LLC and is discussed in more detail  
7 by Company witness Spanos. Spanos Exhibit 1 is the complete Depreciation  
8 Study. The Company believes that these depreciation rates are reasonable for  
9 use in this proceeding.

10 **IV. COST OF REMOVAL RESERVE ACCOUNTING FOR STEAM**  
11 **ASSETS**

12 **Q. HAS THE COMPANY PROVIDED A DETAILED ACCOUNTING OF**  
13 **ITS COST OF REMOVAL RESERVE FOR ITS STEAM ASSETS IN**  
14 **COMPLIANCE WITH THE COMMISSION ORDER IN DOCKET NO.**  
15 **E-7, SUB 1146?**

16 A. Yes. The *Order Accepting Stipulation, Deciding Contested Issues, and*  
17 *Requiring Revenue Reduction* in Docket No. E-7, Sub 1146, states that:

18 Prior to the next rate case, the Commission shall require that  
19 DEC provide a detailed accounting of its Cost of Removal  
20 Reserve for its steam assets and how the Company is  
21 utilizing this Cost of Removal Reserve.<sup>1</sup>

22  
23 Exhibit 4 to my testimony is a detailed accounting of the cost of removal reserve  
24 for the Company's steam assets and how the Company is utilizing this reserve.

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<sup>1</sup> Order at p. 323.

- 1   **Q.     DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**
- 2   **A.     Yes.**
-

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND CURRENT**  
2 **POSITION.**

3 A. My name is Nicholas G. Speros, and I am employed by Duke Energy Business  
4 Services, LLC as Accounting Manager for Duke Energy Carolinas, LLC (“DE  
5 Carolinas” or the “Company”).

6 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY?**

7 A. The purpose of my supplemental testimony is to describe revisions to the Lead  
8 Lag Study prepared by Ernst & Young LLP that was originally submitted as  
9 Speros Exhibit 3 to my Direct Testimony. The updated Lead Lag Study is  
10 included as Speros Supplemental Exhibit 3. These revisions also impact Speros  
11 Exhibit 2 to my Direct Testimony, which presents the amount of investor funds  
12 for operations included in rate base, calculated on the basis of the Lead Lag  
13 Study. A summary of the calculation of investor funds for operations based on  
14 the updated Lead Lag Study is included as Speros Supplemental Exhibit 2.

15 **Q. WERE SPEROS SUPPLEMENTAL EXHIBITS 2 AND 3 PREPARED OR**  
16 **PROVIDED HEREIN BY YOU, UNDER YOUR DIRECTION AND**  
17 **SUPERVISION?**

18 A. Yes. They were.

19 **Q. PLEASE DESCRIBE THE REVISIONS TO THE LEAD LAG STUDY**  
20 **THAT ARE REFLECTED IN SPEROS SUPPLEMENTAL EXHIBIT 3.**

21 A. Ernst & Young details the changes they made to the Lead Lag Study in the  
22 Background Section of the updated Lead Lag Study (see Section 1.2 of Speros  
23 Supplemental Exhibit 3). In sum, as compared to the original report, the

1 Company's 2017 Total Cash Working Capital Requirements decreased by \$8.2  
2 million, as a result of the following adjustments:

- 3 • Payroll deductions and payroll taxes – Within payroll deductions and  
4 payroll taxes, amounts related to incentive compensation were identified. The  
5 service period related to these amounts was adjusted to correspond to the  
6 service period for incentive compensation. Adjustments to payroll deductions  
7 result in a \$10.6 million decrease, while adjustments to payroll taxes result in a  
8 \$3.7 million decrease;
- 9 • Regulatory commission expense – Regulatory commission expense  
10 related to the South Carolina Public Service Commission was included in the  
11 original study. Removing this item results in a \$379,000 decrease;
- 12 • Pension and benefits – For account 1B410 (Undergrad Tuition  
13 Reimbursement), the payment date was adjusted for a January payment. This  
14 adjustment results in a \$37,000 increase;
- 15 • Property insurance – Line items related to account 0924980 were not  
16 calculated correctly in the original study due to a formula error, resulting in a  
17 \$5.3 million increase;
- 18 • Other O&M expense – Other O&M expense in the final Cost of Service  
19 decreased by \$1.5 million from the Cost of Service version used for the original  
20 study. Additionally, uncollectible accounts were broken out separately and a  
21 zero-day expense lead was applied. These two adjustments result in a net  
22 increase of \$1.1 million to cash working capital requirements.

1 **Q. PLEASE EXPLAIN WHAT CHANGES YOU MADE IN SPEROS**  
2 **SUPPLEMENTAL EXHIBIT 2 TO REFLECT THE UPDATES TO THE**  
3 **LEAD LAG STUDY.**

4 A. Speros Supplemental Exhibit 2 reflects updates to include the revised lead lag  
5 days for Operations and Maintenance Expense (line 3) and Taxes Other Than  
6 Income (line 5). The Company's 2018 Total Cash Working Capital  
7 Requirements decreased by \$24.2 million, as a result of these changes.

8 **Q. DOES THIS CONCLUDE YOUR PRE-FILED SUPPLEMENTAL**  
9 **DIRECT TESTIMONY?**

10 A. Yes.



1                                    **I.        INTRODUCTION AND PURPOSE**

2    **Q.        PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND**  
3                    **OCCUPATION.**

4    A.        My name is Nicholas G. Speros, and my business address is 550 South Tryon  
5                    Street, Charlotte, North Carolina. I am employed by Duke Energy Business  
6                    Services, LLC (“DEBS”) as Accounting Manager for Duke Energy Carolinas,  
7                    LLC (“DE Carolinas” or the “Company”).

8    **Q.        DID YOU FILE DIRECT TESTIMONY IN THIS PROCEEDING?**

9    A.        Yes. I filed direct testimony and exhibits supporting DE Carolinas’ financial  
10                   position and operating results, nuclear decommissioning costs, investor funds  
11                   for operations, depreciation expense, and accounting of the Company’s cost of  
12                   removal reserve for its steam assets. I also filed supplemental direct testimony  
13                   and exhibits on February 14, 2020 relating to the Company’s updated lead lag  
14                   study.

15   **Q.        WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN**  
16                   **THIS PROCEEDING?**

17   A.        The purpose of my rebuttal testimony is to address: (1) the Public Staff’s  
18                   testimony and proposed adjustment to working capital relating to the  
19                   Company’s lead-lag study; (2) Public Staff and intervenor testimony related to  
20                   lobbying expenses; (3) Public Staff and intervenor testimony related to  
21                   Chamber of Commerce expenses; and (4) Public Staff’s testimony and  
22                   proposed adjustment related to amounts that were incorrectly booked as  
23                   advertising expenses.

1 **Q. DOES YOUR TESTIMONY INCLUDE ANY EXHIBITS?**

2 A. Yes. I have one rebuttal exhibit. As described in more detail below, Speros  
3 Rebuttal Exhibit 1 is a true and accurate copy of the August 31, 2016  
4 Independent Lobbying Labor Cost Study prepared by KPMG for Duke Energy  
5 Corporation and its public utility subsidiaries, including DE Carolinas.

6 **Q. WAS THIS EXHIBIT PREPARED BY YOU OR UNDER YOUR**  
7 **DIRECTION AND SUPERVISION?**

8 A. Speros Rebuttal Exhibit 1 was prepared by KPMG at the request of DEBS and  
9 has been used by the Company since August 31, 2016 to inform its accounting  
10 practices with respect to lobbying expenses. The study is publicly available by  
11 virtue of its filing by Duke Energy with the Federal Energy Regulatory  
12 Commission ("FERC").

13 **II. LEAD-LAG STUDY**

14 **Q. PLEASE SUMMARIZE PUBLIC STAFF COMMENTS AND**  
15 **RECOMMENDATIONS RELATED TO THE COMPANY'S LEAD-LAG**  
16 **STUDY.**

17 A. Public Staff witness Michelle Boswell commented that the Public Staff  
18 discovered several errors in the lead-lag study filed by the Company and  
19 incorporated corrections to those errors in calculating the cash working capital  
20 under present rates.

1 **Q. WHAT IS THE COMPANY'S RESPONSE TO MS. BOSWELL'S**  
2 **RECOMMENDATION?**

3 A. In my supplemental direct testimony, I summarized the adjustments Ernst &  
4 Young made to their original lead-lag study and attached the updated lead-lag  
5 study as Speros Supplemental Exhibit 3. The Company agrees with the Public  
6 Staff's adjustments to cash working capital based on their review of the lead-  
7 lag study, as these adjustments are consistent with the changes described in my  
8 supplemental testimony and that are included in the updated lead-lag study.

