

RECEIVED

SEP 21 2020

THE STATE OF SOUTH CAROLINA
In the Supreme Court

S.C. SUPREME COURT

APPEAL FROM THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

Public Service Commission Docket Nos. 2018-319-E & 2018-318-E

Duke Energy Carolinas, LLC Appellant-Respondent,

v.

The South Carolina Office of Regulatory Staff, Hasala Dharmawardena, CMC Recycling, Cypress Creek Renewables, LLC, SC Department of Consumer Affairs, Sierra Club, South Carolina Coastal Conservation League, South Carolina Energy Users Committee, South Carolina Solar Business Alliance, Inc., the South Carolina State Conference of the National Association for the Advancement of Colored People, Upstate Forever, Vote Solar, and Walmart, Inc. Respondents,

of whom,

South Carolina Energy Users Committee is Respondent-Appellant.

Duke Energy Progress, LLC Appellant,

v.

The South Carolina Office of Regulatory Staff, Nucor Steel-South Carolina, Cypress Creek Renewables, LLC, SC Department of Consumer Affairs, Sierra Club, South Carolina Coastal Conservation League, South Carolina Energy Users Committee, South Carolina Solar Business Alliance, Incorporated, The South Carolina State Conference of the National Association for the Advancement of Colored People, Upstate Forever, Vote Solar, and Walmart, Inc., .. Respondents.

RECORD ON APPEAL

VOLUME I OF XIII

**Attorneys for Duke Energy Carolinas, LLC
and Duke Energy Progress, LLC**

Heather Shirley Smith Deputy General Counsel Duke Energy Carolinas, LLC Duke Energy Progress, LLC 40 West Broad St., Suite 690 Greenville, SC 29601 heather.smith@duke-energy.com Thomas S. Mullikin Mullikin Law Firm 1308 Broad Street Camden, SC 29020 tommullikin@mullikinlaw.com	Sarah P. Spruill Haynsworth Sinkler Boyd, P.A. ONE North Main Street, 2nd Floor Greenville, SC 29601 sspruill@hsblawfirm.com Frank R. Ellerbe, III Robert E. Stepp Robinson Gray Stepp & Laffitte, LLC P.O. Box 11449 Columbia, SC 29211 fellerbe@robinsongray.com rstepp@robinsongray.com

Attorneys for Respondents and Respondent/Appellant

Jeffery M. Nelson Jenny R. Pittman C. Lessie Hammonds Andrew M. Bateman Alexander W. Knowles Christopher M. Huber Office of Regulatory Staff 1401 Main Street, Suite 900 Columbia, SC 29201 jnelson@ors.sc.gov jpittman@ors.sc.gov lhammonds@ors.sc.gov abateman@ors.sc.gov chuber@ors.sc.gov aknowles@ors.sc.gov Wallace K. Lightsey Wyche, P.A. 200 East Camperdown Way Greenville, SC 29601-2972 wlightsey@wyche.com Attorneys for The South Carolina Office of Regulatory Staff	Richard L. Whitt Whitt Law Firm, LLC 401 Western Lane, Suite E Irmo, SC 29063 richard@rlwhitt.law Attorneys for Cypress Creek Renewables, LLC and S.C. Solar Business Alliance, Inc. Scott Elliott Elliott & Elliott, P.A. 1508 Lady Street Columbia, SC 29201 selliott@elliottlaw.us Attorneys for S.C. Energy Users Committee Hasala Dharmawardena 145 Cochran Road, Unit 4 Clemson, SC 29631 hasala@ieee.org <i>Pro Se</i>

L. Rebecca Dover
Carolyn Grube-Lybarker
SC Department of Consumer Affairs
P.O. Box 5757
Columbia, SC 29250
bdover@scconsumer.gov
clybarker@scconsumer.gov
Attorneys for SC Department of Consumer Affairs

Carrie H. Grundmann
Stephanie U. Eaton
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
cgrundmann@spilmanlaw.com
seaton@spilmanlaw.com
Derick P. Williamson
Spilman Thomas & Battle, PLLC
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com
Attorneys for Walmart, Inc.

Robert R. Smith, II
Moore & Van Allen, PLLC
100 North Tryon Street, Suite 4700
Charlotte, NC 28202
robsmith@mvalaw.com
Garrett A. Stone
Michael K. Lavanga
Stone Mattheis Xenopoulos & Brew, PC
8th Floor, West Tower
1025 Thomas Jefferson Street, NW
Washington, DC 20007-5201
gas@smxblaw.com
mkl@smxblaw.com
Attorneys for Nucor Steel-South Carolina

Alexander G. Shissias
The Shissias Law Firm, LLC
1727 Hampton Street
Columbia, SC 29201
alex@shissiaslawfirm.com
Attorneys for CMC Recycling

James Blanding Holman IV
Southern Environmental Law Center
Suite 200
525 East Bay Street
Charleston, SC 29403
bholman@selcsc.org
David L. Neal
Gudrun Elise Thompson
Southern Environmental Law Center
601 West Rosemary Street, Unit 220
Chapel Hill, NC 27516-2356
gthompson@selcnc.org
dneal@selcnc.org
Attorneys for S.C. Coastal Conservation League, Upstate Forever, and the South Carolina State Conference of the National Association for the Advancement of Colored People

Robert Guild
314 Pall Mall St.
Columbia, SC 29201
bguild@mindspring.com
Bridget M. Lee
50 F Street, NW, Floor 8
Washington, DC 20001
bridget.lee@sierraclub.org
Attorneys for the Sierra Club

Bess J. DuRant
Sowell & DuRant, LLC
1325 Park Street, Suite 100
Columbia, SC 29201
bdurant@sowelldurant.com
Thadeus B. Culley
1911 Ephesus Church Road
Chapel Hill, NC 27517
thad@votesolar.org
Attorneys for fVote Solar

INDEX

I. Public Service Commission Docket No. 2018-318-E (Duke Energy Progress, LLC)

Orders

Order No. 2019-341 dated May 21, 2019	1
Order No. 2019-454 dated October 18, 2019	118

Pleadings

DEP Application dated November 8, 2018 (without exhibits)	142
DEP Petition for Rehearing dated May 31, 2019	172

<u>Transcript of Florence Night Hearing held April 1, 2019</u>	<u>188</u>

Testimony

Hugh E. Weathers	198
Harry Ott	207
Anthony Ward.....	219
Kenneth Nance.....	228
Woody Timmons	234
Buquilla Cannon	238
Sarah A. Mellen	241
John Monroe	242
Richard Ervin	244
DuPree Atkinson.....	253
Ruthie Tarlton	260
Lillian L. Walker.....	265
Gill Rogers	270
Rutha Frieson.....	274
Terry James	277

<u>Transcript of Testimony and Proceedings before the Public Service Commission.....</u>	<u>281</u>

Testimony

Kodwo Ghartey-Tagoe and Laura Bateman	281
Janice Hager.....	590
David C. Parcell	596
Jon F. Kerin and Julius A. Wright	604
Robert Hevert and John L. Sullivan.....	817

Kevin W. O'Donnell.....	822
Michael L. Seaman-Huynh and Dan J. Wittliff.....	825
Kelvin L. Major and Zachary J. Payne	1044
Steven W. Hamm and Willie J. Morgan	1094

Exhibits

Ex. 14 (partial)	1200
Ex. 15	1222
Ex. 35	1231
Ex. 39 (partial)	1235
Ex. 42	1314
Ex. 59 (partial)	1327
Ex. 60 (partial)	2170
Ex. 61	2461
Ex. 67	2469
Ex. 71	2475

II. Public Service Commission Docket No. 2018-319-E(Duke Energy Carolinas, LLC)

Orders

Order No. 2008-417 dated June 9, 2008	3821
Order No. 2011-454 dated July 1, 2011	3859
Order No. 2019-323 dated May 21, 2019	3887
Order No. 2019-455 dated October 18, 2019	3958

Pleadings

DEC Application dated November 8, 2018 (without exhibits).....	3979
SCEUC Petition to Intervene dated January 10, 2019	4009
PSC Directive granting SCEUC Petition to Intervene dated January 10, 2019.....	4015
SCEUC Amended Brief dated April 25, 2019.....	4016
DEC Petition for Rehearing dated May 31, 2019	4022
SCEUC Petition for Rehearing dated May 31, 2019	4036

<u>Transcript of Spartanburg Night Hearing held March 12, 2019.....</u>	<u>4047</u>

Testimony

Cynthia B. Knight	4047
Jeremy Boiter	4048

<u>Transcript of Testimony and Proceedings before the Public Service Commission.....</u>	<u>4049</u>

Testimony

Kodwo Ghartey-Tagoe and Kim H. Smith	4049
Christopher M. Fallon and Nils J. Diaz	4333
David L. Doss	4476
David C. Parcell	4478
John F. Kerin and Julius A. Wright	4484
Dan J. Wittliff	4742
Kevin W. O'Donnell	4859
Gaby Smith, Zachary J. Payne and Steven W. Hamm.....	4879
Robert B. Hevert	4996
Janice D. Hager.....	5002
Further Testimony of Kim H. Smith.....	5007
Willie J. Morgan, Michael L. Seaman-Huynh and John C. Ruoff.....	5070

Exhibits

Ex. 10 (partial)	5119
Ex. 17	5120
Ex. 19	5155
Ex. 29 (partial)	5159
Ex. 33 (partial)	5267
Ex. 34 (partial)	5592
Ex. 35	5994
Ex. 43	6005
Ex. 47	6016
Ex. 48	6022
Ex. 49	6053
Ex. 56	6059

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2018-318-E – ORDER NO. 2019-341

MAY 21, 2019

IN RE: Application of Duke Energy Progress, LLC)
for Adjustments in Electric Rate Schedules)
and Tariffs)
ORDER

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	3
II.	INTRODUCTION	5
III.	STATUTORY STANDARDS AND REQUIRED FINDINGS	19
IV.	REVIEW OF THE EVIDENCE AND EVIDENTIARY CONCLUSIONS	23
	A. Cost of Capital.....	23
	B. Recovery of Coal Ash Expense	39
	C. Depreciation Study.....	52
	D. Cost of Service Study.....	53
	E. Proposed Changes to Differentials in Energy and Demand.....	65
	F. Litigation Expenses (Adjustment #36)	69
	G. Payment Obligations to Certain TEED Gypsum, NC Inc. (Adjustment #38)...	76
	H. Removal of Certain Expenses for Awards and Miscellaneous Items (Adjustment #36).....	78
	I. Bonuses and Incentive Compensation (Adjustments #22, 29)	82
	J. Adjustment for Customer Connect (Adjustment #30)	87
	K. Deferral Treatment.....	91
	L. Amortization Periods (Adjustments # 17, 19, 35)	98
	M. Uncontested Adjustments.....	102
V.	FINDINGS OF FACT AND CONCLUSIONS OF LAW.....	104
VI.	IT IS THEREFORE ORDERED THAT:	109

I. EXECUTIVE SUMMARY

In the interest of transparency, and to provide a condensed explanation of our reasoning with respect to certain significant components of this Order, we offer the following Executive Summary of issues that have the greatest dollar impact on customer rates and that have otherwise attracted significant public interest.

Return on Equity

The substantial evidence on the whole record supports, and we are persuaded that a 9.50 percent return on equity (“ROE”) is just and reasonable in this proceeding. We conclude that Office of Regulatory Staff (“ORS”) witness David Parcell presented sound analysis as to the appropriate ROE, a recommended range of 9.1 – 9.5. The evidence in this proceeding shows that Duke Energy Progress, LLC (“DEP”) witness Robert Hevert’s ROE analyses relied on inputs that systematically elevated his estimated ROE. This finding is supported by evidence and testimony from the hearings regarding ROEs approved in neighboring jurisdictions for utilities with similar risk profiles; downward national ROE trends; and DEP’s very strong credit ratings and financial soundness. Unless clearly justified, which in this case it was not, DEP’s South Carolina customers should not pay rates incorporating a ROE that exceeds the national average for vertically integrated utilities.

Coal Ash Expenses

We conclude that coal ash-related costs incurred solely as a result of North Carolina’s Coal Ash Management Act (“CAMA”) law shall not be recoverable from DEP’s South Carolina customers at this time. However, should our General Assembly or the federal government enact laws that impose costs currently only imposed by North Carolina’s CAMA, DEP is not prohibited from seeking recovery of such costs which, at present, we disallow.

Proposed Differentials in Energy Demand

The Company's proposed rate design changes are most fully and rationally considered only once the customer usage data enabled by Advanced Metering Infrastructure ("AMI") has been collected and analyzed. We decline to adopt the Company's proposal at this time.

Non-Allowable Expenses

On April 15, 2019, during the hearing, counsel for DEP notified the Commission that the Company and the ORS had come to an agreement regarding the recovery of certain expenses the ORS had deemed non-allowable (the "Non-allowables Stipulation") and that the Company and ORS further agreed that it is appropriate to resolve some of the conceptual issues around non-allowables in a separate administrative docket to provide clarity going forward.

Furthermore, a multitude of Commission orders address the treatment of non-allowable expenses, and for purposes of this proceeding, we find underlying rationales of these decisions apply to the circumstances of the present case. We direct that an administrative docket on non-allowables shall be established subsequent to the issuance of this Order to ensure clarity for future proceedings.

Bonuses and Incentive Compensation

We adopt a 75% disallowance of the South Carolina allocation of Duke Energy CEO Lynn Good's compensation, and a 50% disallowance of compensation of the next three highest-paid executives. This division fairly shares the burden and benefits of executive incentive compensation between the shareholders and the ratepayers. Regardless of the division of recovery for such incentive compensation, we do not instruct DEP on how to structure its incentive compensation packages.

Deferred Costs

The Company has deferred costs relating to GridSouth, Fukushima and cybersecurity, and Harris COLA that it seeks to recover in this proceeding. The Commission concludes that the Company is entitled to a “return of” the deferred costs which it seeks to recover, but only a “return on” capital-related expenses. This conclusion is consistent with the principal of using a historic Test Year, established principles of regulatory accounting regarding the treatment of capital versus operating expenses, and the fact that customers did not receive notice of the possible impact of deferrals. An administrative docket on the creation and treatment of deferrals shall be established subsequent to the issuance of this Order.

II. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the “Commission” or “PSC”) on the Application of Duke Energy Progress, LLC (“DEP” or the “Company”) filed November 8, 2018 (the “Application”) requesting authority to adjust and increase its electric rates, charges, and tariffs. The Application was filed pursuant to S.C. Code Ann. §§ 58-27-820 and 58-27-870 and S.C. Code Ann. Regs. 103-303 and 103-823.

Contemporaneous with its Application, on November 8, 2018, the Company filed the Direct Testimony of Laura D. Bateman, Director of Rates and Regulatory Planning for Duke Energy Carolinas, LLC (“DEC”) testifying on behalf of DEP; David L. Doss Jr., Director of Electric Utilities and Infrastructure Accounting for Duke Energy Business Services (“DEBS”);¹ Kodwo Ghartey-Tagoe, State President – South Carolina for DEP and DEC; Janice Hager, President of Janice Hager Consulting, LLC; Kelvin Henderson, Senior Vice President of Nuclear Operations;

¹ DEBS provides various administrative and other services to DEP and other affiliated companies of Duke Energy.