9 **III. LOBBYING EXPENSES**

10 **Q. PLEASE SUMMARIZE THE PUBLIC STAFF'S RECOMMENDATION**  
11 **RELATED TO "LOBBYING EXPENSES."**

12 A. Witness Boswell testified that she removed O&M expenses associated with  
13 stakeholder engagement, state government affairs, and federal affairs that were  
14 recorded above-the-line.

15 **Q. PLEASE DESCRIBE THE DIFFERENCE BETWEEN ABOVE-THE-**  
16 **LINE AND BELOW-THE-LINE EXPENSES.**

17 A. Expenses recorded above-the-line are included in the Company's cost of service  
18 and are recovered from customers through rates. Expenses recorded below-the-  
19 line are not included in the Company's cost of service and are not sought to be  
20 recovered from customers, but rather are paid by shareholder dollars. Lobbying  
21 expenses are below-the-line, and thus not included in rates.

1   **Q.    WHAT IS THE COMPANY’S RESPONSE TO MS. BOSWELL’S**  
2   **PROPOSED ADJUSTMENT?**

3   A.    The Company opposes this adjustment. On page 23 of her testimony, Witness  
4       Boswell states that she applied the “but for” test used in a Formal Advisory  
5       Opinion of the State Ethics Commission. However, based on a review of the  
6       Public Staff’s calculation, it appears that the Public Staff’s recommendation is  
7       founded on a broad assumption that 50% of the Company’s O&M expense  
8       related to certain departments that perform public affairs, political, or lobbying  
9       functions or activities should be considered non-recoverable, based on their  
10      review of job descriptions of employees in those departments.

11           This approach appears to be the same approach the Public Staff used,  
12      and the Commission rejected, in its *Order Granting General Rate Increase*  
13      issued in Dominion North Carolina Power’s rate case in Docket No. E-22, Sub  
14      479 (“DNCP Order”). On page 71 of the DNCP Order, the Commission stated:

15                   the Commission also finds that the Public Staff’s  
16                   50% exclusion adjustment, based on its overall  
17                   conclusion upon an apparent cursory review with  
18                   selective highlighting of job descriptions/roles, is  
19                   an overly broad, very general approach that is not  
20                   sufficiently supported by the evidence to justify  
21                   such a 50% adjustment in this proceeding.

1   **Q.   HOW DID THE COMPANY DETERMINE WHICH EXPENSES**  
2       **RELATED TO STAKEHOLDER ENGAGEMENT, STATE**  
3       **GOVERNMENT AFFAIRS, AND FEDERAL AFFAIRS SHOULD BE**  
4       **RECORDED ABOVE-THE-LINE VERSUS BELOW-THE-LINE?**

5   A.   In 2016, the Company engaged KPMG to perform a detailed time study for the  
6       purposes of determining the percentage of time certain individuals spent on  
7       lobbying activities per the federal definition in Code of Federal Regulations  
8       (“CFR”) Section 367.4264. Under this definition, expenditures related to  
9       certain civic, political, and related activities should be recorded in FERC  
10      Account 426.4, which includes:

11                   expenditures for the purpose of influencing public  
12                   opinion with respect to the election or appointment of  
13                   public officials, referenda, legislation, or ordinances  
14                   (either with respect to the possible adoption of new  
15                   referenda, legislation or ordinances or repeal or  
16                   modification of existing referenda, legislation or  
17                   ordinances) or approval, modification or revocation of  
18                   franchises; or for the purpose of influencing the  
19                   decisions of public officials.

20      Charges to Account 426.4 are not included or recoverable for ratemaking  
21      purposes, or in other words, are “below-the-line.” The remaining labor charges  
22      associated with these personnel – i.e., those that do not fall within the definition  
23      in CFR Section 367.4264 – are applied to FERC Account 920, which is “above-  
24      the-line.”

25                   KPMG conducted a series of interviews with select personnel and  
26      reviewed internal documentation related to lobbying costs in order to develop a  
27      system-wide survey based on typical activities that would be performed

1 throughout the year. Surveys were distributed to all lobbyist and support  
2 personnel. Upon receipt of completed surveys, KPMG analyzed the results by  
3 person and jurisdiction.

4 **Q. WHAT WERE THE RESULTS OF THE STUDY?**

5 A. KPMG delivered a report with the results of the study to the Company on  
6 August 31, 2016. A true and accurate copy of this report is included as Speros  
7 Rebuttal Exhibit 1. In the study, KPMG divided activities into two groups, as  
8 follows:

9 **(1) Manage External Relationships (applied to the**  
10 **below-the-line Account 426.4)** – examples of items in  
11 this category include direct lobbying services, such as  
12 contacting members of Congress, holding meetings with  
13 executive and agency officials, and testifying before a  
14 Congressional committee or at a legislative hearing;  
15 evaluating and communicating strategic positions, such  
16 as analyzing and drafting legislation, conducting or  
17 publishing research to support legislative initiatives, and  
18 promoting strategic positioning; and developing and  
19 maintaining key relationships, such as participating in  
20 networking, charity, and philanthropic events and  
21 managing relationships with organizations such as PACs  
22 and non-profits.

23 **(2) Manage Internal Relationships (applied to the**  
24 **above-the-line Account 920)** – examples of items in this  
25 category include coordinating and meeting with internal  
26 departments; conducting training; communicating  
27 company positions to employees; assisting legislative  
28 officials with solving any constituent inquiries/issues;  
29 and general office management support, such as  
30 coordinating meetings, travel arrangements, and training  
31 events, managing executive calendars, and tracking  
32 invoices, time and expense coding.

1 Based on the results of the detailed time labor study, including the survey  
2 results, KPMG provided a percentage breakdown of the percentage of time  
3 relevant employees spent on these activities for each jurisdiction.

4 **Q. HOW DID THE COMPANY REFLECT THE RESULTS OF THE**  
5 **STUDY?**

6 A. Company booked journal entries to ensure that the 2016 labor costs were  
7 aligned with the results of the KPMG study.

8 **Q. HAS THE COMPANY REVIEWED THESE RESULTS SINCE THE 2016**  
9 **KPMG STUDY WAS COMPLETED?**

10 A. Yes. In 2018, as recommended by KPMG, the Company performed an internal  
11 assessment of the labor cost percentages using KPMG's survey templates based  
12 on interviews conducted with individuals in the relevant groups. Based on the  
13 results of the internal assessment, the percentage of time relevant employees  
14 spent on these activities remained unchanged from the 2016 KPMG study.

15 **Q. DO YOU BELIEVE THAT THE AMOUNTS THE COMPANY HAS**  
16 **BOOKED ABOVE-THE-LINE ARE REASONABLE AND**  
17 **APPROPRIATE TO BE RECOVERED FROM DE CAROLINAS**  
18 **CUSTOMERS IN THIS CASE?**

19 A. Yes. As noted above, the amounts the Company has booked above-the-line  
20 align with the independent study performed by KPMG. Moreover, the types of  
21 costs that are recorded above-the-line include internal and operational activities,  
22 such as managing and supporting other internal departments, managing  
23 constituent inquiries, and providing general office management support.

1 Activities like managing constituent inquiries directly benefit customers. For  
2 example, a customer may contact a local government official with an issue  
3 relating to power outages, downed power lines, billing questions, etc. That  
4 government official may reach out to a representative in the Company's state  
5 and government affairs group. In turn, that Company representative would  
6 coordinate with other internal DE Carolinas personnel to resolve the issue. It  
7 is reasonable for expenses related to this activity to be booked above-the-line.

8 **Q. DID ANY OTHER INTERVENORS OFFER TESTIMONY RELATING**  
9 **TO LOBBYING EXPENSES?**

10 A. Yes. Greer Ryan, on behalf of the Center for Biological Diversity and  
11 Appalachian Voices, recommends that the Commission disallow recovery  
12 related to DE Carolinas' support of the following groups: (1) Edison Electric  
13 Institute ("EEI"); (2) Nuclear Energy Institute ("NEI"); (3) Institute of Nuclear  
14 Power Operations ("INPO"); (4) Utility Water Act Group ("UWAG"); and (5)  
15 all Chambers of Commerce entities. Witness Ryan essentially argues that  
16 customer funds should not be used to support entities that engage in political  
17 activities and lobbying, regardless of how those specific funds are used.

18 **Q. DOES THE COMPANY AGREE WITH WITNESS RYAN'S**  
19 **RECOMMENDED DISALLOWANCE?**

20 A. No. Any payments made to EEI, NEI, INPO, and UWAG that are related to  
21 lobbying, political activities, or contributions to a charitable foundation (e.g.,  
22 The Edison Foundation) are recorded to Account 426.4, which, as discussed  
23 above, is below-the-line. With respect to EEI, the Company receives from EEI



1 a Schedule of Expenses<sup>1</sup> that details EEI's budgeted spend for lobbying. The  
2 Company uses the percentage of EEI's budget that relates to lobbying to record  
3 the portion of the payment related to lobbying below-the-line. Similarly, for  
4 NEI, the invoice states the percentage of dues used for lobbying purposes, and  
5 the Company records the corresponding amount below-the-line. For INPO and  
6 UWAG, the same logic applies – any amount identified on the invoice as  
7 relating to lobbying, political, or charitable contributions is recorded below-the-  
8 line. It is not reasonable to assume that all of these organizations' activities  
9 constitute lobbying or that because these organizations do engage in some  
10 lobbying and political activities, their other activities have no benefit to  
11 customers.

12 **Q. HOW DO ORGANIZATIONS LIKE EEI, NEI, INPO, AND UWAG**  
13 **BENEFIT CUSTOMERS?**

14 A. All of these entities are electric industry trade organizations that provide  
15 valuable resources to their member utilities. For example, EEI offers training  
16 and testing for members' employees; information relating to cybersecurity  
17 initiatives, energy efficiency programs, and customer solutions; access to  
18 industry data; and breaking news on topics such as preparing for the  
19 coronavirus. Customers benefit from the Company's participation in industry  
20 organizations as it keeps DE Carolinas current on industry trends,

<sup>1</sup> This schedule was provided in the Company's Confidential response to Public Staff Data Request 31-8.

1 developments, innovative programs, and emerging safety issues, among other  
2 things.

3 **IV. EXPENSES RELATED TO CHAMBERS OF COMMERCE**

4 **Q. WITNESS RYAN ARGUES THAT ALL PAYMENTS TO CHAMBER OF**  
5 **COMMERCE ENTITIES SHOULD BE EXCLUDED. DO ANY OTHER**  
6 **WITNESSES TAKE ISSUE WITH THESE AMOUNTS?**

7 A. Yes. Public Staff witness Boswell argues that these expenses should be  
8 disallowed because they do not represent actual costs of providing electric  
9 service to customers. I do not agree.

10 **Q. WHY SHOULD THE COMPANY BE ABLE TO RECOVER EXPENSES**  
11 **RELATED TO CHAMBERS OF COMMERCE?**

12 A. Chambers of Commerce promote business and economic development which  
13 in turn helps to retain and attract customers to the Company's service territory.  
14 Funds paid to Chambers of Commerce that are not specified as a donation,  
15 sponsorship or lobbying on the Chamber invoice are supporting business or  
16 economic development and are considered to be properly charged as a utility  
17 operating expense that should be included in the Company's cost of providing  
18 electric service to customers.

19 **V. ADVERTISING EXPENSES**

20 **Q. PLEASE DESCRIBE THE PUBLIC STAFF'S PROPOSED**  
21 **ADJUSTMENT TO ADVERTISING EXPENSES.**

22 A. Public Staff witness Boswell has recommended removal of amounts charged to  
23 O&M expense to exclude: (1) items incorrectly booked to advertising; (2)

1 amounts the Company could not provide advertisement support for; and (3)  
2 image and promotional advertising. Regarding witness Boswell's  
3 recommended exclusion of the first category (items incorrectly booked to  
4 advertising), it is my understanding that expenses relating to the painting of  
5 power poles were inadvertently included in the FERC account relating to  
6 advertising and are being corrected. Although the costs were charged to the  
7 wrong account, the Company maintains that these costs are reasonable and  
8 prudent expenditures that should be recovered in retail rates. Accordingly, I  
9 oppose this adjustment. Company witness McManeus addresses the second and  
10 third categories of advertising expenses in her rebuttal testimony.

11 **VI. CONCLUSION**

12 **Q. DOES THIS CONCLUDE YOUR PRE-FILED REBUTTAL**  
13 **TESTIMONY?**

14 **A. Yes.**

**Duke Energy Carolinas, LLC**  
**Summary of Testimony of Nicholas G. Speros**  
**Docket No. E-7, Sub 1214**

As Accounting Manager for Duke Energy Carolinas, I am responsible for ensuring that the accounting impacts of the Company's business activities and transactions are properly recorded to the general ledger and that the accounting team performs its duties in accordance with Company policies and controls. My direct testimony and exhibits provide the Company's financial position and operating results, as well as an overview of the steps the Company takes to ensure that its books and records are accurate and complete. I also provide a copy of the detailed Lead Lag Study prepared by Ernst & Young that the Commission directed the Company to file in this case, which was later updated as explained in my supplemental direct testimony.

In my rebuttal testimony, I explain how costs are recorded "above the line" and charged to customers through rates or recorded "below the line" and thereby paid by shareholders. I also give examples of the types of costs that fall into each category and describe the processes the Company has in place to ensure that costs are accurately charged above or below the line. I clarify that the Company is not seeking to collect costs for items such as lobbying, political contributions, promotional advertising, and charitable contributions from its customers. Moreover, the Public Staff conducted a full and complete audit of the Company's expenses, and any issues identified were ultimately addressed.

Finally, with respect to dues paid to trade organizations such as EEI and NEI, any payments made to these organizations that are related to lobbying, political activities, or contributions to a charitable foundation are recorded below the line. In fact, these organizations are required to clearly identify the portion of dues that relate to these types of activities, and Duke Energy Carolinas automatically excludes these amounts from cost of service, as demonstrated in the Company's responses to data requests in this case. The remainder of the costs paid to these organizations is recorded above the line, and there is no reason to disallow these costs. EEI, for

**Duke Energy Carolinas, LLC**  
**Summary of Testimony of Nicholas G. Speros**  
**Docket No. E-7, Sub 1214**

example, provides a variety of products and services to utilities, including critical industry data, strategic business intelligence, and employee training. In short, customers benefit from the Company's participation in these organizations and is appropriate for the Company to recover these costs in rates.

This concludes the summary of my pre-filed testimony.

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

**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 Service in North Carolina

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**DUKE ENERGY CAROLINAS, LLC'S  
CORRECTIONS TO REBUTTAL  
TESTIMONY OF NICHOLAS G. SPEROS**

**CORRECTIONS TO REBUTTAL TESTIMONY OF NICHOLAS G. SPEROS**

PAGE 11, LINES 14-18 SHOULD REASON FOR CHANGE:  
READ:

Funds paid to Chambers of Commerce that are not specified as a donation; ~~sponsorship~~ or lobbying on the Chamber invoice are supporting business or economic development and are considered to be properly charged as a utility operating expense that should be included in the Company's cost of providing electric service to customers.

The words "sponsorship" was inadvertently included in Mr. Speros testimony and should be stricken.

1 MS. JAGANNATHAN: Thank you. And I  
2 would also move that Speros Exhibits 1 through 3,  
3 Revised Speros Exhibit 4, Speros Supplemental  
4 Exhibits 2 and 3, and Speros Rebuttal Exhibit 1 be  
5 marked for identification.

6 CHAIR MITCHELL: His exhibits will be  
7 marked as they were when prefiled.

8 (Speros Exhibits 1 through 3, Revised  
9 Speros Exhibit 4, Speros Supplemental  
10 Exhibits 2 and 3, and Speros Rebuttal  
11 Exhibit 1 were identified as they were  
12 marked when prefiled.)

13 MS. McINTOSH JAGANNATHAN: Thank you.  
14 The panel is now available for cross examination.

15 CHAIR MITCHELL: All right. Public  
16 Staff?

17 CROSS EXAMINATION BY MS. HOLT:

18 Q. Good afternoon. I'm Gina Holt with the  
19 Public Staff. I have a few questions for Ms. McManeus.

20 A. (Jane L. McManeus) Okay.

21 Q. Ms. McManeus, I'd like to discuss your  
22 adjustment in this case relating to the sale of five  
23 hydra units which you discussed in your direct  
24 testimony on pages 25 through 26.

1 A. Yes.

2 Q. And as you recount in your testimony and by  
3 way of background, DEC sold five hydra unit stations  
4 August 16, 2019, and the transfer of those units was  
5 approved by the Commission in Docket Number  
6 E-7, Sub 1181 on June 5, 2019; is that correct?

7 A. That's correct.

8 MS. HOLT: Chair Mitchell, I'd also like  
9 to request that the Commission's order in Docket  
10 Number E-7, Sub 1181, that the Commission take  
11 judicial notice of its order in that case.