Robert B. Hevert, Partner at ScottMadden, Inc.; Retha Hunsicker, Vice President, Customer Connect-Solutions for DEBS; Jon F. Kerin, Vice President, Coal Combustion Products (“CCP”) Operations, Maintenance and Governance for DEBS; Joseph A. Miller, Jr., Vice President of Central Services for DEBS; Jay W. Oliver, General Manager, Grid Solutions Engineering and Technology for DEBS; John Panizza, Director, Tax Operations for DEBS; Donald Schneider, Jr., General Manager, AMI Program Management for DEBS; John L. Sullivan, III, Director, Corporate Finance and Assistant Treasurer for DEBS and Assistant Treasurer of DEP; Kendra A. Ward, Rates and Regulatory Strategy Manager for DEP and DEC; Steven B. Wheeler, Pricing and Regulatory Solutions Director for DEBS; and Dr. Julius A. Wright, Managing Partner, J.A. Wright & Associates, LLC. Exhibits were included with the direct testimony of witnesses Bateman, Doss, Hevert, Hunsicker, Kerin, Oliver, Ward, Wheeler, and Wright. The Company filed Supplemental Direct Testimony and Exhibits for Company witness Bateman on January 18, 2019 and January 22, 2019, and errata sheets to the Direct Testimony of Company witnesses Hunsicker, Kerin, and Ward. On February 11, 2019, the Company filed an errata sheet to the Direct Testimony of Company witness Wright. On February 27, 2019, the Commission granted DEP’s request for Julie K. Turner, Vice President of Carolinas Natural Gas Generation for DEP, to adopt the pre-filed Direct Testimony of Joseph A. Miller Jr.²

The Company’s general electric rates and charges were last approved by the Commission in Docket No. 2016-227-E, Order No. 2016-871, dated December 21, 2016. The rates approved in this Docket were phased in during 2017 and 2018.

² See Order No. 2019-153.

In its Application, the Company requested a revenue increase of approximately \$69 million with approximately a \$10 million offset to be implemented with a rate rider³ and a ROE of 10.50 percent.

On November 26, 2018, the Commission Clerk's Office issued the Notice of Filing and Hearing and instructed the Company to publish it in newspapers of general circulation in the areas affected by the Company's Application by December 6, 2018, to notify each affected customer of the hearing by December 6, 2018, and to provide a certification to the Commission by December 27, 2018. On November 27, 2018, the Company filed a letter requesting additional time to complete the notification to customers. On November 28, 2018, the Commission's Clerk's Office issued a Revised Notice of Filing and Hearing and instructed the Company to publish it in newspapers of general circulation in the areas affected by the Company's Application by December 6, 2018, and to provide proof of publication by December 27, 2018. The Revised Notice of Filing and Hearing indicated the revenue being requested by the Company, the overall bill impact to residential customers if the Company's request was granted and referenced the Company's Application. The Revised Notice of Filing and Hearing also advised those desiring to participate in the proceeding, scheduled to begin April 11, 2019, of the manner and time in which to file appropriate pleadings. The Commission also required the Company to notify each affected customer of the hearing by January 11, 2019 and provide a certification to the Commission by February 1, 2019. On December 27, 2018, the Company filed affidavits with the Commission demonstrating that the Revised Notice was duly published in accordance with the

³ The net annual revenue increase includes the impact of the return of deferred income taxes through the excess deferred income tax rider ("EDIT Rider") of approximately \$9,977,484, as further discussed below.

Clerk's Office's instructions. On January 31, 2019, the Company filed an affidavit certifying that the Revised Notice of Filing and Hearing had been furnished to all applicable customers of DEP.

Pursuant to Commission Order No. 2019-120, the Clerk's Office scheduled public hearings in Florence and Sumter Counties. On February 20, 2019, the Commission's Clerk's Office instructed the Company to notify each affected customer of the Public Night Hearings by March 1, 2019. The Company requested that, in lieu of mailing customers Notice of the Public Night Hearings, it be permitted to provide notice of the hearings using the Company's automated calling system to place calls to customers by March 1, 2019, informing them of the dates, times, and locations of the two public hearings. On February 21, 2019, pursuant to Commission Order No. 2019-19-H, Standing Hearing Officer Randall Dong granted the Company's request for approval of alternative notice of public night hearings.

Walmart, Inc. ("Walmart"), represented by Stephanie U. Eaton, Esquire; Carrie Harris Grundmann, Esquire; and Derrick Price Williamson, Esquire, filed a petition to intervene on November 27, 2018. Nucor Steel – South Carolina ("Nucor"), represented by Robert R. Smith II, Esquire, Garrett A. Stone, Esquire, and Michael K. Lavanga, Esquire, filed a petition to intervene on December 17, 2018.

Vote Solar, represented by Bess J. Durant, Esquire and Thadeus B. Culley, Esquire, filed a petition to intervene on December 27, 2018. The South Carolina Solar Business Alliance ("SBA") represented by Richard L. Whitt, Esquire, filed a petition to intervene on January 2, 2019. Cypress Creek Renewables ("Cypress"), represented by Richard L. Whitt, Esquire, filed a petition to intervene on January 18, 2019. The South Carolina Energy Users Committee

(“SCEUC”) represented by Scott Elliott, Esquire, filed a petition to intervene on January 28, 2019. Sierra Club, represented by Robert Guild, Esquire and Bridget Lee, Esquire, filed a petition to intervene on January 28, 2019. The South Carolina State Conference of the National Association for the Advancement of Colored People (“NAACP”), South Carolina Coastal Conservation League (“CCL”), and Upstate Forever (collectively, “SC NAACP, et al.”), represented by Stinson Woodward Ferguson, Esquire; David L. Neal, Esquire; and Gudrun E. Thompson, Esquire, filed a petition to intervene on February 1, 2019. The Office of Regulatory Staff (“ORS”), automatically a party pursuant to S.C. Code Ann. § 58-4-10(B), was represented by Nanette S. Edwards, Esquire, Andrew M. Bateman, Esquire, and Alexander W. Knowles, Esquire. DEP was represented by Heather Shirley Smith, Esquire; John T. Burnett, Esquire; Camal O. Robinson, Esquire; Frank R. Ellerbe, III, Esquire; Brandon F. Marzo, Esquire; Molly McIntosh Jagannathan, Esquire; and Len S. Anthony, Esquire. Collectively, DEP, Walmart, Vote Solar, SBA, SCEUC, Cypress, Sierra Club, SC NAACP, et al, and ORS are referred to as the “Parties” or individually as a “Party.”⁴

On March 1, 2019 SBA filed the Direct Testimony and Exhibits of Hamilton Davis, Director of Regulatory Affairs for Southern Current, LLC, and Christopher Villarreal, President of Plugged In Strategies.

On March 4, 2019, ORS filed the Direct Testimony of Sarah W. Johnson, Deputy Director of Utility Services for ORS; Kelvin L. Major, Audit Manager for ORS; Willie J. Morgan, P.E., Deputy Director of the Utility Rates Department for ORS; David C. Parcell, Principal and

⁴ The South Carolina Department of Consumer Affairs (“Consumer Affairs”), represented by Becky Dover, Esquire and Carri Grube-Lybarker, Esquire, was provided notice pursuant S.C. Code Ann. § 37-6-604(C), but did not elect to participate.

Senior Economist of Technical Associates, Inc.; Zachary J. Payne, Senior Auditor in the Audit Department for ORS; Anthony Sandonato, Regulatory Analyst in the Utility Rates and Services Division for ORS; Matthew P. Schellinger II, Regulatory Analyst in the Utility Rates and Services Division for ORS; Michael L. Seaman-Huynh, Senior Regulatory Manager in the Utility Rates and Services Division for ORS; and Dan J. Wittliff, P.E., BCEE, Managing Director of Environmental Services for GDS Associates, Inc. Exhibits were included with the Direct Testimony of witnesses Major, Morgan, Parcell, Seaman-Huynh, and Wittliff.

Also, on March 4, 2019, the Sierra Club filed the Direct Testimony and Exhibits of Ezra D. Hausman, Ph.D., an independent consultant doing business as Ezra Hausman Consulting. Nucor filed the Direct Testimony of Billie S. LaConte, Energy Advisor and Associate Consultant at J. Pollock, Incorporated; Jeffrey Pollock, Energy Advisor and President of J. Pollock, Incorporated; and Dr. Jay Zarnikau, Vice President of Frontier Energy. Exhibits were included with the Direct Testimony of witnesses Laconte and Pollock. Walmart filed the Direct Testimony and Exhibits of Steve W. Chriss, Director of Energy Services. SCEUC filed the Direct testimony and Exhibits of Kevin W. O'Donnell, President of Nova Energy Consultants, Inc. Vote Solar filed the Direct Testimony and Exhibits of Justin R. Barnes, Director of Research with EQ Research, LLC. SC NAACP, et al. filed the Direct Testimony and Exhibits of John Howat, Senior Policy Analyst at the National Consumer Law Center, and Jonathan Wallach, Vice President of Resource Insight, Inc.

On March 8, 2019, the ORS moved to establish a new and separate hearing docket to review and consider the Company's proposed Grid Improvement Plan ("GIP"). SBA and

Cypress filed letters in support of ORS's motion.⁵ On March 14, 2019, ORS and DEP filed a Stipulation ("GIP Stipulation") agreeing that the GIP shall be considered in a separate docket independent from the Application. The Company agreed to withdraw from Commission consideration the GIP and the associated cost recovery proposal for costs incurred related to plant placed in service on or after January 1, 2019. Pursuant to the GIP Stipulation, all testimony and evidence relating to the GIP may be moved to the new docket, and all Parties who have expressed any position on the GIP shall automatically be granted intervenor status in the new docket. ORS and the Company further agreed that DEP may defer into a regulatory asset account all GIP-related costs until the underlying costs and proposed recovery are considered in a general rate case proceeding. On March 13, 2019, the Standing Hearing Officer approved the GIP Stipulation pursuant to Order No. 2019-26H.

On March 18, 2019, the Company filed the Rebuttal Testimony of witnesses Bateman, Ghartey-Tagoe, Hager, Henderson, Hevert, Hunsicker, Kerin, Panizza, Schneider, Turner, Sullivan, Wheeler, and Wright. The Company also filed the Rebuttal Testimony of Barbara A. Coppola, Manager, Grid Solutions and Strategy with DEBS; Renee Metzler, Managing Director – Retirement and Health and Welfare with DEBS; Lesley Quick, Vice President, Revenue Services for Duke Energy Corporation ("Duke Energy"); and John J. Spanos, President of Gannett Fleming Valuation and Rate Consultants, LLC. Exhibits were included with the Rebuttal Testimony of witnesses Bateman, Hevert, and Sullivan.

⁵ Vote Solar, Nucor, SCEUC, SC NAACP, et al., and Walmart voiced their support for ORS's motion via E-mail, which was posted to the Docket Management System on March 11, 2019.

On March 25, 2019, ORS filed the Surrebuttal Testimony of witnesses Johnson, Major, Morgan, Parcell, Payne, Seaman-Huynh, and Wittliff. ORS also filed Surrebuttal Testimony of Steven W. Hamm, Special Counsel and Senior Advisor for ORS; and Dr. John C. Ruoff, Principal and Owner of The Ruoff Group. Exhibits were included with the Surrebuttal Testimony of Major, Seaman-Huynh, Parcell, Wittliff, Ruoff, and Hamm.

Also, on March 25, 2019, the Sierra Club filed the Surrebuttal Testimony of witness Hausman; SC NAACP, et al. filed the Surrebuttal Testimony and Exhibits of witness Howat and Surrebuttal Testimony of witness Wallach; Vote Solar filed the Surrebuttal Testimony of witness Barnes; and SCEUC filed the Surrebuttal Testimony of witness O'Donnell.

On March 26, 2019, the Company filed a letter⁶ stating it did not contest the BFC as proposed by ORS, and enumerated those charges as \$11.78 for residential customers, \$12.34 for small general service (“SGS”) customers, and \$11.31 for SGS Constant Load customers. ORS responded by letter⁷ clarifying ORS witness Seaman-Huynh’s Surrebuttal Testimony sponsors a rate design methodology that when applied to the adjustments proposed by ORS results in the rates outlined by DEP in its March 26, 2019, letter but if applied to different adjustments would yield different rates.

Public hearings were held on April 1, 2019 in Florence and on April 2, 2019 in Sumter. Hundreds of customers attended these hearings and spoke to the Commission about their concerns

⁶See Notification Letter Regarding the Proposed Basic Facilities Charge Proposed by the Office of Regulatory Staff <https://dms.psc.sc.gov/Attachments/Matter/8a747521-b274-4f2c-a066-8e0e246e0e02>

⁷See Clarification Letter Regarding Base Facilities Charge <https://dms.psc.sc.gov/Attachments/Matter/0ebc9872-ac0b-42ab-bf37-7bbe9dcdfff0>

regarding the Company's proposal. This Commission heard from about 45 customers who testified about the impacts of DEP's requests in its Application.

On March 29, 2019, DEP filed a Stipulation⁸ between the Company and Nucor ("Nucor Stipulation,") along with the Stipulation Testimony of DEP witness Wheeler. Under the terms of the Nucor Stipulation, Nucor withdrew the Direct Testimony of its witnesses and DEP withdrew its Rebuttal Testimony and refiled⁹ after removing all references to Nucor's issues. DEP also filed the Second Supplemental Testimony of witness Bateman on April 1, 2019, in support of the Nucor Stipulation.

On April 8, 2019, ORS and DEP reached an agreement regarding DEP's proposed Prepaid Advantage Program Pilot ("Prepaid Pilot") and filed a Stipulation ("Prepaid Pilot Stipulation").¹⁰ Pursuant to the Prepaid Pilot Stipulation, DEP withdrew its request for consideration of the Prepaid Pilot in this Docket, with the option to open a separate docket in the future and transfer all testimony and exhibits from this Docket.

On April 10, 2019, Hearing Officer Dong excused SBA witnesses Villareal and Davis. Pursuant to the GIP Stipulation, the testimony of witnesses Villareal and Davis will be moved into the appropriate new docket once created. Counsel for SBA was also excused from appearing at the hearing in this Docket.

Also, on April 10, 2019, ORS filed a stipulation between it and DEP whereby DEP agreed to withdraw from Commission consideration its proposed Pre-Paid Advantage Pilot Program.

⁸See Duke Energy Progress, LLC and Nucor Steel – South Carolina Stipulation <https://dms.psc.sc.gov/Attachments/Matter/b950f8d4-b530-48a9-8e8b-e37dea8e3cc5>

⁹DEP filed the redlined and clean versions of the Rebuttal Testimony of witnesses Bateman, Gartey-Tagoe, Henderson, Hevert, and Sullivan.

¹⁰See Stipulation <https://dms.psc.sc.gov/Attachments/Matter/b5733e73-44fa-41bc-ab80-d7762186b543>

According to the Stipulation, a new docket for the Pre-Paid Advantage Pilot Program will be established at which time the Commission will consider that program.

The Commission conducted an evidentiary hearing on this matter from April 11, 2019 through April 17, 2019 in the hearing room of the Commission with the Honorable Comer H. Randall presiding.