12 CHAIR MITCHELL: All right. Ms. Holt,  
13 just for purposes of the record, would you provide  
14 the date of the Commission's order to which you  
15 refer?

16 MS. HOLT: June 5, 2019.

17 CHAIR MITCHELL: I'm sorry, Ms. Holt.  
18 June -- you cut out. June?

19 MS. HOLT: June 5, 2019.

20 CHAIR MITCHELL: Okay. The Commission  
21 will take judicial notice of its order issued in  
22 the docket on June 5, 2019.

23 MS. HOLT: Thank you.

24 Q. And, Ms. McManeus, in addition, the



1 Commission approved in that order the establishment of  
2 regulatory asset for the estimated loss experienced as  
3 a result of that sale, correct?

4 A. Yes, they did.

5 Q. And the Company requested deferral of the  
6 amount of the loss on the sale, correct?

7 A. Yes, that's correct.

8 Q. And in that docket, the Public Staff didn't  
9 oppose the deferral of the loss, and actually  
10 recommended a 20-year amortization on the loss,  
11 correct?

12 A. Yes.

13 Q. And Public Staff witness Boswell, in this  
14 case, also recommended a 20-year amortization; is that  
15 correct?

16 A. Yes, that is correct.

17 Q. Now, in deciding to sell the hydra units,  
18 wasn't the Company's intent to save the future costs  
19 associated with those units, which would, in effect,  
20 benefit ratepayers and decrease ratepayers' rates?

21 A. Well, I wasn't a participant in that  
22 proceeding. There was another rates witness. But it's  
23 my general understanding that the Company sold those  
24 assets as the least-cost approach to delivering -- you

1 know, providing electric service.

2 Q. And that would, in turn, benefit ratepayers?

3 A. Yes, that would.

4 Q. Thank you. Now, on pages 25 through 26 of  
5 your direct testimony, you recommend a seven-year  
6 amortization period on those losses, correct?

7 A. Yes, I do.

8 Q. And you state, and I quote:

9 "This period was selected to closely align  
10 the revenue requirement amount associated with the loss  
11 on sale to the revenue requirement amount associated  
12 with ownership of facilities."

13 A. Yes.

14 Q. And also I would like to direct your  
15 attention to your rebuttal testimony, page 11.

16 And you restate that reason and also add  
17 on -- also add that the amortization will result in  
18 minimal change to existing rates, correct?

19 A. Yes, that's what it says.

20 Q. If the loss on the sale of the units is  
21 amortized over 20 years, would that result in a  
22 decrease in the rates of customers in this case as  
23 opposed to the seven-year amortization which you state  
24 will result in a minimal change in rates?

1           A.       Well, let me explain a little bit further  
2       about what I meant when I said a minimal change. The  
3       seven-year amortization period that we chose was  
4       derived simply by taking into consideration the costs  
5       related to these facilities that were in existing rates  
6       that need to be removed because the facilities are  
7       sold. And so we took into consideration what the  
8       amount that was being removed, and we chose an  
9       amortization amount that would roughly equal what was  
10      being removed.

11                So when I talk about neutrality, that's  
12      really what I meant is that I'm removing some O&M, some  
13      depreciation, and some property tax of a certain  
14      amount, and I'm going to replace it with amortization  
15      of the loss. And I simply tried to make the  
16      amortization of the loss be about equal to what was in  
17      existing rates for these facilities that needed to be  
18      removed.

19                And so, mathematically, I really backed in to  
20      the seven-year period, and that was the logic. Now,  
21      the logic, I didn't just make this up on my own, I  
22      really took a bit of guidance from the Commission's  
23      order in the hydro case that you have noted already.  
24      In that order, when the Commission approved the

1        deferral of the loss, they also indicated that  
2        amortization should begin when the close -- the sale  
3        was closed and that the amortization amount should be  
4        equal to the depreciation expense.

5                I took that to mean that things were being  
6        kept a bit neutral. That depreciation was going to  
7        stop and the amortization was going to go into place,  
8        and if you made them equal, that would be an approach  
9        where rates weren't changing, the Company's recovery  
10       wasn't changing, and there was a bit of neutrality.  
11       And I just carried that forward with the seven years.

12               Now, I would agree with you that, if you  
13        amortize something over seven years, you get a higher  
14        amortization amount than you do if you amortize it over  
15        20 years. Absolutely, that's the way the math works  
16        out. On the other hand, both the Company and the  
17        Public Staff, having included the regulatory asset  
18        related to the deferred loss in the rate base, which  
19        means that there is a return component related to this.  
20        And so, from the Company's perspective, the 7-year  
21        amortization expense is a bit higher than a 20-year  
22        amortization expense, but the return that the customer  
23        would pay over 7 years would be a lesser amount than  
24        the return customers would pay over 20 years.

1                   And so, from my perspective, both of these  
2 approaches have some appropriate logic behind them, and  
3 the Company chose the seven years simply on the basis  
4 that I just explained.

5           Q.     Okay. Thank you. But in that order that we  
6 are referring to now, the Commission, nor did the  
7 Company, recommend a specific amortization period on  
8 the loss; isn't that correct?

9           A.     You are exactly right. The Commission said  
10 that this amortization period should be determined in  
11 the next general rate case. So that's why the Company  
12 felt that it was appropriate to select one and, you  
13 know, the Public Staff as well. And as you well know,  
14 amortization periods can be somewhat subjective. And  
15 so, you know, the logic I just put forth was the logic  
16 that the Company proposes. Again, it's a bit higher  
17 amortization expense, but lower return over the  
18 amortization period.

19          Q.     Thank you.

20                   MS. HOLT: I have no further questions.

21                   CHAIR MITCHELL: All right. Attorney

22                   General's Office?

23                   CROSS EXAMINATION BY MS. FORCE:

24          Q.     Good afternoon, Ms. McManeus and Mr. Speros.

1 My name is Margaret Force with the Attorney General's  
2 Office, and I think most of my questions, or all of  
3 them are directed to Ms. McManeus as well.

4 A. (Jane L. McManeus) Okay.

5 Q. I'd like to run through some numbers that  
6 relate to the coal ash cost recovery that's addressed  
7 in this case.

8 And I believe that, Ms. McManeus, I'm looking  
9 mostly at your testimony, the supplemental testimony  
10 that you filed. And that would be on page 3, you  
11 indicate that the adjustment for what you called  
12 deferred environmental cost is number 11; isn't that  
13 right?

14 A. I filed a lot of testimony. Could you repeat  
15 for me so I can look at it? I have my direct, and then  
16 I have a supplemental, and then rebuttal. So do you  
17 mean my first supplemental?

18 Q. I do. And that's dated February 14, 2020.

19 A. And I'm sorry, what page again?

20 Q. Page 3.

21 A. (Witness peruses document.)

22 Okay. I'm at page 3. And on page 3, I see a  
23 list of adjustments.

24 Q. I am referring to number 11, which is the

1 adjustment that you've made for deferred environmental  
2 costs. And I believe that refers to the cost  
3 associated with coal ash; is that right?

4 A. Yes, that is correct.

5 Q. And I could ask you -- I think it would be  
6 useful for you to take a look at your Exhibit 1 that  
7 you filed with your supplemental testimony, so the same  
8 date, February 14th. And you have identified labels on  
9 the coal ash in categories that are called ARO and  
10 non-ARO, where ARO refers to the removal of coal ash or  
11 closure of ash ponds, and the non-ARO part addresses  
12 ongoing operations at operating plants, like dry ash  
13 handling and water treatment; does that sound right?

14 A. That's right. I did separate it into two  
15 categories.

16 Q. So if you'd look at your supplemental  
17 Exhibit 1, the updates to work papers that were filed  
18 in E-1, Item 10, appear on page 55 of that exhibit, if  
19 you'd look there.

20 A. Ms. Force, I don't have in front of me that  
21 particular detail in my Exhibit 1. I have in front of  
22 me what my final exhibit looked like for coal ash.

23 Q. Well --

24 A. Let me --

1           Q.     I looked at -- let me ask you this: When I'm  
2     looking at that supplemental testimony, it relates to  
3     actual costs, as I understood it, during the deferral  
4     period; is that right?

5           A.     That's right. And I think that we're -- the  
6     one I'm looking at is probably identical to what you're  
7     looking at. So what we did is included in this  
8     adjustment the recovery of the coal ash costs that were  
9     incurred January of 2018 through January of 2020, and  
10    that's what you've recently heard Ms. Bednarick testify  
11    to.

12          Q.     And when you talk about those numbers, you're  
13    talking about the expenditures in each of those months  
14    through the end of January 2020, right?

15          A.     That's correct.

16          Q.     So if you look at that number, then -- our  
17    numbers may be a little bit different because of  
18    adjustments that you've made for rate of return, but I  
19    just want to run through and get some of the basics  
20    down.

21                 When you look at that period, we're talking  
22    about 25 months, and the -- and I think we just said,  
23    the further updates don't add months to it, but they do  
24    increase the amount for what you call the carrying



1 costs in some places, the rate of return; is that  
2 right?

3 A. That's correct. We did not add any actual  
4 coal ash expenditures beyond January 2020, but we do  
5 show the additional carrying costs through July of '20.

6 Q. That would be the end of July. And when was  
7 it that the temporary rates took effect?

8 A. We had originally expected rates to be  
9 effective August 1, but the temporary rates went into  
10 effect mid-August, so there's a little gap in between  
11 the end in this pro forma adjustment and what actually  
12 happened. So there are some financing costs that were  
13 not captured.

14 Q. Okay. So I'm looking on page 57 of the  
15 supplemental exhibit. I'm hoping it's in the same  
16 place as yours is. I see that the -- and the amount  
17 should be the same -- well, it's close to the same.  
18 Roughly \$378.464 million as the total amount that  
19 you're talking about for the closure of ash ponds,  
20 including the rate of return during the deferral  
21 period; does that sound right?

22 A. That's correct.

23 Q. And in my document, that's the sum of  
24 \$341.568 million plus \$36.806 million, and the

1       \$36.806 million relates to the carrying costs during  
2       the deferral period; is that right?

3           A.       That's correct.

4           Q.       So the period of time that Duke was carrying  
5       those expenditure costs was roughly two and a half  
6       years or 32 months at the longest time, but those  
7       carrying costs apply as the expenditures were made.

8                    So a lot of those expenditures were just made  
9       under 18 months ago; is that right?

10          A.       Yes. The expenditures were made over that  
11       time period that you described. So some of them as  
12       early as January of 2018, and then the later ones,  
13       January of 2020. And the Company still incurs  
14       financing costs on those amounts that have been  
15       advanced by investors.

16          Q.       And the rate of return that's used is the  
17       rate of return from the last rate case reflecting the  
18       rate of return on equity that was approved in the  
19       return on long-term debt; is that right?

20          A.       Yes, that's correct.

21          Q.       Okay. So now let's identify the amount that  
22       Duke proposes to include in the cost of service, or the  
23       annual revenue requirement in the case.

24                    Would you agree with me that the amount is

1       \$75.7 million?

2           A.     The revenue requirement is actually made up  
3       of two components. It's made up of the amortization,  
4       and then it's made up of a return on the unamortized  
5       balance. And I think, in total, that amount is about  
6       \$96 million, and the amortization piece of it is  
7       around -- now -- (sound cut off). Sorry. I'm talking  
8       about the total including the -- I'm just -- I'm sorry.  
9       I'm simply speaking of the ARO amount.

10          Q.     That's what I was talking about. And is  
11       it -- for the amount that's amortized each year,  
12       separating from the amount that shows up in the  
13       proposal for rate base, what was the amount you said?

14          A.     It's about \$76 million.

15          Q.     And then when you include the amount that's  
16       being amortized, would you say that that comes out, the  
17       two together -- well, that that rate of return amount  
18       would be about \$16.3 million?

19          A.     I'm sorry, I don't have that piece of paper  
20       in front of me, but the total is \$96 million. So it's  
21       about \$20 million.

22          Q.     Okay. So \$96 million is the amount for the  
23       defer -- the amount that's been deferred in this period  
24       January 1st of 2018 through January 31st of 2020, then,

1 that's being proposed by Duke in this case, right?

2 A. I would see it slightly differently. The  
3 revenue requirement associated with the amount that's  
4 deferred and brought forward in this rate case is about  
5 \$96 million.

6 Q. Okay. Now, is it also true that Duke is  
7 still amortizing the coal ash costs from the last rate  
8 case?

9 A. Yes, it is true.

10 Q. And is the amount of that roughly 110- to  
11 \$120 million per year reflected in the revenue  
12 requirement?

13 A. It's about \$120 million.

14 Q. So together, the amount is over \$200 million  
15 per year that will be recovered in the revenue  
16 requirement related to coal ash under Duke's proposal  
17 in the case; is that right?

18 A. I would say that differently again. I would  
19 say that existing rates already includes an amount, and  
20 then if the Commission approves the request of the  
21 Company, then in customers' rates would be a total of  
22 around the \$200 million that you're stating.

23 Q. It's a little more than that, it sounds  
24 like --

1 CHAIR MITCHELL: Ms. Force, I'm going to  
2 interrupt you. For purposes of the record, would  
3 you please just classify which document you're  
4 looking at.

5 MS. FORCE: Sure. We're actually  
6 looking at little different documents, but I can  
7 refer you specifically to McManeus Supplemental  
8 Exhibit 1, which is part of her testimony that was  
9 filed. It's the exhibit to her testimony filed  
10 February 14, 2020, and I started with page 55 of  
11 that exhibit.

12 THE WITNESS: And I'm looking at that as  
13 well.

14 Q. And to further clarify, would you agree with  
15 me, Ms. McManeus, that the amount of deferral hasn't  
16 changed since that supplemental testimony was filed,  
17 but the amount of the rate of return that's applied to  
18 it has changed?

19 A. Yes.

20 MS. FORCE: Does that clarify it for  
21 you, Chair Mitchell?

22 CHAIR MITCHELL: Yes. Thank you,  
23 Ms. Force.

24 Q. We were talking about --

1           A.     I'm sorry -- I'm sorry, Ms. Force. I need to  
2 perhaps elaborate a little bit more. The coal ash  
3 recovery is one that is, you know, not settled upon.  
4 And so ultimately the exact revenue requirement will be  
5 determined when the Commission does render its opinion  
6 about what the appropriate return on rate base will be.

7           Q.     Yes. And I didn't mean to confuse the  
8 record.

9                     So when you talked about \$96 million, do you  
10 remember what the rate of return was that you were  
11 using in that calculation?

12          A.     (Witness peruses document.)

13          Q.     It would be more helpful to ask it this way.

14                     That the amount of rate of return is from the  
15 last rate case, isn't it, that we used to calculate up  
16 through the period of deferral?

17          A.     Yes, it was, in my supplemental file.

18          Q.     But when we calculate the amount on the rate  
19 base going forward, would that be an amount that's  
20 calculated based on the rate of return that the  
21 Commission fixes in this case?

22          A.     Yes, it is.

23          Q.     Those numbers may adjust somewhat depending  
24 on the final outcome in the case, correct?

1 A. Yes.

2 Q. But roughly speaking, would you agree with me  
3 that we're talking about over \$200 million per year  
4 that would be recovered through rates for coal ash  
5 cost?

6 A. Yes. I would agree that, if I look at what  
7 customers are paying in existing rates, as well as what  
8 the Company is proposing that customers pay, it would  
9 be over \$200 million. About 120 in the existing, and  
10 about 96 in the currently proposed; and that adds up to  
11 more than -- a little more than \$200 million.

12 Q. So I know costs won't be distributed that way  
13 for customers, but Duke Carolinas has about two million  
14 customers, so it's going to be about \$100 per year per  
15 customer, just roughly?

16 A. I don't have a calculation of -- like, my  
17 calculation is really sort of a percent impact on  
18 customer bills, and like what is being proposed in this  
19 case is a 2 percent average increase for North Carolina  
20 retail customers; but I did not -- that average is  
21 different among customer classes, and I didn't compute  
22 an amount per customer bill.

23 Q. That's fine. We can move on. I have a few  
24 questions for you that are more general accounting

1 principles for ratemaking.

2 Can you agree with me that the accounting  
3 exhibits that you prepared show Duke's position about  
4 the annual revenue requirement needed to meet the costs  
5 providing electric service to retail customers after  
6 rates are set going forward?

7 A. Yes. The purpose of my Exhibit 1 is to  
8 identify the annual revenue requirement that the  
9 Company needs to provide electric service.

10 Q. And in order to estimate what that cost of  
11 service is, then you prepare exhibits that show costs  
12 in a test year with a number of adjustments to that; is  
13 that right?

14 A. Yes. In the state of North Carolina, we are  
15 in a historical test period state, so we start with  
16 historical actuals. And then to the extent that those  
17 amounts would not be representative of the Company's  
18 revenues and expenses in the future, then we are  
19 allowed to make certain pro forma adjustments to make  
20 them more representative of the future.