The following witnesses appeared, gave summaries of their testimonies, and answered questions from counsel and the Commission: SC NAACP, et al. witness Wallach; DEP witnesses Bateman, Coppola, Gharthey-Tagoe, Hager, Henderson, Hevert, Hunsicker, Kerin, Metzler, Panizza, Quick, Sullivan, Schneider, Turner, Wheeler, and Wright; ORS witnesses Parcell, Wittliff, Major, Payne, Seaman-Huynh, Ruoff, Hamm, and Morgan; and SCEUC witness O'Donnell.

Upon the agreement of all parties, SC NAACP, et al. witness Wallach testified out of turn on April 11, 2019, regarding DEP's proposed increase to the BFCs and the negative impact the increase would have on DEP's customers.

DEP witnesses Bateman and Gharthey-Tagoe testified as the Company's first panel of witnesses. Witness Bateman explained the Company's pro-forma accounting adjustments and revenue requirements for the test period. Witness Bateman also testified that DEP does not have a storm damage reserve fund. Witness Gharthey-Tagoe provided an overview of the reasons for the Company's request for an increase in electric rates and charges. Witnesses Schneider, Quick, and Hunsicker testified as DEP's next panel. Witness Schneider discussed the Company's implementation of AMI technology, including deployment timelines and the resulting benefits for customers. Witness Quick explained DEP's request for a transaction fee-free payment program for credit, debit, and Automated Clearing House ("ACH") payment methods for residential

customers. Witness Hunsicker discussed the need for modernization of DEP's current Customer Information System ("CIS") into Customer Connect. Witness Hunsicker also responded to ORS witness Payne's recommendation to disallow the projected two-year average operation and maintenance ("O&M") expense.

The Commission reconvened on April 12, 2019, with the conclusion of DEP's panel of witnesses Schneider, Quick, and Hunsicker. The Company then presented witness Panizza who addressed the Tax Cuts and Jobs Act ("TCJA") and its impact on DEP's customers. Witnesses Turner and Henderson testified as the next panel for DEP. Witness Turner described the Company's fossil, hydroelectricity, and solar generation assets, provided updates on the Company's capital additions, and explained the key drivers impacting O&M costs. Witness Turner also responded to Sierra Club witness Hausman regarding the recovery of costs for the dry bottom ash system. Witness Henderson described DEP's nuclear generation assets, DEP's capital additions since its last rate case and upcoming capital additions and provided operational performance results. Witness Henderson responded to ORS witness Morgan's recommendations to remove the Company's request to adjust depreciation and amortization expenses to establish a reserve for end of life nuclear costs and to exclude nuclear inventory from rate base. Upon agreement by the Parties, DEP stipulated into the record the testimonies of witnesses Doss, Ward, and Oliver. Witness Metzler testified next in response to ORS witness Major's recommendations to remove 50 percent of the Company's long and short-term incentive program costs. DEP presented its next panel of Witnesses Hager and Wheeler. Witness Hager testified to the allocation of DEP's operating revenues and expenses and the Company's cost of service study ("COSS"). Witness Wheeler explained DEP's proposed rates and charges and the impacts on customers, and responded to intervenor testimony regarding BFCs, rate design, real time pricing, and the refund

of Excess Deferred Income Tax (“EDIT”). Witness Wheeler also testified the Nucor Stipulation resolves all issues raised by Nucor and agrees to increase rates for all large general service (“LGS”) class schedules by an equal percentage.¹¹

At the outset of the proceeding on April 15, 2019, upon agreement of the Parties, the Direct and Surrebuttal Testimonies of Vote Solar witness Barnes were stipulated into the record and counsel for Vote Solar was excused from the remainder of the hearing. Also, upon agreement of the Parties, the Direct and Surrebuttal Testimonies and Exhibits of Sierra Club witness Hausman were stipulated into the record.

Due to scheduling constraints, the Parties agreed that ORS witness Parcell could testify out of order. Witness Parcell testified regarding the appropriate ROE based on his analyses, the Company’s capital structure, and his recommended ROE range of 9.1 to 9.5 percent for the Company.

Subsequent to the testimony of Mr. Parcell, the Company continued the presentation of its case with a panel consisting of witnesses Kerin and Wright. Witness Kerin testified regarding DEP’s request for recovery of expenses the Company incurred to comply with environmental requirements for the disposal of coal combustion residuals (“CCRs”) between July 1, 2016 and December 31, 2018. Witness Kerin responded to ORS witness Wittliff’s and SCEUC witness O’Donnell’s recommendations regarding the treatment of costs related to North Carolina’s Coal Ash Management Act (“CAMA”). Witness Wright supported DEP’s request for recovery of costs

¹¹ On March 29, 2019, DEP filed a stipulation between it and Nucor. In the stipulation, DEP and Nucor agreed to apply the final approved LGS class percentage revenue increase to the revenues for the LGS-CUR-TOU rate schedule. Also, the stipulation modified DEP’s applied for treatment of the EDIT rider such that 1) it reduced DEP’s originally proposed offset amount of the DERP offset to \$6 million, and 2) set the return period of the deferred revenue to three years instead of five years.

related to coal ash disposal expenses and testified to the Company's actions. Witness Coppola testified in response to ORS witness Morgan's testimony regarding the beneficial reuse contract the Company entered into with CertainTEED Gypsum NC, Inc. and the ensuing litigation fees and settlement payments. DEP then presented its final panel of witnesses, Sullivan and Hevert. Witness Sullivan addressed DEP's financial objectives, capital structure, cost of capital, cost of debt, and the Company's upcoming capital needs. Witness Hevert recommended an ROE of 10.75 percent. The methodology he used recommended a range of 10.25 percent to 11 percent.

Witness Chriss testified on behalf of Walmart regarding the Company's proposed increase to the revenue requirement and ROE, the impact those proposals would have on customers and what the national ROE trends are for vertically-integrated electric utilities. SCEUC witness O'Donnell testified regarding DEP's cost to South Carolina manufacturers, DEP's costs related to coal ash disposal and remediation, and DEP's real time pricing rates.

The Commission reconvened on April 16, 2019, with an appearance from John Bowen, Jr., Esquire, who spoke on behalf of the South Carolina Farm Bureau ("Farm Bureau") regarding comments made at the public night hearings and a letter filed in this Docket on April 9, 2019. Mr. Bowen updated the Commission on the ongoing collaborative efforts made by DEP to resolve some of the Farm Bureau's concerns.

ORS stipulated into the record the testimonies of witnesses Sandonato and Schellinger. The testimony of ORS witness Schellinger recommended the Commission authorize a rate reduction of \$9,977,484 million due to the TCJA to be flowed back to customers in the same manner proposed by DEP. Anthony Sandonato testified regarding the Company's Grid Improvement Plan, consideration of which has been dismissed from this proceeding.

ORS presented witness Ruoff, who testified regarding potential impacts to low-income customers if the Commission adopted the Company's positions outlined in its rebuttal testimony and asserted that the Company's request for recovery was in excess of reasonable levels necessary to support safe, reliable, and high-quality utility service. ORS next presented a panel consisting of witnesses Seaman-Huynh and Wittliff. Witness Seaman-Huynh addressed the Company's cost of service study, depreciation study, rate design, revenue verification, and revenue requirement distribution. According to witness Seaman-Huynh, based on ORS's adjustments and a 9.30 percent ROE, as recommended by ORS witness Parcell, ORS recommends a reduction to DEP's proposed revenue increase from \$68,668,000 (as filed in Company witness Bateman's Exhibit 1) to \$30,562,000, which equates to an approximate 55 percent reduction or approximately \$38,106,000, excluding the refund from the EDIT Rider. Witness Wittliff testified regarding the differences between the federal regulations governing coal ash disposal and remediations as compared to North Carolina's CAMA. Wittliff outlined his calculations representing the increased costs DEP seeks to charge its South Carolina customers.

ORS presented its next panel of witnesses Major and Payne. ORS witness Major explained the findings and recommendations as reflected in the ORS Audit Exhibits resulting from ORS' examination of DEP's Application and supporting books and records. Witness Payne offered recommendations for the treatment of the Company's requests for recovery of accounting deferrals.

On April 16, 2019, ORS and DEP informed this Commission that they had reached an agreement in principle on several issues in this proceeding, thus resolving disputed issues between

them on several adjustments. On April 17, 2019, ORS filed a Stipulation¹² (“Adjustments Stipulation”) stating ORS and DEP had reached agreements on the following adjustments: #20¹³ (Normalization of Storm Costs); #28 (Credit Card Fees); #25 (Rate Case Expenses); #15 (End-of-Life Nuclear Reserve); #39 (Nuclear Materials and Supplies); and #21 (Adjustment to Non-Labor O&M).

The hearing reconvened on April 17, 2019, with ORS presenting its final panel of witnesses Morgan and Hamm. Witness Morgan testified regarding ORS’s recommendations regarding certain pro forma adjustments concerning DEP’s proposed end of life nuclear fund, the deferred cost balance related to SC AMI, storm costs, legal expenses, ongoing payment obligations with CertainTEED Gypsum NC, Inc., and adjustment for nuclear materials and supplies inventory. Witness Hamm testified regarding ORS’s recommendation to disallow certain legal expenses, asserting that the Company failed to meet its legal and operations obligations and its burden of proof that the expenses incurred are both fair and reasonable.

The Parties submitted proposed orders and legal briefs on May 1, 2019.

III. STATUTORY STANDARDS AND REQUIRED FINDINGS

The evidence supporting DEP’s business and legal status is contained in its Application filed by Applicant, testimony, and in prior Commission Orders in the docket files of the Commission, of which the Commission takes judicial notice. DEP is (1) a limited liability company duly organized and existing under the laws of the State of North Carolina; (2) duly authorized by its Articles of Organization to engage in the business of generating, transmitting,

¹² A Revised Stipulation was also filed removing the reference to an Exhibit 1. See Revised Stipulation <https://dms.psc.sc.gov/Attachments/Matter/7e05ccd9-1532-4d1f-9c63-ce9450552d1d>

¹³ In the Adjustments Stipulation this adjustment is improperly referred to as #22, however the title “Normalization of Storm Costs,” is correct.

distributing, and selling electric power and energy; (3) a public utility under the laws of the State of South Carolina, and in its operations in this State are subject to the Commission's jurisdiction over DEP's rates, charges, tariffs, and terms and conditions of service as generally provided in S.C. Code Ann. Sections 58-27-10 *et seq.*; (4) a public utility under the laws of the State of North Carolina, and its operations in that state are subject to the jurisdiction of the North Carolina Public Utilities Commission; and (5) a public utility under the Federal Power Act, and certain of its operations are subject to the jurisdiction of the Federal Energy Regulatory Commission. (Application, p. 3, ¶ 5).

The current rates now in effect, excluding riders and changes in the fuel cost component, were approved in Commission Order No. 2016-871, Order Approving Increase in Rates and Charges and Settlement Agreement, in Docket No. 2016-227-E. (Application, p. 3, ¶ 6). The appropriate Test Period for purposes of this Application is the twelve-month period ending December 31, 2017. *Id.*

The Application, testimony, exhibits, affidavits of publication, and public notices submitted by DEP are in compliance with the procedural requirements of the South Carolina Code of Laws and the Regulations promulgated by this Commission.

These findings of fact are informational, procedural and jurisdictional in nature, and the matters which it involves are not contested by any party.

South Carolina Code Ann. § 58-27-810 provides, “[e]very rate demanded or received by any electrical utility . . . shall be just and reasonable.” The Commission must determine a fair rate of return that the utility should be allowed the opportunity to earn after recovery of the expenses of utility operations. The legal standards for this determination are set forth in *Federal*

Power Comm'n v. Hope Natural Gas Co., 320 U.S. 591, 602-03(1944) ("*Hope*") and *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679, 692-93 (1923) ("*Bluefield*").

Bluefield holds that:

What annual rate will constitute just compensation depends upon many circumstances, and must be determined by the exercise of a fair and enlightened judgment, having regard to all relevant facts. A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting the opportunities for investment, the money market and business conditions generally. *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. at 692-93.

This Commission and the South Carolina courts have consistently applied the principles set forth in *Bluefield* and *Hope*. *Southern Bell Tel. & Tel. Co. v. Pub. Serv. Comm'n*, 270 S.C. 590 (1978). Quoting *Hope*, the South Carolina Supreme Court held:

...Under the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling...The ratemaking process under the Act, i.e., the fixing of 'just and reasonable' rates, involves the balancing of investor and the consumer interests. *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 602-03(1944).

As related to these matters, the South Carolina Supreme Court has reasoned as follows: “the fixing of ‘just and reasonable’ rates involves the balancing of the investor and the consumer interests....” *Southern Bell Tel. & Tel. Co. v. Pub. Serv. Comm’n*, 270 S.C. 590, 596-97 (1978) (“*Southern Bell*”) (quoting *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591, 602-03 (1944) (“*Hope*”).

This Commission must exercise its dual responsibility of permitting utilities an opportunity to earn a reasonable return on the property it has devoted to serving the public, on the one hand, and protecting customers from rates that are so excessive as to be unjust or unreasonable, on the other, by “(a) Not depriving investors of the opportunity to earn reasonable returns on the funds devoted to such use as that would constitute a taking of private property without just compensation[, and] (b) Not permitting rates which are excessive.” *Southern Bell*, 270 S.C. at 605. Ultimately, this balancing act takes place within the context of a utility setting forth proposed rates—pursuant to Title 58, Chapter 27, Article 7 of the S.C. Code of Laws—for the purpose of the utility receiving revenue sufficient to yield a reasonable return.

Additionally, the Commission’s determination of a fair rate of return must be documented fully in its findings of fact and based exclusively on reliable, probative, and substantial evidence on the whole record. *Porter v. South Carolina Public Service Commission*, 504 S.E.2d 320, 323 (1998).

Practically, although the burden of proof in showing the reasonableness of a utility’s costs that underlie its request to adjust rates ultimately rests with the utility, the S.C. Supreme Court has concluded that the utility is entitled to a presumption that its expenses are reasonable and were incurred in good faith. *Hamm v. S.C. Pub. Serv. Comm’n*, 309 S.C. 282, 422 S.E.2d 110 (1992)

(internal citations omitted). However, according to *Utils. Servs. of S.C., Inc. v. S.C. Office of Regulatory Staff*, 392 S.C. 96, 110, 708 S.E.2d 755, 762–63 (2011) “[I]f an investigation initiated by ORS or by the PSC yields evidence that overcomes the presumption of reasonableness, a utility must further substantiate its claimed expenditures.”

The object of using test year figures is to reflect typical conditions. The company has the benefit of choosing its test year. Where an unusual situation indicates that the test year figures are atypical, the Commission should adjust the test year data. *Parker v. S.C. Pub. Serv. Comm’n*, 280 S.C. 310, 312, 313 S.E.2d 290, 292 (1984). The Commission must make adjustments for known and measurable changes in expenses, revenues, and investments so that the resulting rates will accurately and truly reflect the actual rate base, net operating income, and cost of capital. *Southern Bell*, 270 S.C. at 602–03, 244 S.E.2d at 284–85.

The Commission’s Findings of Facts and Conclusions reflect these standards.

IV. REVIEW OF THE EVIDENCE AND EVIDENTIARY CONCLUSIONS

A. Cost of Capital

Return on Equity

ORS’s Position

ORS witness Parcell testified that he has provided testimony as a ROE and Cost of Capital expert witness on several occasions before this Commission since the early 1980s. (R. p. 801-2, ll. 4-6). He further stated that he has testified in over 570 utility proceedings in approximately 50 regulatory agencies across the United States and Canada. (R. p. 801-1, ll. 21-22, p. 801-2, l. 1).

According to Mr. Parcell, public utility rates are normally established in a manner designed to allow the recovery of their costs, including capital costs. (R. p. 801-4, ll. 14-15). Utilities are

allowed to recover a level of operating expenses, taxes, and depreciation reasonable for rate-setting purposes, and are granted an opportunity to earn a fair rate of return on the assets utilized (i.e., rate base) in providing service to their customers. (R. p. 801-4, ll. 17-18, p. 801-5, ll. 1-2). From an economic standpoint, a fair rate of return is normally interpreted to mean that an efficient and economically-managed utility will be able to maintain its financial integrity, attract capital, and establish comparable returns for similar risk investments. (R. p. 801-5, ll. 16-18).

Regarding the regulatory standards, Mr. Parcell's testimony is based on his understanding that the United States Supreme Court decisions of *Bluefield Water Works and Improvement Co. v. Public Serv. Comm'n of West Virginia*, 262 U.S. 679 (1923) and *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1942) provide the controlling standards for a fair rate of return. (R. p. 801-5, ll. 21-23). According to Mr. Parcell, the three economic and financial parameters in the *Bluefield* and *Hope* decisions – comparable earnings, financial integrity, and capital attraction – reflect the economic criteria encompassed in the “opportunity cost” principle of economics. (R. p. 801-8, ll. 9-11). The opportunity cost principle provides that a utility and its investors should be afforded an opportunity (not a guarantee) to earn a return commensurate with returns they could expect to achieve on investments of similar risk. (R. p. 801-5, ll. 11-14). Neither the courts nor economic/financial theory has developed exact and mechanical procedures for precisely determining the cost of capital. (R. p. 801-8, ll. 19-22). However, there are several useful models that can be employed to assist in estimating the cost of common equity (“return on equity” or “ROE”), which is the capital cost component that is the most difficult to estimate. (R. p. 801-8, ll. 22-24). These include the Discounted Cash Flow (“DCF”), Capital Asset Pricing Model (“CAPM”), Comparable Earnings (“CE”), and risk premium (“RP”) methods. (R. p. 801-8, ll. 24-

25). While Mr. Parcell did not directly employ a RP model in his analyses, his CAPM analysis is a form of the RP methodology. (R. 801-8, ll. 25-27).

Mr. Parcell performed independent studies and made recommendations of the current cost of equity capital for DEP and because DEP is a subsidiary of Duke Energy Corporation, he also evaluated this entity in his analyses. (R. p. 801-2, ll. 10-12). Mr. Parcell's overall cost of capital recommendations for DEP is shown on Schedule 1 and are summarized as follows:

	Percent	Cost	Return
Long-Term Debt	47.00%	4.16%	1.96%
Common Equity	53.00%	9.10-9.50%	4.82-5.04%
Total	100.00%		6.78-7.00%

(R. p. 797, ll. 13-19, p. 801, l. 1).

Mr. Parcell recommended as reasonable a range of ROE from 9.10% - 9.50% and a cost of capital of 6.84 percent. Within the range recommended by Mr. Parcell, he testified that he thought a 9.30 percent return on equity was appropriate. (R. p. 801-3, l. 1)

According to Mr. Parcell, the first step in performing his analyses was to develop the appropriate capital structure. (R. p. 801-3, ll. 6-7). DEP proposed a hypothetical capital structure with 47 percent long-term debt and 53 percent common equity, which DEP witness Sullivan describes as the "optimal" capital structure for the Company. (R. p. 801-3, ll. 7-10). Mr. Parcell also used this capital structure. (R. p. 801-3, l. 10) The second step in a cost of capital calculation is to determine the embedded cost rate of debt. (R. p. 801-3, ll. 11-12). DEP and Mr. Parcell proposed to use a cost rate of 4.16 percent for long-term debt, the rate as of December 31, 2018. (R. p. 803-17, ll. 11-12). The third step in the cost of capital calculation is to estimate the cost of

equity. (R. p. 801-3, ll. 14). Mr. Parcell employed three recognized methodologies to estimate DEP's cost of equity, each of which he applied to two proxy groups¹⁴ of electric utilities, one of which witness Parcell developed and the other developed by DEP witness Hevert. (R. p. 801-3, ll. 14-16). These three methodologies and his findings are:

Methodology	Midpoint
Discounted Cash Flow (DCF)	9.10%
Capital Asset Pricing Model (CAPM)	6.45%
Comparable Earnings (CE)	9.50%

Based upon these findings, Mr. Parcell concluded that DEP's cost of equity is 9.30 percent, which falls within a range of 9.10 percent to 9.50 percent and is based upon his DCF and CE model results models, respectively. (R. p. 801-4, ll. 3-5). Combining these three steps into the weighted average cost of capital results in an overall cost of capital of 6.73 percent to 6.94 percent (which incorporates an 9.10 percent to 9.50 percent cost of equity). (R. p. 801-4, ll. 6-8). Witness Parcell's specific cost of capital recommendation, put forth in his direct testimony, is the mid-point of this range, or 6.84 percent, based on a 9.30 percent cost of equity. (R. p. 801-4, ll. 8-9).

In his surrebuttal testimony, Mr. Parcell testified in response to the testimony of DEP witness Hevert, who recommended a ROE of 10.75 percent. Mr. Parcell's testimony demonstrated that each of Mr. Hevert's ROE methodologies overstates the appropriate ROE for DEP. (R. p. 798, ll. 24-25, p. 799, l. 1). According to Mr. Parcell, the primary differences between his 9.30

¹⁴ Witness Parcell's proxy groups were comprised of Companies carefully chosen by witness Parcell to objectively evaluate DEP's cost of capital. The six criteria employed by witness Parcell in creating his proxy groups are: 1) Market cap of \$20 billion or greater; 2) Common equity ratio 40 percent or greater; 3) Value Line Safety rank of 1 or 2; 4) S&P and/or Moody's bond ratings of BBB or A; 5) Currently pays dividends; and, 6) Not currently involved in a major merger or acquisition. (R. p. 801-28, ll. 1-7).

percent recommended ROE – and by necessity, his range of 9.10 – 9.50 percent ROE - and Mr. Hevert's 10.75 percent ROE recommendation are as follows:

1. Mr. Hevert only considered a single source of “growth,” earnings per share (“EPS”) forecasts in his single-stage DCF. In contrast, witness Parcell considered several indicators of growth estimates. In his multi-stage DCF, Mr. Hevert focused on historic measures of GDP growth, which is inconsistent with his refusal to consider historic growth in his single-stage DCF. (R. p. 799, ll. 1-13).
2. With respect to the CAPM method, Mr. Hevert used interest rate projections as the risk-free rate whereas witness Parcell used current interest rates. It is noteworthy that Mr. Hevert's risk premium measure greatly exceeded the historic level of risk premiums. (R. p. 799, ll. 14-19).
3. As for the CE method, Mr. Hevert did not employ a CE analysis as part of his testimony, whereas witness Parcell did. This third method of analyzing an appropriate ROE for DEC considered the opportunity cost of capital investment. (R. p. 799, ll. 19-24).

According to Mr. Parcell, at 10.75 percent would exceed every ROE award in the continental U.S. since at least 2016. (R. p. 800, ll. 1-4). Witness Parcell testified that one impact of the Great Recession has been a reduction in actual and expected investment returns and a corresponding reduction in capital costs. (R. p. 801-11, ll. 15-16). Regulatory agencies throughout the U.S. have recognized the decline in capital costs by authorizing lower ROEs for regulated utilities in each of the last several years.¹⁵ (R. p. 801-11, ll. 19-20).

¹⁵ Mr. Parcell cited “Regulatory Research Associates, ‘Regulatory Focus.’ January 31, 2019.”

Regarding DEP's security ratings, Mr. Parcell testified that DEP provided the following information:

Rating Agency	Senior Secured	Senior Unsecured
Moody's	Aa3	A2
S&P	A	A-

(R. p. 801-17, l. 10). According to witness Parcell, DEP has the highest ratings among the Duke Energy utility subsidiaries, except for Duke Energy Carolinas, LLC. (R. p. 801-18, ll. 2-3). Additionally, witness Parcell testified that DEP's ratings were generally higher than most electric utilities in the United States and that its ratings are indicative of relatively lower risk. (R. p. 801-18, ll. 6-10). According to witness Parcell, DEP is one of only 11 out of 125 electrical utilities with AA senior debt rating, meaning DEP is in the top 10 percent. (R. p. 814, ll. 6-25, p. 815, ll. 1-9).

Mr. Parcell testified that ROEs are trending downward due to relatively low interest rates and because regulatory mechanisms exist that reduce the likelihood of under-recovery. (R. pp. 811, 812).

DEP's Position

Company witness Hevert recommended in his direct testimony a ROE of 10.75 percent. (Direct, p. 4, ll. 18-20.) Mr. Hevert contended that, because all financial models are subject to various assumptions and constraints, equity analysts and investors tend to use multiple methods to develop return requirements. (Direct, p. 5, ll. 4-6). He therefore relied on three approaches to develop his ROE determination: (1) the Constant Growth and Multi-Stage forms of the DCF

model; (2) the CAPM; and (3) the Bond Yield Plus Risk Premium approach. (Direct, p. 5, ll. 6-9). Witness Hevert testified regarding the capital market environment and addressed the effect those market conditions have on the return investors require in order to commit their capital to equity securities. According to witness Hevert, the TCJA has increased cash flow-related risks for utilities and the recommends the Commission consider the capital market implications of the TCJA as part of its review. (Direct, p. 78, ll. 15-16, p. 79, ll. 7-10). Accordingly, witness Hevert recommended that the Commission “focus on the upper end of the range of analytical results.” (Direct, p. 79, ll. 5-6). Based upon his analysis, witness Hevert testified that the Company’s ROE was in the range of 10.25 percent-11.00 percent. (Direct, p. 80, ll. 9-10). Witness Hevert testified that his conclusion considered the current capital market environment, including the TCJA, as well as the Company’s risk profile relative to the proxy group analytical results with respect to (1) the risks associated with certain aspects of the Company’s generation portfolio; (2) the Company’s significant capital expenditure plan; (3) the risk associated with severe weather; (4) the risk associated with the Company’s regulatory environment; and (5) the cost of issuing common stock. (Direct, p. 81, ll. 3-9).

According to DEP witness Ghartey-Tagoe, the Company is proposing rates be set on a ROE of 10.50 percent as a rate mitigation measure. (R. p. 298-15, ll. 17-22).

According to DEP witness Sullivan, the Company supports witness Hevert’s testimony and analysis; however, to mitigate rates, DEP requests a ROE of 10.5 percent. (Direct, p. 5, ll. 21-23, p. 6, l. 1; *See Also* Application of Duke Energy Progress, LLC, Para. 24 (Nov. 8, 2018).

Walmart's Position

According to Walmart witness Chriss, DEP's proposed ROE is higher than the authorized ROE for DEC in South Carolina and DEP in North Carolina. (Direct, p. 7, ll. 15-18). Witness Chriss also observed that DEC's most recent rate case in 2013 resulted in an authorized ROE of 10.20 percent.¹⁶ (Direct, p. 7, ll. 18-19). In 2018, the North Carolina Public Utilities Commission authorized a ROE of 9.90 percent to both DEP and DEC in North Carolina.¹⁷ (Direct, p. 7, l. 21-p. 8, l. 1.).

Witness Chriss testified that DEP's proposed ROE was significantly higher than ROEs approved by other utility regulatory commissions in 2016, 2017, 2018, and so far in 2019. (Direct, p. 10, ll. 11-14). According to data from SNL Financial, a financial news and reporting company, the average of the 111 reported electric utility rate case ROEs authorized by commissions to investor-owned utilities in 2016, 2017, 2018, and so far in 2019, is 9.61 percent. (Direct, p. 10, ll. 14-17). Witness Chriss testified that the average and median values are significantly below the Company's proposed ROE of 10.50 percent and included an exhibit outlining approved ROEs.¹⁸ (Direct, p. 10, ll. 18-20). Therefore, witness Chriss testified that the Company's proposed 10.50 percent ROE is counter to broader electric industry trends. (Direct, p. 10, ll. 20-21).

¹⁶ See IN RE: Application of Duke Energy Carolinas, LLC for Authority to Adjust and Increase Its Electric Rates and Charges, Docket No. 2013-59-E, Order No. 2013-661 (Sept. 18, 2013) at 30.

¹⁷ See In the Matter of Application by Duke Energy Progress, LLC, For Adjustment of Rates and Charges Applicable to Electric Utility Service in North Carolina, NCUC Docket No. E-2, Sub 1142, Order Accepting Stipulation, Deciding Contested Issues and Granting Partial Rate Increase (Feb. 23, 2018) at 56; In the Matter of Application of Duke Energy Carolinas, LLC, for Adjustment of Rates and Charges Applicable to Electric Utility Service in North Carolina, NCUC Docket No. E-7, Sub 1146, Order Accepting Stipulation, Deciding Contested Issues, and Requiring Revenue Reduction (June 22, 2018) at 32.

¹⁸ See Exhibit SWC-3.

Furthermore, witness Chriss testified that in the group reported by SNL Financial, the national average ROE for vertically integrated utilities authorized by state regulatory commissions from 2016 to date is 9.76 percent and overall, the average annual authorized ROE has been trending downward. (Direct, p. 11, ll. 5-7). According to witness Chriss, the average ROE authorized for vertically integrated utilities in 2016 was 9.77 percent, in 2017 it was 9.80 percent, and since the beginning of 2018 it has averaged 9.69 percent. (Direct, p. 11, ll. 7-9). Finally, witness Chriss testified that a 10.50 percent ROE would be the third highest approved ROE for a vertically integrated utility at any time since 2016 if adopted by the Commission. (Direct, p. 11, ll. 11-13).

Commission's Finding

In *Bluefield*, the Supreme Court of the United States outlined the constitutional standards for determining an appropriate rate of return. These standards govern this Commission's determination of an appropriate ROE:

A public utility is entitled to such rates as will permit it to earn a return upon the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit, and enable it to raise the money necessary for the proper discharge of its public duties.

Bluefield, 262 U.S. at 692, as quoted in *Southern Bell*, 244 S.E. 2d at 281.

In *Hope*, the Court reaffirmed these principles holding:

From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock.... By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be

sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

Hope, 320 U.S. at 603.

These decisions hold that (1) a regulated public utility is entitled to rates that allow it the opportunity to earn a return on its invested capital that is equal to that being made at the same time and in the same general part of the country of other investments in business undertakings with similar risks and uncertainties, (2) the return should be such as to assure confidence in the financial soundness of the utility and adequate, under efficient and economic management, to maintain and support its credit and enable it to raise money necessary for proper discharge of its duties, (3) the utility has no right to the kinds of profits that may be realized in highly profitably enterprises.

Additionally, South Carolina law requires “[t]he determination of a fair rate of return must be documented fully in its findings of fact and based exclusively on reliable, probative, and substantial evidence on the whole record.” *Porter v. S.C. Public Service Commission*, 332 19 S.C. 93, 98, 504 S.E.2d 320, 323 (1998), citing S.C. Code Ann. § 58-5-240 (Supp. 2003). In making its decision, this Commission cannot make a determination based upon surmise, conjecture or speculation. *See Herndon v. Morgan Mills, Inc.*, 246 S.C. 201, 143 S.E.2d 376 (1965). Finally, South Carolina law states that opinion testimony, without an underlying showing of the evidentiary basis on which it relies, is of no probative value. *Parker v. South Carolina Public Service Comm’n*, 281 S.C. 215, 217, 314 S.E.2d 597, 599 (1984).