21 Q. So would you agree with me that some of the  
22 adjustments normalize costs?

23 A. That's correct. Some of the adjustments  
24 normalize costs.



1           Q.     For example, there's an exhibit in your  
2     adjustments for making an adjustment to normalize for  
3     variations and weather; is that right, on how much  
4     electricity might be used?

5           A.     That's correct.

6           Q.     And you might make adjustments to annualize  
7     costs, say if a cost started in March or June, so that  
8     you are representing what the costs would be over the  
9     course of the full year; am I understanding annualized  
10    correctly?

11          A.     Yes, that's correct.

12          Q.     And if you had made expenditures in 2018 for  
13    the construction of a new power plant, for instance,  
14    those expenditures wouldn't show up in the month that  
15    they were incurred as an operating expense for the  
16    Company that would be expected going forward, would  
17    they? They'd be capitalized?

18          A.     Yes. If you're speaking of a generating  
19    plant, you have a construction period. The  
20    expenditures are being financed by investors, and from  
21    an accounting perspective, following either GAAP or  
22    FERC accounting, they would be capitalized.

23          Q.     And expenditures on long-term assets are not  
24    recovered in the month that the expenditures are made,

1 but they rather are recovered in rates over the useful  
2 life of the assets, right?

3 A. Yes. The Company recovers those amounts by  
4 depreciating the assets over their estimated service  
5 life, and recovers that depreciation as well as the  
6 return on the unrecovered balance.

7 Q. And when -- so to restate that a little bit,  
8 the full amount of an expenditure for an addition to  
9 plan, which will be used in rendering service over a  
10 long period of time, should not be charged to customers  
11 who use the service in the month of such expenditure,  
12 but is spread over the anticipated life of the  
13 equipment, right?

14 A. That's traditionally what is done to recover  
15 the cost of a generating plant. And I think you're  
16 correct that, rather than recover it all in one period,  
17 usually the ratemaking treatment is to recover it over  
18 its life through depreciation expense.

19 Q. And can you agree with me that this is a  
20 recognition of the principles that the users in each  
21 period should be charged with a cost of service  
22 attributable to that period?

23 A. Yes. I would say that that is an underlying  
24 principle. I would also note that, on occasion, that's

1 not always possible.

2 Q. So are you talking about an exception to the  
3 general rule, then?

4 A. Yes. I'm -- when I said "on occasion," I  
5 meant that it's not always, but on occasion that is not  
6 the case.

7 Q. And just as another example, there are  
8 rate case expenses that are probably going to be  
9 included in this case, and those expenses are not  
10 reflected as an annual amount, but rather would be  
11 spread over the anticipated time between rate cases so  
12 that it -- I guess you would call that normalizing the  
13 amount; is that correct?

14 A. Yes. There are certain costs that are  
15 captured and spread over multiple periods of time in an  
16 attempt to normalize.

17 Q. Okay. Now, just asking a couple more  
18 questions along these lines, this is pretty general,  
19 but there are also quite a few adjustments that are  
20 made to address the fact that Duke Carolinas serves in  
21 both North and South Carolina and serves both retail  
22 and wholesale customers, right?

23 A. I'm not sure what you mean by "adjustments."  
24 I think if you look at my Exhibit 1, it starts out with

1 total Company amounts, and then, through cost of  
2 service, one would allocate or assign amounts to  
3 North Carolina retail jurisdiction, which by definition  
4 assumes that some other rate jurisdictions would also  
5 be assigned or allocated a portion of those system  
6 amounts.

7 Q. And in many cases, those costs are -- where  
8 they're joint costs, are approximated, right? They're  
9 not exactly this part goes to North Carolina, this part  
10 goes to South Carolina; there has to be some sort of an  
11 allocation process that's an approximation; am I right?

12 A. I'm not really sure if I would call it an  
13 approximation. I imagine you heard witness Hager speak  
14 extensively about cost of service and the underlying  
15 principles behind it and cost causation principles.  
16 And, obviously, we don't do cost of service on a  
17 customer-by-customer basis. We have to group them  
18 similarly. And so yes, they're -- they are allocated  
19 because we don't -- because we cannot do cost of  
20 service by individual customer.

21 Q. Okay. I won't continue with that,  
22 Ms. McManeus, you're right, there are other folks who  
23 speak to cost of service.

24 I'd ask you now to please turn -- I want to

1 go through a few documents with you to get them into  
2 the record, and I'm not going to spend a lot of time  
3 with the documents. But if you'd turn, please, to AGO  
4 Exhibit 43.

5 A. (Witness peruses document.)

6 Q. And that is a document with Duke Energy at  
7 the top, and it has the date, December 30, 2016.

8 A. Okay. I have this document now.

9 MS. FORCE: So I'd ask that this  
10 document be marked AGO McManeus Speros Cross  
11 Exhibit 1, please.

12 CHAIR MITCHELL: The document will be so  
13 marked.

14 (AGO McManeus/Speros Cross Exhibit 1 was  
15 marked for identification.)

16 MS. FORCE: Thank you, Chair Mitchell.

17 Q. Can you agree with me, after you look at  
18 this, Ms. McManeus, that this is a petition -- the  
19 petition that was filed by Duke on December 30, 2016,  
20 for an accounting order to defer environmental  
21 compliance costs in the Dockets E-7, Sub 1110, and  
22 E-2, Sub 1103?

23 A. Yes, that's what this is.

24 Q. You included a cover letter with that, that

1 if you look at page 2 of the petition --

2 (Reporter interruption due to sound  
3 failure.)

4 CHAIR MITCHELL: Ms. Force, we've now  
5 lost -- there are you. You're back.

6 MS. FORCE: I'm sorry. I had to move  
7 the book, I think, because I'm turning away from  
8 the mic. So I turned the mic on and I'll try to  
9 remember to turn it off so we don't interfere with  
10 each other.

11 Q. But if you look on page 2, it says on that  
12 second full paragraph:

13 "Closing ash basins is part of the lifecycle  
14 of the Company's coal plants and compliance with state  
15 and federal regulatory requirements as part of the  
16 normal operation of the utility."

17 Would you agree with me that that's what is  
18 stated there?

19 A. Yes, I agree.

20 Q. And this is Duke's petition requesting that  
21 the costs be deferred for recovery in some future  
22 proceeding; is that right?

23 A. Yes, that's correct. This was our petition,  
24 which was consolidated into the previous rate case and

1 ruled on by the Commission in that case granting the  
2 deferral.

3 Q. And it could also be -- I'm sorry.

4 Within that document, on page 9, there's a  
5 reference to an order that was issued by the Commission  
6 in E-7 -- Docket Number E-7, Sub 723, dated  
7 August 8, 2003; do you see that?

8 A. Yes, I do.

9 Q. And I have that exhibit, and we can either  
10 ask the Commission to take judicial notice of it or  
11 that -- I have that as AGO Exhibit 40. If you want to  
12 take a look at that, you'll see.

13 A. Ms. Force, I would just note to you -- I have  
14 Exhibit 40 here. But I would just note to you that you  
15 are starting to ask me some questions that are covered  
16 in the testimony of one of our other witnesses,  
17 Mr. Doss.

18 Q. That's fine. I'm not going to ask you very  
19 many questions, I'll just get these into the record.  
20 The documents speak for themselves.

21 A. Okay.

22 Q. Would you agree -- this says -- what's been  
23 prefiled as AGO Exhibit 40 is that E-7, Sub 723, order  
24 from the Commission; would you agree with that?

1 A. That's what Exhibit 40 is, yes.

2 Q. Okay.

3 MS. FORCE: And just for clarification  
4 in the record, I'd ask to mark this as AGO  
5 McManeus/Speros Cross Exhibit 2.

6 CHAIR MITCHELL: All right. Hearing no  
7 objection to your motion, it's allowed.

8 MS. FORCE: Okay. Thank you.

9 (AGO McManeus/Speros Cross Exhibit 2  
10 marked for identification.)

11 Q. And then I would ask you to turn to AGO  
12 Exhibit 41, please. Do you have that?

13 A. Yes, I see it.

14 Q. Okay. Just -- I'm looking -- what I'm  
15 looking at is comments to the Attorney General's Office  
16 in those same subdoc -- the petition for accounting  
17 order, that's E-2, Sub 1103, and E-7, Sub 1110; can you  
18 agree with me to that?

19 A. Yes. That's what your Exhibit 41 is.

20 MS. FORCE: And I'd ask to mark this as  
21 AGO McManeus/Speros Cross Exhibit 3, please.

22 CHAIR MITCHELL: Hearing no objection,  
23 the document will be so marked.

24 (AGO McManeus/Speros Cross Exhibit 3 was



1 marked for identification.)