The Commission is the fact finder in rate proceedings and must balance the interests of the using and consuming public with that of the utility appearing before it. The Commission’s Order must be based upon substantial evidence in the whole record. As a result, this Commission is bound by the parameters of evidence put forth by the parties. Accordingly, the Commission has

carefully evaluated the evidence submitted in this case as to what ROE DEP should be authorized the opportunity to earn.

Determining a proper ROE is both an art and a science. (R. p. 345, ll. 18-20). In evaluating an appropriate ROE, the Commission must not base the approved ROE exclusively on a comparative analysis; however, it may look at businesses in this part of the country with similar risks and uncertainties as those that attend DEP. DEP witness Hevert testified that since 2014, ROEs for vertically integrated electric utilities authorized in Florida, Mississippi, North Carolina, South Carolina, Tennessee and Georgia ranged from 9.85 percent to 10.55 percent, with an average of 10.10 percent. (Rebuttal, p. 12, n. 5). Additionally, according to DEP witness Hevert, average authorized ROEs of across the 71 vertically integrated utilities for which Regulatory Research Associates reports ranged from 9.62 percent to 9.95 percent since 2016. (Rebuttal, p. 100, l. 1). According to Walmart witness Chriss, the average ROE for vertically integrated utilities authorized from 2016 through present is 9.76 percent and has been trending downward. (Direct, p. 11, ll. 5-7). ORS witness Parcell testified that average ROEs authorized by state regulatory agencies have declined and continue to remain relatively low through 2018, with the average electric ROE in 2018 being 9.56 percent. (Direct, p. 15, ll. 10).

The Commission also considered the relative risk of DEP. While both DEP witness Hevert and ORS witness Parcell utilized methodologies in their analyses that account for risk, witnesses also explicitly testified regarding DEP's riskiness. According to ORS witness Parcell, DEP has the highest senior unsecured ratings among the Duke Energy utility subsidiaries, except for DEC. (Direct, p. 18, ll. 2-3). Additionally, DEP's higher ratings are indicative of relatively lower risk. (Parcell Direct, p. 18, ll. 10). DEP witness Hevert testified that DEP's capital-intensive projects

such as coal-fired and nuclear generation facilities make it subject to certain risks. (Direct, p. 42, ll. 21-22). However, DEP witness Sullivan testified that rating agencies believe that DEP operates in a constructive regulatory environment that supports long-term credit quality and view the Company's position within the Duke Energy corporate family as credit supportive. (Direct, p. 10, ll. 6-9). Mr. Hevert's testimony urges the Commission to conclude that DEP, although financially sound and with a lower risk relative to other comparable utilities, should be viewed as a somewhat risky investment, thus justifying his high ROE recommendation. None of the DEP witnesses, however, claimed at any point in the presentation of the Company's case that DEP is on unstable financial footing or has any particular or unique risk not typically encountered by other electric utilities.¹⁹ In fact, witness Parcell testified that DEP is within the top 10 percent of utilities nationally regarding credit ratings and is, thus, a lower risk company. Throughout his Direct and Surrebuttal Testimonies, Mr. Parcell stated that Mr. Hevert's analyses show a consistent pattern of choosing data and methodologies that result in inflated ROE conclusions. Mr. Parcell further asserted that Mr. Hevert's use of several "factors" to create more risk for DEP are all factors that are already considered by the rating agencies. In short, Mr. Parcell testified that Mr. Hevert is essentially "double-counting" risk and the end result is an artificially inflated ROE recommendation. (Direct, p. 57, ll. 1-21, p. 58, ll. 1-2).

While ORS witness Parcell was criticized by DEP witness Hevert for his application of the CAPM, witness Parcell did not use his CAPM analysis in formulating his recommended ROE in this case. (Hevert Rebuttal, p. 57, ll. 10-12, Parcell Direct, p. 45, ll. 18-21). By only using DCF and CE analyses to produce his recommended ROE range, and excluding his CAPM analysis,

¹⁹ Witness Sullivan testified that DEP does not have trouble accessing the capital markets.

witness Parcell evidenced his efforts to produce a fair and reasonable recommendation to the Commission. Conversely, DEP witness Hevert recommended that both of his DCF analyses be given little weight by the Commission, due to their yielding results which he believed to be too low. (Rebuttal, p. 8, ll. 1-3). Thus, Mr. Parcell attempted to be unbiased by discounting his CAPM results, which he judged to be too low, and Mr. Hevert chose to discount two (2) methodologies that he also claimed to be too low, thus aiding in his production and recommendation of an inequitably high ROE.

Mr. Parcell provided evidence that, from 2017 to 2018, ROEs allowed by regulatory jurisdictions across the country for all electric utilities averaged 9.59 percent with a median ROE of 9.58 percent. (Parcell Direct, p. 70, DCP-2, Schedule 3). This national average is only 9 basis points higher than Mr. Parcell's recommended range, but 116 basis points lower than Mr. Hevert's recommended 10.75 percent ROE. Testimony and supporting materials submitted to the Commission confirmed a decline in ROEs across the country in recent years, supports the strength of market conditions, and indicates anticipated upward trend in interest rates in the near term. The above facts make it clear that Mr. Hevert's ROE recommendation is less credible than the ROE range recommended by Mr. Parcell. South Carolina customers should not pay rates that are based on a ROE higher than the national average.

After consideration of the substantial evidence on the whole record, the Commission concludes that it is not fair and reasonable or a fair balancing of the interests of the Company and its customers to approve a ROE of 10.75 percent or 10.50 percent.²⁰ While a public utility is

²⁰ The Commission notes that DEP witness Hevert's proposed ROE of 10.75% would be the highest authorized ROE approved in the continental U.S. over the past 8 years. (Parcell Surrebuttal, p. 6, ll. 3-7).

entitled to earn a fair return, it has no entitlement or constitutional right to earn profits comparable with highly profitable enterprises or speculative ventures. *Bluefield v. Pub. Serv. Comm'n*, 262 U.S. 679, 690.

Both ORS witness Parcell and Walmart witness Chriss presented ROE recommendations to be awarded to DEP; however, only witness Parcell presented a ROE recommendation resulting from a thorough analysis that considers the factors set forth in *Hope* and *Bluefield*. Mr. Parcell's recommended range of return accounts for the ROEs approved for entities with similar risks as those of DEP in the same area while assuring the financial soundness of DEP. Additionally, Mr. Parcell's range is supported by authorized ROEs nationwide.

The South Carolina Supreme Court has held that the Commission must determine a fair and reasonable rate of return and must document fully the evidence to justify the rate of return which they award. *Heater of Seabrook, Inc. v. Pub. Ser'v Comm'n of S.C.*, 324 S.C. 56, 64, 478 S.E.2d 826, 830 (1996) citing *Nucor Steel v. S.C. Pub. Ser'v Comm'n*, 312 S.C. 79, 439 S.E.2d 270 (1994). This Commission finds that the record of evidence does not support approving the ROE recommended by DEP witness Hevert. The Commission received extensive testimony from Walmart witness Chriss that ROEs are trending downward, and ORS witness Parcell that supports the Commission's finding that a ROE within a range of 9.10 – 9.50 percent for DEP is both fair and reasonable. Evaluation of the analyses performed by the testifying experts and based upon the evidence in the record, the reasonableness of Mr. Parcell's ROE recommendation is evident. Therefore, this Commission finds that an award of a 9.50 percent ROE is fair, reasonable, and supported by substantial evidence on the whole record.

Cost of Debt

ORS's Position

In determining the cost of debt, witness Parcell utilized 4.16 percent, which reflects the actual cost of debt for DEP. (R. p. 803-4, ll. 9-11). ORS witness Parcell accepted the Company's revision to update the cost of long-term debt as of December 31, 2018. (R. p. 803-17, ll. 11-12).

DEP's Position

DEP witness Sullivan testified that he recommends using DEP's updated 4.16 percent cost of debt, calculated as of December 31, 2018. (Revised Rebuttal, p. 3, ll. 1-2).

Walmart's Position

In witness Chriss' direct testimony, which occurred prior to the update of DEP's cost of debt, he testified that the Company proposed a cost of debt of 4.06 percent in its Application. (Direct, p. 6, ll. 18-20).

Commission Finding

Regarding the Commission's finding on this issue – as well as issues addressed elsewhere in this order – South Carolina law requires “[t]he determination of a fair rate of return must be documented fully in its findings of fact and based exclusively on reliable, probative, and substantial evidence on the whole record.” *Porter v. S.C. Public Service Commission*, 332 19 S.C. 93, 98, 504 S.E.2d 320, 323 (1998), citing S.C. Code Ann. § 58-5-240 (Supp. 2003). In making its decision, this Commission cannot make a determination based upon surmise, conjecture or speculation. See *Herndon v. Morgan Mills, Inc.*, 246 S.C. 201, 143 S.E.2d 376 (1965). Finally, South Carolina law states that opinion testimony, without an underlying showing of the evidentiary

basis on which it relies, is of no probative value. *Parker v. South Carolina Public Service Comm'n*, 281 S.C. 215, 217, 314 S.E.2d 597, 599 (1984).

The reliable and probative substantial evidence in the record supports a finding that DEP's cost of debt is 4.16 percent for this proceeding.

Capital Structure

ORS's Position

Regarding the Company's capital structure of DEP, Mr. Parcell employed the hypothetical structure as proposed in DEP's application of 47 percent debt and 53 percent common equity. (R. p. 801-26, ll. 18-20, p. 801-21, l. 1).

DEP's Position

DEP witness Sullivan testified that a capital structure ratio of 47 percent debt and 53 percent common equity was optimal. (Direct, p. 15, l. 13-14).

Walmart's Position

In witness Chriss' direct testimony, he testified that the Company proposed a capital structure ratio of 53 percent equity and 47 percent debt. (Direct, p. 6, ll. 18-20).

Commission Finding

The evidence in the record supports a finding that DEP's capital structure ratio utilized to determine rates should be the hypothetical ratio of 53 percent equity and 47 percent debt.

Table 1 below indicates the capital structure of the Company, the cost of debt, the cost of equity as approved in this Order, and the resulting rate of return on rate base:

Table 1: Summary of Overall Rate of Return

<u>Type of Capital</u>	<u>Ratios</u>	<u>Cost Rate</u>	<u>Weighted Cost Rate</u>
Long-Term Debt	47.00%	4.16%	1.96%
Common Equity	<u>53.00%</u>	9.50%	<u>5.04%</u>
Total	100.00%		6.99%

B. Recovery of Coal Ash Expense

ORS's Position

Regarding DEP's requested recovery of expenses related to coal ash, ORS presented the testimonies of Dan Wittliff and Michael Seaman-Huynh. Mr. Wittliff testified to the evolution of coal ash management regulations in order to provide context for the development of the federal CCR rules and the North Carolina CAMA. (R. p. 1115-8, ll. 13-16). According to Mr. Wittliff, the unpermitted discharge of approximately 27 million gallons of coal ash wastewater and an estimated 39,000 tons of coal ash into the Dan River, which occurred through two pipes from Dan River's primary coal ash basin, played a deciding role in the development of North Carolina's CAMA in its present form, not only accelerating the timing of action required, but also limiting the options to remediate and close coal combustion residuals impoundments more than would eventually occur under the CCR Rule. (R. p. 1115-15, ll. 13-23). Witness Wittliff testified that, in addition to language contained within North Carolina's CAMA and legislative drafts of what eventually became CAMA, the court cases and subsequent plea agreements (see Hearing Exhibit No. 59, Wittliff Direct Exhibits DJW-5.1 – DJW-5.4) demonstrate that DEC and DEP were criminally and civilly negligent in their operations and maintenance of the impoundments for years

prior to the enactment of CAMA, confirming that DEC and DEP failed to responsibly address and correct these issues adequately – and consequently in a much less costly – manner than it is currently being required to do. (R. p. 1115-16, ll. 16-22). Witness Wittliff also testified to an excerpt from an early version of CAMA in which the NC General Assembly draft legislation attributed CAMA to the Dan River spill. (R. p. 1115-18, ll. 3-35, p. 1115-19, ll. 1-15). According to witness Wittliff's testimony, his research indicated that the NC General Assembly only mentioned coal ash sparingly between February 2010 and January 2014. (R. p. 1115-20, ll. 1-33, p. 1115-21, ll. 1-7). Additionally, the South Carolina General Assembly has not passed legislation that is similar to North Carolina's CAMA. (R. p. 1115-21, l. 8-9). Witness Wittliff testified that North Carolina's CAMA is significantly more restrictive and stringent than the federal CCR Rule (R. p. 1115-21, ll. 21-22) and gave specifics on certain differences between North Carolina's CAMA and the federal CCR rule. (R. pp. 1115-21-1115-25). Additionally, witness Wittliff testified that North Carolina's CAMA rules resulted in additional expenses being incurred at DEP's Asheville and Sutton plants, due to an accelerated closure schedule, which the federal CCR rule would have otherwise required. (R. p. 1115-23, ll. 4-120). Further, witness Wittliff testified and recommended disallowance for costs related to:

1. Expenditures for plants and impoundments not covered at all by the federal CCR rule (Cape Fear falls into this category).
2. Expenditures for closure and/or excavation options not required under the federal CCR rule but required under North Carolina's CAMA or North Carolina court decisions (Asheville, Cape Fear, H.F. Lee, Sutton, and Weatherspoon fall in this category).

3. Expenditures for actions that would not have been required at this time under the federal CCR rule but are subject to accelerated schedules under North Carolina's CAMA or other state law (Sutton and Asheville fall into this category).

(R. p. 1115-30, ll. 8-12, p. 31, ll. 11-18).

According to witness Wittliff, ORS has taken the position that North Carolina laws, over which DEP's South Carolina customers have no meaningful input, should not place an additional burden on the ratepayers of South Carolina. (R. p. 1115-31, ll. 2-6).

Regarding costs incurred at the DEP plant H.F. Lee, witness Wittliff testified that DEP's beneficiation project at H.F. Lee falls under the "CAMA-only" category, and the ratepayers of South Carolina should not have to reimburse the Company for expenses related to North Carolina's CAMA-only beneficiation requirement. (R. p. 1115-36, ll. 1-4). Witness Wittliff testified that, as a result of his December 2018 site visit to H.F. Lee, he learned that the beneficiation plants are to be built and commissioned between 2019 and 2021 and out of spec ash will be landfilled off-site and qualifying ash will largely be sold to concrete plants. (R. p. 1115-36, ll. 18-20). Based upon this information and his observations during his site visit, witness Wittliff concluded that most of the costs incurred in 2018 appear to be related to beneficiation efforts and not compliance with the federal CCR rules. (R. p. 1115-36, ll. 20-23). According to witness Wittliff, the federal CCR rule does not require beneficiation and as a result, no savings could accrue to customers as a result of beneficiation performed pursuant to North Carolina's CAMA. (R. p. 1212, ll. 5-10). For this reason, witness Wittliff recommends disallowing the difference between the 2018 spend through September 30 (\$20,599,578) and the average of the previous three (3) years \$11,391,867 for a total disallowance of \$9,207,711. (R. p. 1115-36, l. 23-p. 1115-37, ll. 1-2).

Regarding costs incurred at the DEP plant Sutton, witness Wittliff testified that the federal CCR rule does not require the closure of Sutton and therefore he reasonably concluded that the closure of Sutton was directed by North Carolina's CAMA and the North Carolina court orders mentioned by DEP witness Kerin. (R. p. 1115-37, ll. 16-21). Witness Wittliff further clarified that because Sutton was designated as a high priority CAMA site, closure was required to be completed two years earlier – by August 1, 2019 instead of August 5, 2020¹ – than it would have been in accordance with federal CCR rules. (R. p. 1117-6, ll. 19-22). As a result of this conclusion, and witness Wittliff's position that DEP should be allowed to recover any planning and engineering costs incurred to comply with federal CCR rules, witness Wittliff's calculation dictated that \$186,376,226 of the Company's total \$225,525,554 requested recovery of expenses incurred at its Sutton plant be disallowed. (R. p. 1115-38, ll. 13-14, p. 1115-40, ll. 3-6).

Regarding costs incurred at the DEP plant Asheville, witness Wittliff testified that the extent of compliance measures undertaken by DEP to comply with North Carolina's CAMA and other North Carolina laws resulted in much greater costs than what the federal CCR rules would have required (R. p. 1115-40, ll. 7-19). Witness Wittliff calculated the total costs that would have been incurred at the Asheville plant under the federal CCR rule alone would have been \$93,713,264. (R. p. 1115-41, ll. 12-13). As a result, witness Wittliff recommended that \$98,220,932 of the \$191,934,196 sought by DEP in this proceeding be disallowed (R. p. 1115-42, ll. 5-6).

Regarding costs incurred at the DEP plant Weatherspoon, witness Wittliff testified that DEP has represented its Weatherspoon efforts as beneficiation, which is not required under the

CCR rule. (R. p. 1115-42, ll. 21-23). Accordingly, witness Wittliff's calculations result in a recommended disallowance of \$6,044,240.

Witness Wittliff's recommendations and the underlying rationale are summarized in the table below:

Table 5.4: Duke Energy Progress Reimbursement Request and Disallowances					
Plant	Cost Data				
	Total Project (from SCORS DEP 10-08)	Amount Requested (1/1/15-9/30/18, SCORS DEP 10-08)	Disallowance	Rationale	Allowance
Asheville	\$ 452,038,793	\$ 191,934,196	\$ 98,220,932	CAMA High Priority - Accelerated Schedule -- Allow what would have been incurred for "Cap-In-Place" only	\$ 93,713,264
Cape Fear	\$ 504,918,488	\$ 33,631,199	\$ 33,631,199	No Federal CCR Requirements	\$ -
HF Lee	\$ 568,383,919	\$ 54,775,180	\$ 9,207,711	Beneficiation - CAMA Only -- Allow Engineering and Planning	\$ 45,567,469
Mayo	\$ 206,749,586	\$ 25,384,168	\$ -	Federal CCR Compliant	\$ 25,384,168
Robinson	\$ 179,561,777	\$ 11,431,675	\$ -	Federal CCR Compliant and SCDHEC Requirements	\$ 11,431,675
Roxboro	\$ 349,803,401	\$ 34,070,691	\$ -	Federal CCR Compliant	\$ 34,070,691
Sutton	\$ 493,219,171	\$ 255,525,554	\$ 186,376,226	CAMA High Priority - Accelerated Schedule -- Allow Engineering and Planning	\$ 69,149,328
Weatherspoon	\$ 209,724,346	\$ 28,287,429	\$ 6,044,240	Excavation and Beneficiation Off-Site -- CAMA -- Allow E&P Through 9/30/17 and Half Costs 10/01/17 through 9/30/18	\$ 22,243,189
TOTAL	\$ 2,964,399,482	\$ 635,040,092	\$ 333,480,308		\$ 301,559,784

(R. p. 1115-45, l. 1).

According to witness Seaman-Huynh, DEP directly assigns certain costs to its North Carolina and South Carolina jurisdictions and that often these costs are derived from laws and

regulations specific to that jurisdiction. (R. p. 1099-6, ll. 10-16). Witness Seaman-Huynh also gave specific examples of instances in which this currently occurs, citing South Carolina Act 236 Distributed Energy Resources and the North Carolina Renewable Energy and Energy Efficiency Portfolio Standard. (R. p. 1099-6, ll. 11-13). Witness Seaman-Huynh also testified to allocated coal ash costs, resulting from a North Carolina law, to South Carolina customers in this proceeding and that ORS recommends the Commission disallow recovery of these costs from South Carolina customers. (R. p. 1099-7, ll. 1-4). According to witness Seaman-Huynh, South Carolina customers should be held harmless for the incremental cost differences attributed to North Carolina state laws. (R. p. 1101-8, ll. 7-8). Additionally, witness Seaman-Huynh testified that the Company has already excluded certain costs from this proceeding that were incurred due to North Carolina law including: recovery of certain costs that are associated with the provision of drinking water to North Carolina residents, the costs to comply with the North Carolina Clean Smokestacks Act, North Carolina Renewable Portfolio Standards, and the North Carolina Competitive Energy Solutions for NC (HB.589) laws. (R. p. 1101-9, ll. 1-5).

Furthermore, costs related to the acquisition by DEP of North Carolina Eastern Municipal Power Association (“NCEMPA”) were also removed from this proceeding, as was done in Commission Order No. 2016-871 without objection by the Company. In that case, costs were excluded from recovery because South Carolina does not allow purchase acquisition adjustments, which were granted by the North Carolina Public Utilities Commission pursuant to North Carolina Senate Bill 305, S.L. 2015-3, § 1, eff. April 2, 2015.²¹

²¹ See <https://www.ncleg.net/Sessions/2015/Bills/Senate/PDF/S305v4.pdf>.

DEP's Position

According to DEP witness Kerin, DEP is seeking recovery of CCR expenses incurred from July 2016 through September 2018 and estimated costs to be incurred October 2018 through December 2018 related to compliance with applicable regulatory requirements. (R. p. 850-6, ll. 10-12). According to witness Kerin, DEP has become subject to both federal and North Carolina regulatory requirements that mandate closure of its coal ash basins and other ash storage areas. (R. p. 850-6, ll. 18-19).

In June 2010, the United States Environmental Protection Agency ("EPA") proposed national minimum criteria to regulate the disposal of CCRs and the operation and closure of active CCR landfills and existing and inactive CCR surface impoundments. (R. p. 850-7, ll. 14-17). Approximately five years later, the EPA published the final CCR Rule in the Federal Register in April 2015. (R. p. 850-7, ll. 17-18). In South Carolina, DEP entered into a Consent Agreement with the South Carolina Department of Health and Environmental Control ("SCDHEC") in July 2015. (R. p. 850-7, ll. 19-21). Pursuant to this agreement, DEP agreed to excavate its coal ash basins and ash storage areas at the Robinson Steam Station in Darlington County, South Carolina. (R. p. 850-7, ll. 21-23). Also, in 2014, the state of North Carolina enacted CAMA, which requires that all coal ash basins in North Carolina be closed, either through excavation or via the cap-in-place method. (R. p. 850-8, ll. 3-6). The Company has begun the process of closing, or submitting plans to close, its coal ash basins in accordance with the program with the most restrictive requirements. (R. p. 850-8, ll. 8-10). The Company requested recovery of the incremental compliance costs related to coal ash pond closures incurred starting July 2016 to August 2018 and expected costs from September 2018 to December 2018. (R. p. 850-8, ll. 22-23, p. 850-9, ll. 1-2).

DEP witness Wright testified about the general regulatory principles dealing with the recovery of environmental costs, such as coal ash costs, incurred by electric utilities. Mr. Wright asserts that environmental regulations have evolved over time and have had an impact on the Company. He testifies that, while it had no effect on the federal CCR regulations, there is no doubt that the Dan River spill certainly helped prompt the North Carolina General Assembly to examine the State's and national coal ash disposal policies and regulations and out of this investigation came North Carolina's CAMA. (R. p. 837-17, ll. 5-9). However, he maintains that the DEP coal ash related expenses should be recoverable as proposed by the Company.

SCEUC's Position

According to witness O'Donnell, on February 2, 2014, DEC spilled a large amount of coal ash in the Dan River. (Direct, p. 34, l. 9). Information exposed in the Duke Energy federal plea deal revealed that on two separate occasions, Duke Energy engineers at the Dan River plant requested an immaterial amount of budget funding to pay for video equipment to scope the pipe that later failed. (Direct, p. 34, ll. 11-14). Duke Energy engineers were denied their request. (Direct, p. 34, ll. 14-15). In response to the Dan River spill, the North Carolina Legislature passed CAMA that required the closure of existing coal ash ponds as well as conversion from wet ash to dry ash handling. (Direct, p. 34, ll. 17-20). Subsequently, on December 19, 2014, the EPA issued the CCR Order that provided minimum national criteria for CCR landfills, CCR surface impoundments, and lateral expansion of coal-fired units. (Direct, p. 34, ll. 23-25). According to witness O'Donnell, the CCR federal rule was designated as "self-implementing," meaning that Duke Energy was not under any requirement to act UNLESS it is sued by a state or other entity and loses that lawsuit. (Direct, p. 34, ll. 25-28). Furthermore, witness O'Donnell testified that

Duke Energy management made specific decisions that resulted in the coal ash spill in North Carolina, that in turn, led to the creation of CAMA. (Direct, p. 38, ll. 32-33). Witness O'Donnell's analysis in North Carolina concluded that Duke Energy stockholders should pay 75% of the North Carolina's CAMA costs. (Direct, p. 39, ll. 1-2). According to witness O'Donnell, stockholders should to be held accountable for the actions of Duke Energy executives that led to the Dan River spill, which in turn, led to the passage of North Carolina's CAMA, and given the fact that the DEP coal ash costs are so much higher than utilities operating in a similar manner, he believes consumers and stockholders should share the cleanup coal ash costs 75/25. Direct, p. 44, ll. 7-11).

Additionally, witness O'Donnell testified that North Carolina's CAMA was more stringent than the federal CCR rules. Quoting Mark McEntire, Duke Energy's director of environmental policy, witness O'Donnell said "[t]he NC law came before the CCR [rule] . . . We find that NC CAMA that is specific to NC is generally driving decision making on a management perspective on coal ash . . . From a comparison perspective the CAMA is generally a good bit more stringent.'" (Surrebuttal, p. 4, ll. 14-18).

Sierra Club's Position

Dr. Ezra Hausman²² testified regarding the costs and risks associated with continued operation of DEP's Mayo and Roxboro plants and cautioned against the continued investment in coal units that are likely to be uneconomic for customers. (R. p. 786-5, ll. 6-8). Dr. Hausman recommended that the Commission reject DEP's request to recover its \$100 million investment in retrofits at the

²² During the evidentiary hearing, Sierra Club failed to request the Commission accept into the record Exhibits 12, 13, and 14 to Dr. Hausman's testimony. In a post-hearing motion, Sierra Club requested – and no party objected – that the Commission accept those Exhibits into the record under seal. That motion is hereby granted.

Roxboro plant because DEP has not demonstrated that such investment was economically preferable to the early retirement of that plant, when retirement would have allowed ratepayers to avoid both that investment and future capital costs for the plant. (R. p. 786-5, ll. 10-14). In addition, he recommended that the Commission require DEP to complete a comprehensive economic and retirement analysis of each of its coal units. (R. p. 786-5, ll. 15-17). According to Dr. Hausman, this analysis should identify and quantify the total costs of managing past and future coal combustion residuals (“CCR”, also referred to generally as “ash”) as well as the costs of all future capital investments necessary to continue operating the plants, including additional investments to manage coal ash and other environmental compliance requirements. (R. p. 786-5, ll. 17-21). Dr. Hausman testified this comprehensive analysis should include full consideration of non-fossil-generation alternatives for meeting customer requirements, including transmission enhancements, renewable energy sources, energy efficiency, and storage. (R. p. 786-5, ll. 21-24). According to Dr. Hausman, if the Commission otherwise concludes that DEP’s request for recovery of coal ash remediation and cleanup costs in this proceeding to be reasonable and prudent, the Commission should condition its approval on its review of the Company’s filing this comprehensive analysis for Commission review. (R. p. 786-5, l. 24-p. R. p. 786-6, l. 3). According to Dr. Hausman, this will allow the Commission to consider whether DEP’s coal ash remediation investments provide commensurate benefits to ratepayers in the full context of the past and future operations of DEP’s coal units. (R. p. 786-6, ll. 3-6).

Commission Finding

According to S.C. Code Ann. § 58-27-810 every rate received by an electrical utility must be just and reasonable. Additionally, S.C. Constitution Article X, § 5 states, “[n]o tax, subsidy or

charge shall be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people or their representatives lawfully assembled....” S.C Constitution Article IX, § 1 states, “[t]he General Assembly shall provide for appropriate regulation of common carriers, publicly owned utilities, and privately-owned utilities serving the public as and to the extent required by the public interest.” According to *South Carolina Electric & Gas Company v. Randall*, 333 F.Supp.3d 552, 570,

Even though the South Carolina General Assembly has entrusted the PSC with rate-making power, this grant of power is still subordinate to the General Assembly’s rate-making authority. *See Duquesne*, 488 U.S. at 313–14, 109 S.Ct. 609 (“It cannot seriously be contended that the Constitution prevents state legislatures from giving specific instructions to their utility commissions. We have never doubted that state legislatures are competent bodies to set utility rates.”); *Glendale Water Corp. of Florence v. City of Florence*, 274 S.C. 472, 265 S.E.2d 41, 42 (1980) (stating the PSC was “creat[ed] by the General Assembly [and] derive[es] all its powers therefrom”).

“An administrative agency is generally not bound by the principle of *stare decisis* but it cannot act arbitrarily in failing to follow established precedent.” *330 Concord St. Neighborhood Ass’n v. Campsen*, 309 S.C. 514, 424 S.E.2d 538 (Ct. App. 1992) (*See Courtesy Motors Inc. v. Ford Motor Co.*, 384 S.E.2d 118 (Va. Ct. App. 1989)).

Also, “[t]he declaration of an existing practice may not be the substitute for an evaluation of the evidence. A previously adopted policy may not furnish the sole basis for the Commission’s action.” *See Heater of Seabrook, Inc. v. PSC*, 332 S.C. 20, 26, 503 S.E.2d 739, 742 (1998) (quoting *Hamm v. PSC*, 309 S.C. 282, 289, 422 S.E.2d 110, 114 (1992)).

In this proceeding DEP is seeking recovery of CCR expenses incurred from July 2016 through December 2018 related to compliance with Federal and North Carolina requirements.²³ It is apparent that many costs for which DEP seeks recovery in this proceeding result from North Carolina's CAMA and other state actions. ORS witness Wittliff and SCEUC witness O'Donnell testified, and provided evidence to support their claim, that North Carolina's CAMA was brought about by the spill at Dan River. Additionally, this Commission has received evidence that supports the contention that North Carolina's CAMA is more stringent and results in costs in excess of those that would be incurred absent CAMA. It is also clear that while the North Carolina General Assembly has enacted statutes requiring actions that result in increased costs, the South Carolina General Assembly has not at this time.