2 Q. And one more. If you'll turn to 42 -- AGO  
3 42, please. That's dated -- it's a Duke Energy  
4 letterhead dated April 19, 2017; do you see that?

5 A. Yes, I do.

6 Q. Okay.

7 MS. FORCE: I'd ask to mark this as AGO  
8 McManeus/Speros Cross Exhibit 4, please.

9 CHAIR MITCHELL: All right. The  
10 document will be so marked.

11 (AGO McManeus/Speros Cross Exhibit 4 was  
12 marked for identification.)

13 Q. And can you agree with me that these are  
14 Duke's reply comments in that accounting docket that,  
15 as you said, was consolidated into the last rate case?

16 A. Yes. These are Duke's reply comments.

17 Q. Okay. Thank you. All right. So I have  
18 another question for you, and it involves the  
19 exhibit -- AGO Exhibit 28.

20 A. (Witness peruses document.)

21 Q. Are you there?

22 A. Okay. I see it.

23 Q. Good. Okay. And I -- if you'll take a look  
24 at this, does it appear to you to be a Duke Energy

1 response to a data request from the Attorney General's  
2 Office in Docket Number E-7, Sub 1146?

3 A. Yes, it is.

4 Q. Okay.

5 MS. FORCE: I would ask that this be  
6 marked as AGO McManeus/Speros Cross Exhibit 5,  
7 please.

8 CHAIR MITCHELL: Document will be so  
9 marked.

10 MS. FORCE: Thank you.

11 (AGO McManeus/Speros Cross Exhibit 5 was  
12 marked for identification.)

13 Q. So please -- do you recall this -- I asked  
14 you a question about it a couple of years ago,  
15 Ms. McManeus.

16 Can you agree with me that this is a  
17 discovery request that was made in the last case and  
18 asks Duke if Duke had included any costs and  
19 depreciation for closure of ash impoundments? And the  
20 answer from Duke was that no final dismantlement costs  
21 were factored into the prior DEC depreciation study.  
22 It was assumed in the last dismantlement study that the  
23 salvage received for scrap would sufficiently offset  
24 the costs to dismantle. The previous dismantlement

1 study occurred prior to the passage of CAMA and CCR  
2 legislation. The CAMA and CCR legislation have  
3 increased the estimated ash impoundment closure cost by  
4 significant amounts and are regarded -- recorded in  
5 accordance with the asset retirement allocation  
6 accounting documents; is that right?

7 A. That's what this data request response says.

8 Q. Okay. And I'd asked you some questions about  
9 that last time. I don't have any more questions for  
10 you at this point. The document speaks for itself.  
11 Thank you. I appreciate it.

12 A. I would note, Ms. Force, that, in this  
13 particular case, other witnesses are available to  
14 address any questions about depreciation rates and the  
15 dismantlement costs.

16 Q. Thank you. Appreciate that.

17 CHAIR MITCHELL: All right.

18 Mr. Trathen?

19 MR. TRATHEN: Madam Chair, I don't have  
20 any questions.

21 CHAIR MITCHELL: All right. Any  
22 additional cross examination for the panel?

23 (No response.)

24 CHAIR MITCHELL: Redirect for the panel?

1 MS. JAGANNATHAN: Chair Mitchell, I just  
2 have a couple of questions for Ms. McManeus.

3 CHAIR MITCHELL: All right. Please  
4 proceed.

5 REDIRECT EXAMINATION BY MS. JAGANNATHAN:

6 Q. Ms. McManeus, I just want to clarify with you  
7 that ARO coal ash spend is not included the Company's  
8 temporary rates that went into effect in August; is  
9 that right?

10 A. That's correct.

11 Q. Okay. And you discussed with Ms. Force the  
12 costs that the Company is seeking recovery for in this  
13 case, the January 2018 through January 2020 costs.

14 And to be clear, with respect to the coal ash  
15 compliance costs the Company is seeking to recover in  
16 this rate case, the Commission gave the Company  
17 specific instructions as to how to account for those  
18 costs; is that right?

19 A. Yes. In the Commission's previous order in  
20 Sub 1146, the Commission directed the Company to defer  
21 these costs -- so let me back up for a minute. In the  
22 previous case, the Commission rendered its order on the  
23 costs that were related to 2015, '16, and '17; but in  
24 its order, it addressed how the Company should handle

1 costs subsequent to 2015, '16, '17. And it  
2 specifically directed the Company to defer those costs  
3 to a future rate case and to include a return on the  
4 deferred balance. And actually stated that, in the  
5 future case, unless imprudence was established, that it  
6 would permit a full return on the unamortized balance.

7 And so the Company has been following the  
8 Commission's instructions in deferring these costs and  
9 including the financing costs, the return in the  
10 deferred balance.

11 Q. Thank you.

12 MS. JAGANNATHAN: I don't have any more  
13 redirect.

14 CHAIR MITCHELL: All right. Questions  
15 from Commissioners, beginning with  
16 Commissioner Brown-Bland.

17 COMMISSIONER BROWN-BLAND: No questions.

18 CHAIR MITCHELL: All right.  
19 Commissioner Gray?

20 COMMISSIONER GRAY: No questions.

21 CHAIR MITCHELL: Commissioner  
22 Clodfelter?

23 COMMISSIONER CLODFELTER: Sorry, the  
24 space bar was not working.

1 EXAMINATION BY COMMISSIONER CLODFELTER:

2 Q. Mr. Speros, you're going to get a question.

3 A. (Nicholas G. Speros) Sounds good. Thanks.

4 Q. All right. And can't let you get off this

5 easy. So I want you to have in front of you your

6 Revised Exhibit 4, and specifically page 2.

7 A. (Witness peruses document.)

8 Bear with me for one moment so I can get that

9 in front of me here.

10 Q. Okay.

11 A. Can you describe the exhibit that you are  
12 referencing.

13 Q. It's the exhibit on the cost of removal  
14 reserve. It's a two-page exhibit.

15 A. Yeah, I gotcha.

16 Q. You got it?

17 A. Yeah. I've got that in front of me.

18 Q. Okay. Page 2 is the one I want to ask you  
19 about. I think, when the Commission said in the last  
20 rate case order that it wanted a detailed accounting of  
21 the cost of removal reserve, it had something a little  
22 more in mind probably than just a one-line summary.

23 And so I read the one-line summary here you've got on  
24 steam reduction plant cost of removal from

1 December 31, 2016, through June 30, 2019; but I think  
2 maybe what the Commission had in mind about a detail  
3 might have been to sort of elaborate a little more  
4 about what expenditures were made, what they were for,  
5 at what plants those expenditures occurred. Is that  
6 information available?

7 A. I believe that's something we can provide. I  
8 think when we interpreted that -- that statement in the  
9 previous case, this is what we pulled together for  
10 that. But I believe, if something of more detail is  
11 asked of us, we can certainly provide that.

12 Q. I think so. Perhaps we weren't clear enough  
13 in expression. I consider what we -- what you gave us  
14 is good. As far as it goes, I consider it more of a  
15 summary accounting rather than a detailed accounting.  
16 And I think the kind of information we were looking to  
17 see is, at what plants were you drawing down that  
18 reserve or expending the funds accumulated in that  
19 reserve, and for what activities at those plants.  
20 That, I think, is the substance of it.

21 Back up at the beginning of that page,  
22 page 2, you also say, for example:

23 "The cost of removal accrued for steam  
24 production will only be used to cover removal

1       activities associated with steam production assets  
2       unless DEC is specifically approved to treat it  
3       otherwise."

4               Do you have that sentence?

5       A.     I do.

6       Q.     Yeah. Well, there's something you don't  
7       have, but I hope your counsel was alerted that I might  
8       ask you about it. But I'm really wanting to sort of  
9       have you talk to me about that sentence in light of  
10      some testimony that we got from Mr. Fountain in the  
11      last rate case, in which he was examined about a  
12      document -- a presentation made to the senior  
13      management committee in January 2014. And it  
14      discussed, among other things, that the accumulated  
15      costs of removal reserve balances at that point in  
16      time. And I'm going to read you what Mr. Fountain's  
17      document says, and just listen carefully. It's not  
18      essential that you have it in front of us -- in front  
19      of you. He says:

20             "There are different points of view as to  
21      what type of approval would be required to access the  
22      cost of removal funds that are not specifically  
23      allocated to steam production currently. One point of  
24      view is that no approval is needed; and the other is



1       that we would have to notify regulators of the usage."

2               And so I'm wanting to sort of take that sort  
3       of apparently two different points of view about what  
4       you have to do to get an approval to use cost of  
5       removal reserve for accounts other than steam  
6       production plant. And look at your sentence when  
7       you're talking about what is required for approval, and  
8       just talk me through the process of approval. Who's  
9       got to approve what? Who's got to approve what and how  
10      does the process run of approval?