The North Carolina General Assembly has the authority to create the laws that govern the business conducted in North Carolina; however, to subject South Carolina DEP customers to North Carolina laws which are neither necessary for the provision of power nor which confer benefits to South Carolina ratepayers would be inappropriate. As a result, this Commission will not permit DEP to pass on increased expenses incurred as a result of North Carolina's CAMA.

However, that alone does not end the inquiry. This Commission must determine whether, despite North Carolina's CAMA, it is just and reasonable for DEP to recover coal ash costs incurred that were not incident to CAMA from its South Carolina customers.

This Commission first addresses expenses incurred related to the Robinson Plant, which DEP coordinated with and had approved by the South Carolina Department of Health and

²³ While DEP has sought costs associated with a Consent Agreement, as is discussed below, an agreement is inherently voluntary and thus not a requirement.

Environmental Control (“DHEC”). (R. p. 1115-33, ll. 11-14). DHEC is a state agency with authority to implement and enforce laws and related regulations pursuant to the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10 *et seq.*; the Pollution Control Act, S.C. Code Ann. § 48-1-10 *et seq.*; and the South Carolina Solid Waste Policy and Management Act, S.C. Code Ann. § 44-96-10, *et. seq.* (Hearing Exhibit No. 60, DJW-2 and DJW-3). These Acts authorize the Department to issue orders; assess civil penalties; conduct studies, investigations, and research to abate, control and prevent pollution; and to protect the health of persons or the environment. *Id.* It was pursuant to this authority that DHEC and Duke entered into these Consent Agreements. Because these costs were incurred in compliance with proper consent agreements entered into by a South Carolina agency and in the absence of factors that would otherwise persuade this Commission that these costs should not be recovered, this Commission finds the recovery of these costs just and reasonable.

The Commission is mindful that it must balance the interests of DEP with those of DEP’s customers and is concerned about the magnitude of costs DEP seeks to place upon its customers. This Commission understands that North Carolina’s CAMA may impose billions of additional costs upon DEP customers. When asked where the costs would end, ORS witness Seaman-Huynh stated, “[i]t ends for ratepayers where this Commission says it ends.” (R. p. 1200, ll. 1-3).

Witness Wittliff, testified that he reviewed data provided to him by DEP for two years in reaching his well-reasoned conclusions. (R. p. 1210, ll. 4-8). This Commission had no opportunity to influence the sequence of events that led to DEP now seeking these expenses. The great weight of the testimony causes this Commission to conclude that costs incurred solely as a result of North Carolina’s CAMA shall not be recoverable from DEP’s South Carolina customers at this time.

Therefore, costs incurred by DEP that result from North Carolina's CAMA, which currently include: \$98,220,932 incurred at the Asheville Plant; \$33,631,199 incurred at the Cape Fear plant; \$9,207,711 incurred at the H.F. Lee Plant; \$186,376,226 incurred at the Sutton Plant; and \$6,044,240 incurred at the Weatherspoon Plant, this Commission finds that DEP may not recover those costs at this time. This Commission finds that it would not be just and reasonable to impose these costs on DEP's South Carolina customers at this time. As has been the consistent past practice, and as testified to by ORS witness Seaman-Huynh, costs incurred as a direct result of one state's laws, which are specific to that jurisdiction, should be borne by the customers that reside in that jurisdiction. However, as is recommended by ORS witness Wittliff, should laws under which South Carolina DEP ratepayers are governed require additional expenses incurred at a future date, DEP is not prohibited from seeking recovery of those costs at that time.

C. Depreciation Study

ORS's Position

ORS witness Seaman-Huynh testified regarding the Company's depreciation study. (R. p. 1099-2, ll. 12-16). Witness Seaman-Huynh testified that ORS confirmed the Company used the rates from its 2016 depreciation study approved by the Commission in Order No. 2018-530 to determine the appropriate cost levels for depreciation expenses in its current filing. (R. p. 1099-5, ll. 17-19). According to witness Seaman-Huynh, the study results and methodologies are reasonable and consistent with other electric utilities operating in South Carolina and previously approved by the Commission. (R. p. 1099-5, ll. 19-21).

DEP's Position

DEP witness Doss testified regarding DEP's new depreciation rates along with a revised depreciation study. (R. p. 634-9, ll. 4-5). According to witness Doss, DEP is requesting an increase to customer rates at this time based on the revised depreciation rates. (R. p. 634-9, ll. 19-22). Witness Doss testified that DEP commissioned Gannet Fleming Valuation and Rate Consultants, LLC to perform a revised depreciation study as of December 31, 2016, which was included as Doss Exhibit 2. (R. p. 634-10, ll. 1-6). Finally, DEP witness Doss requested that the Commission approve its revised customer rates base on the revised depreciation rates and depreciation study adjustments as shown in Doss Exhibit 3 and Bateman Exhibit 1, page 4b. (R. p. 634-12, ll. 7-9).

Commission Finding

According to S.C. Code Ann. § 58-27-810 every rate received by an electrical utility must be just and reasonable. The Commission finds that the evidence in the record supports a finding that DEP's requested revisions to its depreciation rates is just and reasonable.

D. Cost of Service Study

ORS's Position

Regarding DEP's proposed Cost of Service Study, witness Seaman-Huynh testified that, for purposes of this Application, the methodology applied in constructing the Company's COSS was reasonable. (R. p. 1099-6, ll. 3-4). ORS witness Seaman-Huynh testified regarding the Company's rate design and proposed increase to its BFC. (R. p. 1099-2, ll. 12-16). According to witness Seaman-Huynh, ORS recommends the Commission determine the rate design that balances utility rate design principles. (R. p. 1099-10, ll. 3-5). The magnitude of the increase proposed by DEP to the BFC does not promote a gradual transition to a new rate design. (R. p.

1099-10, ll. 5-6). “Gradualism” is the concept of progressively changing rates over time in a manner that mitigates rate shock to customers. (R. p. 1099-10, ll. 6-8). Increasing the BFC for residential customers by 220% (see Wheeler Exhibit 9 No. 2) in a single rate increase is extreme. (R. p. 1099-10, ll. 8-9). According to witness Seaman-Huynh, in developing electric rates, utilities and utility commissions, including this Commission, have relied upon ten (10) rate design principles from Dr. James C. Bonbright (“Bonbright Principles”). (R. p. 1101-3, ll. 3-5). These principles are:

Revenue-related Attributes:

1. Effectiveness in yielding total revenue requirements under the fair return standard without any socially undesirable expansion of the rate base or socially undesirable level of product quality and safety.
2. Revenue stability and predictability, with a minimum of unexpected changes seriously adverse to utility companies.
3. Stability and predictability of the rates themselves, with a minimum of unexpected changes seriously adverse to ratepayers and with a sense of historical continuity. (Compare “The best tax is an old tax.”)

Cost-related Attributes:

4. Static efficiency of the rate classes and rate blocks in discouraging wasteful use of service while promoting all justified types and amounts of use:
 - a. In the control of the total amounts of service supplied by the company,

b. In the control of the relative uses of alternative types of service by ratepayers (on-peak versus off-peak service or higher quality versus lower quality service).

5. Reflection of all of the present and future private and social costs and benefits occasioned by a service's provision (i.e., all internalities and externalities).

6. Fairness of the specific rates in the apportionment of the total costs of service among the different ratepayers so as to avoid arbitrariness and capriciousness and to attain equity in three dimensions: (1) horizontal (i.e., equals treated equally); (2) vertical (i.e., unequals treated unequally); and (3) anonymous (i.e., no ratepayer's demands can be diverted away uneconomically from an incumbent by a potential entrant).

7. Avoidance of undue discrimination in rate relationships so as to be, if possible, compensatory (i.e., subsidy free with no intercustomer burdens).

8. Dynamic efficiency in promoting innovation and responding economically to changing demand and supply patterns.

Practical-related Attributes:

9. The related, practical attributes of simplicity, certainty, convenience of payment, economy in collection, understandability, public acceptability, and feasibility of application.

10. Freedom from controversies as to proper interpretation.

(R. pp. 1101-3, 4).

According to witness Seaman-Huynh, the Company's proposal falls short of Bonbright attributes 3, 4, 8, and 9. (R. p. 1101-4, ll. 10-12). Additionally, the impact to customers using relatively small amounts of energy (e.g., low income and fixed income customers) would be

substantial. (R. p. 1099-10, ll. 9-11). As a result, ORS proposed a methodology that would allow DEP to increase the BFCs for the residential class to recover up to twenty-five percent (25%) of the approved revenue increase assigned to the residential class. (R. p. 1099-10, ll. 12-14). This approach of gradualism mirrors the approach used by the North Carolina Public Utilities Commission in the most recent DEP general rate proceeding. (R. p. 1099-10, ll. 14-15). ORS witness Seaman-Huynh testified to the same methodology for determining the BFC for the Small General Service and Small General Service Constant Load customer classes, as well. (R. p. 1099-12, ll. 8-10). According to witness Seaman-Huynh, when deriving its methodology, ORS looked to the recently litigated rate proceedings that occurred between DEP and the North Carolina Public Utility Commission. (R. p. 1189, ll. 11-20). Witness Seaman-Huynh testified that North Carolina Public Staff recommended using 25% of the additional revenue requirement go towards the BFC and ORS reviewed the corresponding analysis. (R. p. 1190, ll. 1-5).

Upon hearing the testimony from public witnesses at the night hearing, ORS modified its position regarding the BFC such that it supported a lower BFC for the medium-general service and Seasonal and Intermittent (“S&I”) customer classes, as well. According to witness Seaman-Huynh, following the night hearings held in Florence and Sumter, ORS received inquiries and calls from the agricultural community expressing concern over the requested increase. (R. p. 1096, ll. 7-10). Based on the testimony at the night hearings and these contacts, ORS supports the Farm Bureau's request to limit the increase to medium general service (“MGS”) BFC to an increase similar to that of the small general service BFC. (R. p. 1096, ll. 10-15). Based on ORS's adjustments, a 24.5 percent increase, as recommended by the Farm Bureau, would result in a \$21.38 BFC for the medium general service class. (R. p. 1096, ll. 15-19). Witness Seaman-Huynh

also recommended, that as DEP had proposed, the BFCs for the S&I schedules match that of the MGS. (R. p. 1099-15, ll. 1-3).

ORS witness Dr. Ruoff testified regarding the Company's proposed increase to the BFC. According to Dr. Ruoff, company witness Wheeler portrays the increase as intended "to reflect full cost recovery of the customer component identified in the unit cost study" and "to minimize subsidization of customers within the rate class." (Wheeler Rebuttal Testimony, pp. 3-4.). (R. p. 1061-4, ll. 3-6). According to Dr. Ruoff, the Company sought to characterize this shift as simply an intra-class shift from high users to low users. (R. p. 1061-4, ll. 6-7). However, Dr. Ruoff testified that front-loading customer costs also shifts the revenue risks of lowered load growth, improved weatherization and efficiencies in heating and air conditioning and appliances, distributed generation expansion, and battery storage expansion from the Company onto customers. (R. p. 1061-4, ll. 7-10).

According to Dr. Ruoff, company witness Gharthey-Tagoe suggests that this shift mostly affects "low usage customers, such as people with vacation homes or people with second homes elsewhere in the state of South Carolina." (R. p. 1061-4, ll. 11-13). However, witness Wheeler presents clear evidence in his chart "# of DEP Low Income Bills by Usage Level (Household Income < \$30,000)," that most low-income customers, including low-income seniors and renters, are low usage customers. (R. p. 1061-4, ll. 13-16). According to Dr. Ruoff, this risk shift falls on all but the higher use customers, but most heavily on low income customers—those who are least able to afford this increase and for whom the increase most threatens their ability to:

1. Pay rent or mortgages in decent, safe and affordable housing;
2. Ensure that those homes are not dark, cold or hot, even life-threateningly so;

3. Buy sufficient, healthy food;
4. Afford and maintain reliable transportation; and
5. Pay for all needed prescriptions and health care.

(R. p. 1061-4, ll. 21-23, p. 1061-5, ll. 1-4).

DEP's Position

According to witness Hager, the National Association of Regulatory Utility Commissioners ("NARUC") Electric Utility Cost Allocation Manual ("CAM") states that a portion of distribution costs related to FERC Accounts 364-368 are customer-related. (R. p. 701-13, ll. 4-6.) The two-methods the CAM discusses for allocating these customer-related distribution costs are: 1) Minimum System Method (called Minimum-Size Method in the NARUC Manual); and 2) Zero-Intercept Method (called Minimum-Intercept Method in the NARUC Manual). (R. p. 701-13, ll. 9-13). Witness Hager testified that DEP incorporated the concept of Minimum System into its COSS for allocating costs to customers, which is appropriate for allocation of customer-related distribution costs. (R. p. 701-14, ll. 4-6). DEP's Minimum System Study allowed it to classify the distribution system into the portion that is customer-related (driven by number of customers) and the portion that is demand-related (driven by customer peak demand levels). (R. p. 701-14, ll. 11-14). Every customer requires some minimum amount of wires, poles, transformers, etc. just to receive service; therefore, every customer "caused" DEP to install some amount of such distribution assets. (R. p. 701-14, ll. 14-16). According to witness Hager, if a customer had no demand for electricity, they wouldn't be connected to the grid. (R. p. 696, ll. 2-4). The concept DEP used to develop its Minimum System Study was to consider what distribution assets would be required if every customer had only some minimum level of usage (e.g., 1 light bulb). (R. p.

701-14, ll. 16-19). This methodology allows the utility to assess how much of its distribution system is installed simply to ensure that electricity can be delivered to each customer, if and when the customer chooses to use electricity. (R. p. 701-14, ll. 19-22).

Witness Wheeler testified that DEP's proposed rates must be set to achieve the necessary total revenue requirement and reflect the cost of service within the five major rate classes: residential, small general service, medium general service, large general service, and various outdoor lighting schedules. (R. p. 709-8, ll. 16-19). Witness Wheeler testified that DEP conducted a unit cost study and it indicated it was appropriate to raise the monthly Basic Facilities Charge to better reflect all customer-related costs and failing to do so would result in customer cross-subsidization. (R. p. 709-8, ll. 22-23, p. 709-9, l. 1). Accordingly, DEP originally proposed to increase the Basic Facilities Charge in schedule RES from \$9.06 to \$29.00; from \$9.91 to \$29.00 for all Small General Service schedules; to \$29.00 for the SGS Constant Load rate class; from \$17.17 to \$40.03 for Medium General Service schedules; from \$23.17 to \$46.53 for SGS-TOU; to \$46.53 for SGS-TES; to \$40.03 for CSE and CSG; from \$98.00 to \$195.00 for Large General Service; to \$40.03 for sports field lighting service rate class and the S&I service rate class, to match the Medium General Service schedule; and to \$29.00 for traffic signal rate class to match the SGS basic facilities charge. (R. pp. 709-14-709-35). In his surrebuttal testimony, DEP witness Wheeler testified that the Company understands the concern with a large increase to the BFC for residential customers, as a result, witness Wheeler offered an alternative to what he originally proposed. (R. p. 711-10, ll. 6-13). According to witness Wheeler, a possible approach would be what was offered by the Company in its recent North Carolina rate case where the increase in the Basic Facilities Charge rate was set equal to 50% of the difference between the current rate and the cost basis,

which would reduce the proposed BFC to \$19.03. (R. p. 711-10, ll. 16-21). Subsequent to the filing of DEP witness Wheeler's rebuttal testimony, on March 26, 2019, counsel for DEP filed a letter stating,

[DEP] would like to notify the Commission and parties that based upon the Company's review of the surrebuttal testimony of ORS Witness Michael Seaman-Huynh and testimony heard at the public hearings, the Company does not contest the [BFC] proposed by ORS in Witness Seaman-Huynh's surrebuttal testimony as follows: BFCs of \$11.78 for residential customers, \$12.34 for SGS customers, and \$11.31 for SGS Constant Load customers, and to put the remaining revenue requirement ultimately determined by the Commission in the variable component of such rates.