11       A.     Sir, I'm not overly familiar with the  
12      statement that you made from David Fountain, but taking  
13      what you said, subject to check, I think what we're  
14      talking about here is the reserve is built up through  
15      depreciation rates.

16       Q.     I understand. Right.

17       A.     And that reserve is for specific assets,  
18      steam production assets, that we are accumulating a  
19      reserve for to be used for that purpose.

20       Q.     Right.

21       A.     The approval that I think is referenced here  
22      is one of which the Commission would give to us to say  
23      certain potentially removal activities can be used  
24      elsewhere. But typically, like I said, those reserves

1 are used for specific purposes.

2 Q. When you use the term in your exhibit here,  
3 unless DEC is specifically approved to treat otherwise,  
4 you were referring to approval by the Commission?

5 A. That's, in my mind, what that reads.

6 Q. Okay. Is this a topic I can talk with  
7 Mr. Doss about as well?

8 A. Certainly Mr. Doss and/or Mr. Spanos in the  
9 rebuttal.

10 Q. That's fine. Mr. Speros, that's all I have  
11 for you. And I will want your counsel to sort of think  
12 a little bit about what we might get by way of a more  
13 detailed accounting for the use of those costs of  
14 removal funds. Okay. Thank you.

15 COMMISSIONER CLODFELTER: That's all I  
16 have.

17 CHAIR MITCHELL: All right.  
18 Commissioner Duffley?

19 COMMISSIONER DUFFLEY: I just have one  
20 question for Ms. McManeus.

21 EXAMINATION BY COMMISSIONER DUFFLEY:

22 Q. So when I asked a question of Mr. De May the  
23 other day, he referred me to you just to see if you  
24 have had any follow-up to his answer. And so I was

1 basically asking him a hypothetical about if in this  
2 case, you know, hypothetically you had requested for  
3 the coal ash -- the ARO coal ash expenditures to be  
4 amortized over five years with a return on the  
5 unamortized piece. And then with respect to the EDIT,  
6 you-all agreed in your second stipulation to flow back  
7 unprotected federal EDIT over five years as well with a  
8 return. So -- and I heard Mr. De May's answer was  
9 that -- I asked if that would affect the revenue  
10 requirement or if he did a full offset in this case  
11 versus spanning those over five years. And he  
12 suggested that it would not have an impact on the  
13 revenue requirement. And I just ask that question of  
14 you as well.

15 A. (Jane L. McManeus) Well, as a result of that  
16 line of questioning, and some additional questions from  
17 Commissioner Clodfelter, we are now going to be pulling  
18 together the late-filed exhibit demonstrating or  
19 illustrating these concepts. And I think, at a high  
20 level, it's a fairly simple assumption to say you're  
21 offsetting one regulatory asset in a regulatory  
22 liability. But when you get down to doing the exact  
23 calculations, you've got to make some assumptions about  
24 return.

1           For example, sometimes a return is levelized;  
2           sometimes a return is not levelized. So to really do  
3           the calculations, you have to make a few assumptions.  
4           And as I understand it, the Public Staff is making a  
5           filing that asks for a little bit of clarity on some of  
6           these questions so that we can then prepare  
7           calculations that illustrate these questions and can do  
8           so based on the assumptions that the Commission would  
9           ask for.

10          Q.      Okay. Thank you very much. I appreciate  
11          that.

12                   COMMISSIONER DUFFLEY: I have nothing  
13          further.

14                   CHAIR MITCHELL: All right.  
15          Commissioner Hughes?

16                   COMMISSIONER HUGHES: No questions at  
17          this time.

18                   CHAIR MITCHELL: Commissioner McKissick?

19                   COMMISSIONER MCKISSICK: One quick  
20          question, and that's for Ms. McManeus.

21          EXAMINATION BY COMMISSIONER MCKISSICK:

22          Q.      From what I'm reading, you're seeking not  
23          just a return, but also interest in addition to the  
24          return; is that correct? Just for purposes of clarity,

1 in terms of me understanding the nature of the request  
2 at this time.

3 A. (Jane L. McManeus) Certainly. Commissioner,  
4 you're speaking of the coal ash recovery, correct?

5 Q. Yes. Yes.

6 A. Okay. So the way I think about it is, we use  
7 a number of terms when we're talking about this  
8 interest or return. Sometimes we call it the cost of  
9 money, sometimes we call it weighted average cost of  
10 capital, we say it's a debt and equity return, it's  
11 financing costs. So it gets kind of confusing. So the  
12 way I think about it is, when we have amounts that we  
13 spend, for example, on coal ash, that are not yet  
14 reflected in our rates -- so, for example, the 2018,  
15 '19 spend is not reflected in our rates.

16 So by definition, investors are advancing  
17 these funds. And investors are made up of both our  
18 bondholders, you know, debt investors, and common  
19 shareholders. So when we say we need to get a return,  
20 we're really saying that we need to collect the amount  
21 of money that we need to pay interest to the -- for the  
22 debt financing. And then, in addition, for the equity  
23 financing, we need a level of earnings that is  
24 attractive to equity investors.

1                   So when we say we want a return, we're  
2                   talking about total financing costs on these amounts  
3                   that have been advanced, and it's made up of both debt  
4                   and equity.

5                   Q.       That, I kind of understood, but the way I  
6                   was -- and I think you clarified it. I mean, you're  
7                   looking at the total cost that's involved there, in  
8                   terms of the return to those who are stockholders, and  
9                   whatever costs you might have spend separately and  
10                  apart for monies that are borrowed that could have been  
11                  related to it; is that correct?

12                  A.       Yes. So when I think of what the Company's  
13                  requesting, I think of it in terms of being made whole,  
14                  and being made whole in terms of cost. And in  
15                  addition -- and in that category of cost, you certainly  
16                  have financing costs as well as amounts that have been  
17                  expended on remediation, you know, for coal ash -- for  
18                  meeting coal ash compliance requirements.

19                  So we have two types of costs, but both of  
20                  them are definitely Company costs.

21                  Q.       Got it. Yeah. You know, I'm getting  
22                  acquainted with all the terminology, and I basically  
23                  understood the way you explained it. It's just that,  
24                  when I was reading it on occasions, you know, it's

1 clear to me when you're talking about a return, you're  
2 looking at what's going back to the stockholders. When  
3 I start thinking about other costs of capital, I'm  
4 thinking of that more in terms of, you know, borrowed  
5 funds that might have been used separately and apart  
6 from shareholder funds.

7 So, I mean, I guess I'm pretty clear now in  
8 terms of what you've indicated. It's just sometimes  
9 the terminology does not always seem consistent. Does  
10 that make sense?

11 A. Yes. And I would say that it sounds like you  
12 have a correct understanding that, if I spend a dollar,  
13 usually that dollar is financed by both debt and  
14 equity, and so we're going to have some interest  
15 expense, and I'm going to have some -- an earnings  
16 requirement for my common shareholders. So both are  
17 involved in financing my expenditures. It sounds like  
18 you've got that straight in your mind.

19 Q. All right. And, you know, I need to go back  
20 over some of these details here, and I'll probably have  
21 more questions at a future date. Will you be returning  
22 for other issues?

23 A. If I'm needed, my counsel has elected to have  
24 the right to recall me. So if things come up that I do

1 need to address, I'll get to be last person to be  
2 called to address those.

3 Q. Well, hopefully, by the point that that might  
4 be needed, others would have provided additional  
5 clarity, so you'll be able to sit out. Thank you.

6 COMMISSIONER McKISSICK: Thank you,  
7 Madam Chair. I have no further questions.

8 CHAIR MITCHELL: All right. Thank you,  
9 Commissioner McKissick. We've come to the end of  
10 our day. We will go off the record now. We will  
11 go back on the record at 9:00 in the morning. We  
12 will begin with questions on Commissioners'  
13 questions for the Speros/McManeus panel.

14 (The hearing was adjourned at 4:32 p.m.  
15 and set to reconvene at 9:00 a.m. on  
16 Wednesday, September 9, 2020.)  
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## CERTIFICATE OF REPORTER

STATE OF NORTH CAROLINA )

COUNTY OF WAKE )

I, Joann Bunze, RPR, the officer before whom the foregoing hearing was taken, do hereby certify that the witnesses whose testimony appear in the foregoing hearing were duly affirmed; that the testimony of said witnesses were taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

This the 10th day of September, 2020.



JOANN BUNZE, RPR

Notary Public #200707300112