(See also R. p. 296, ll. 17-25).

NAACP et al. Position

Witness Howat testified that increasing fixed charges causes disproportionate impacts to low volume, low-income customers, and high fixed charges send the wrong price signals to customers, discouraging energy efficiency and undermining the incentive to change usage patterns so that increased investment in high-cost generation can be avoided. (R. p. 279-8, ll. 8-12). According to witness Howat, because a BFC is fixed and must be paid each month by customers whether or not they so much as touch a light switch, they undermine the ability of cash-strapped consumers to take control over their electricity bills. (R. p. 279-8, ll. 13-15). Additionally, witness Howat testified that the Company's proposal to increase total monthly residential fixed charges to nearly \$29 represents an extreme outlier among IOUs operating in the U.S. (R. p. 279-9, ll. 7-9). Witness Howat also testified that DEP's proposal would result in an extreme intra-class cost shift that would disproportionately harm low-income, elderly, and African-American ratepayers, who on average use less electricity than their counterparts in nearly every region of the country. (R. p. 279-10, ll. 16-18).

Witness Wallach testified that DEP has not justified its proposal to more than triple the residential BFC. (R. p. 254-4, ll. 22-23). According to witness Wallach, DEP has classified a portion of the cost of its distribution grid as customer-related in the COSS based on a “minimum-system” analysis. (R. p. 254-5, ll. 2-4). Witness Wallach testified that the minimum system method is flawed because it erroneously classifies some distribution grid costs—a portion of the cost of poles, wires, conduits, and transformers—as customer-related, even though they are in fact driven by usage and therefore properly classified as “demand-related,” which results in an overstatement of customer-related costs appropriately recovered through the BFC. (R. p. 254-5, ll. 5-10). Witness Wallach recommended that DEP should classify all such distribution-grid costs as demand-related. (R. p. 254-5, ll. 13-15);

Additionally, witness Wallach cited a 1988 Commission order granting a rate increase to DEP’s predecessor, Carolina Power & Light Company (“CP&L”), in which this Commission rejected an intervenor’s recommendation that CP&L use the minimum-system method to classify distribution costs.²⁴ (R. p. 254-5, n. 2).

Finally, witness Wallach testified that the Company’s proposal to recover usage-driven costs through the residential BFC would:

- Lead to subsidization of high-usage residential customers’ costs by low-usage customers, and thereby inequitably increase bills for the Company’s low-usage residential customers; and
- Dampen price signals to consumers for controlling their bills through conservation, energy efficiency, or distributed renewable generation. (R. p. 254-6, ll. 1-8).

²⁴ Order No. 88-864, Docket No. 88-11-E, 11 (August 29, 1988).

Accordingly, witness Wallach recommended that the monthly BFC be set at \$9.23 per residential customer to reflect the cost to connect a residential customer. (R. p. 254-6, ll. 10-12).

Vote Solar's Position

According to witness Barnes, DEP's originally proposed charge for Schedule RES would result in the highest fixed monthly charges placed on residential customers of any investor-owned utility ("IOU") in the country by a significant margin (\$4.00/month higher than the current highest charge of \$25.00/month). (R. p. 779-12, ll. 11-14). When discussing the Bonbright principle of gradualism and an objective approach, witness Barnes testified that gradualism is often practiced by relating fixed charge increases to the adopted percentage increase in class revenue. (R. p. 779-17, ll. 3-4). In this case, the Company's proposed residential class base revenue increase is roughly 14.0%. (R. p. 779-17, ll. 4-5). Such an approach is also objective because it stems from hard numbers rather than subjective judgments. (R. p. 779-17, ll. 7-8).

Finally, witness Barnes recommends that his calculation of \$9.23 be the maximum residential customer charge based on eliminating the Minimum System Method and excluding two other cost components classified as customer-related in the Company's cost of service study. (R. p. 779-41, ll. 12-15).

Night Hearing Testimony

At the Florence night hearing, approximately twenty-seven customers testified on various issues including the DEP proposed BFC rates. At the Sumter night hearing, approximately eighteen customers testified on similar issues.

Public witnesses at the night hearings consistently testified that the BFC rates as proposed by DEP were too high. Among those testifying as to the harm that would be caused if the Commission granted DEP's proposed BFC rate were several farmers and representatives of the agribusiness community. Several members of the agricultural community testified that the rate proposed on top of the current difficulties facing the farming community would have a negative impact on farmers, with some voicing specific concern over the impacts on farmers on the MGS rate. For example, Mr. Anthony Ward, a farmer, testified that with floods, hurricanes, and rainfall, accompanied by 133 percent rate increase for those meters that are attached to irrigation pivots, he cannot make it. Many others testified similarly.

Commission Finding

According to S.C. Code Ann. § 58-27-810 every rate received by an electrical utility must be just and reasonable.

"An administrative agency is generally not bound by the principle of *stare decisis* but it cannot act arbitrarily in failing to follow established precedent." *330 Concord St. Neighborhood Ass'n v. Campsen*, 309 S.C. 514, 424 S.E.2d 538 (Ct. App. 1992) (*See Courtesy Motors Inc. v. Ford Motor Co.*, 384 S.E.2d 118 (Va. Ct. App. 1989)).

Also, "[t]he declaration of an existing practice may not be the substitute for an evaluation of the evidence. A previously adopted policy may not furnish the sole basis for the Commission's action." *See Heater of Seabrook, Inc. v. PSC*, 332 S.C. 20, 26, 503 S.E.2d 739, 742 (1998) (quoting *Hamm v. PSC*, 309 S.C. 282, 289, 422 S.E.2d 110, 114 (1992)).

In considering the reasonableness of the Company's Cost of Service Study, this Commission must review two issues: whether the Minimum System Method is appropriate for determining the

cost of service; and, if so, whether other concerns require a departure from the BFC charges resulting from the Minimum System Method.

The parties appearing before the Commission presented opposing views on the use of the Minimum System Method. While DEP contends that the Minimum System Method has been approved for use by NARUC as an acceptable method of allocating customer related distribution costs, and ORS does not contest its use in this proceeding, other witnesses contend it is flawed and cite to a previous Commission Order in which the Minimum System Method was rejected. This Commission, however, need not reach that question because no party objected to the specific BFC increases eventually proposed by ORS and accepted by the Company. This Commission need not rule on uncontested issues, and therefore will not here address the appropriateness or inappropriateness of the Minimum System Method in future cases.

In further support that the agreement reached results in an appropriate BFC to pass on to DEP's customers, numerous parties testified regarding the principles espoused by Dr. Bonbright, including the principle of gradualism. The Company acknowledged the need for gradualism in DEP witness Wheeler's rebuttal testimony. (R. p. 711-10, ll. 6-13). Similarly, when discussing the BFC under cross examination, DEP witness Ghartey-Tagoe stated, "I should have been more intentional about moving towards the appropriate [BFC] in a more gradual manner." (R. p. 350, ll. 18-20). If the increase as proposed by DEP were approved, it would limit the customer's ability to effectively reduce their monthly bills by reducing the amount of electricity used. Additionally, rates passed onto DEP's customers must not be unduly burdensome, which DEP's proposed BFC would surely be. Notwithstanding, this Commission is cognizant of the subjectivity inherent in taking a gradual approach to an increase in the BFC. Witness Barnes discussed an objective

manner by which a party can employ Bonbright's principle of gradualism. (R. p. 779-16, ll. 17-22, p. 779-17, ll. 1-8). In the same manner testified to by witness Barnes, witness Seaman-Huynh, presented for this Commission's consideration an objective methodology, which this Commission could employ and achieve the goal of gradualism. (R. p. 1099-10, ll. 12-17, p. 1099-12, ll. 8-15, and p. 1099-15, ll. 14-18). Finally, DEP submitted a letter in which it sought to employ witness Seaman-Huynh's objective methodology combined with the testimony given at the public night hearings and stated that it did not contest a BFC of \$11.78 for residential customers, \$12.34 for SGS customers, and \$11.31 for SGS Constant Load customers. (*See Also* R. p. 296, ll. 17-25).

Based upon the evidence, this Commission finds that the following rates to charge DEP customers for BFCs are just and reasonable: \$11.78 for residential customers; \$12.34 for SGS customers; and \$11.31 for SGS Constant Load customers. For MGS and S&I customers, we instruct the Company to limit the increase to the BFC to be no greater than the average percentage increase of the SGS and SGS Constant Load customers. These figures are supported in the record by testimony of ORS and DEP witnesses and are derived from an objective methodology that achieves the goal of gradualism, which was supported by the testimony of witness Barnes.

E. Proposed Changes to Differentials in Energy and Demand

ORS's Position

Regarding the changes to the differentials in energy and demand charges proposed by Company witness Wheeler, ORS witness Seaman-Huynh recommends the Commission reject the proposed changes. (R. p. 1099-10, ll. 18-20). According to witness Seaman-Huynh, DEP states it is in the process of deploying its AMI program in its South Carolina territory. (R. p. 1099-10, ll. 20-21). DEP intends to use customer usage data gathered from the AMI program to develop and

offer new rates to its customers in the future. (R. p. 1099-10, ll. 21-22, p. 1099-11, l. 1). According to witness Seaman-Huynh, if the Company were to begin making changes to its rate designs regarding relationships between on-peak and off-peak and seasonal energy and demand charges, customers may respond and change their usage patterns. (R. p. 1101-7, ll. 5-7). Then, when the Company incorporates the information available from AMI and Customer Connect and offers customers new rate designs in a year or two, customers, who have adapted their usage, may be confused and frustrated. (R. p. 1101-7, ll. 7-10). Witness Seaman-Huynh testified that it is, therefore, premature to make the changes described by Company witness Wheeler. (R. p. 1099-11, ll. 1-2). According to witness Seaman-Huynh, the Company should incorporate the additional data gathered from the AMI program into any requests to change the differential between energy and demand charges, and the information from the AMI program should be analyzed by the Company, along with demand side management and energy efficiency (“DSM/EE”) and other programs, to develop sustainable rate structures and rate designs based on customer’s usage patterns. (R. p. 1099-11, ll. 2-6).

DEP’s Position

According to DEP witness Wheeler, the Company has recommended several changes to its time-of-use and other rate designs to reduce the emphasis on summer pricing, to better reflect current marginal cost relationships and to better reflect cost causation. (R. p. 711-12, ll. 15-17). According to witness Wheeler, while the Company understands ORS’s position attempts to maintain current designs and minimizes disproportionate bill impacts for customers served under each schedule, the Company’s changes are not dependent upon alignment with a future rate design but are intended to reflect current non-disputed cost trends. (R. p. 711-13, ll. 3-7). Witness

Wheeler testified that continuing with the current rate emphasis encouraging winter load is contrary to the Company's adoption of a winter planning criteria for resource planning purposes. (R. p. 711-13, ll. 7-9). According to witness Wheeler, the Company's recommended changes, which the ORS rejects, include:

1. Under Residential Service Schedule RES, the ORS recommends retaining the current one cent per kWh declining block rate in the non-summer months. The Company recommends reducing it to 0.5 cents per kWh to reflect its current winter peak planning criteria since winter load additions, not summer, now primarily influence generation resource additions. Consequently, higher rates should apply in the winter months to more properly price the impact of winter peak load additions. Further reduction in the current summer pricing emphasis should be considered in future rate cases.

2. Under Residential Service Time-of-Use Schedule R-TOUD, the ORS recommends retaining the current price relationships between summer and non-summer demand rates and on-peak and off-peak energy rates. The Company's proposed design reduces the difference between summer and non-summer demand rates to start to shift the price emphasis toward winter demands that drive generation additions and reduces the difference between on-peak and off-peak energy rates to reflect the narrowing of the difference in current on-peak and off-peak marginal energy costs.

3. Under Small General Service Time-of-Use Schedule SGS-TOU, the ORS recommends retaining the current price relationships between summer and non-summer demand rates and on-peak and off-peak energy rates. For the same reasons cited above for Schedule R-TOUD, the Company's proposed design reduces the difference between summer and non-summer demand rates and reduces the difference between on-peak and off-peak energy rates.

4. Under Schedule SGS-TOU and Large General Service Time-of-Use Schedule LGS-TOU, the ORS is recommending that the off-peak excess demand charge be increased by the same percentage as other rates under the schedule. The off-peak excess demand charge applies to the customer's highest demand registered during off-peak hours to the extent it exceeds the on-peak demand in the billing month. It is priced to recover distribution-related costs to ensure that customers pay their fair share of costs for extending lines and circuits to their premises. The recommended rate is set to match the distribution-related unit cost from functionalized cost of service study. The billing rate should be set to match the unit cost to avoid subsidization within the rate class.

5. Under Schedule LGS-TOU, the ORS is recommending that the on-peak demand charges be increased by the same percentage as the energy rates, rather than only increasing the demand rates by 50% of the energy rate change. Unlike recommended changes to the other time-of-use schedules, the Company doesn't recommend changes to the summer/non-summer demand rate relationship or on peak/off-peak price relationships to avoid disproportionate increases on these large customers but does recommend that the demand rates be increased less than other rates. The current demand rates substantially exceed marginal capacity costs and therefore fail to provide ideal price signals, overly stating the benefit realized by shedding load at the customer's peak (R. pp. 711-13 through 711-15).

Commission Finding

Witnesses for ORS and DEP offered opposing testimony on whether the Commission should accept the Company's proposal to make changes as listed above. However, it is clear the DEP plans to continue deploying its AMI program in South Carolina and that this AMI will enable

the Company to gather usage data from its customers. While this Commission understands the Company's position, the Company has alleged no harm that will come of delaying the change to the differential between energy and demand charges, such as requested in this proceeding. However, ORS witness Seaman-Huynh has presented evidence that a change at this juncture, before additional data gathered from AMI can be utilized to tailor a requested change, could harm DEP's customers. This Commission therefore finds the request to be premature and denies DEP's request to change the differential in between energy and demand charges at this time. Once additional data from AMI has been gathered, DEP may seek the requested change from this Commission.

F. Litigation Expenses (Adjustment #36)

ORS's Position

ORS recommends limiting recovery of legal expenses to only incurred costs that are supported by sufficient supporting documentation to show the legal expenses are approved regulatory expenses that are properly recoverable through rates. (*See* Tr. p. 1383 (“[W]e [ORS] got a cover sheet [of legal expenses]. We didn’t get any information as to the services rendered . . . behind the numbers.”)) ORS asserts that DEP seeks recovery of legal expenses that are not related to providing adequate electrical service to customers and from which customers derived no benefit. (Tr. p. 1317) These legal costs should be the shareholders’ responsibility, which incentivizes the regulated utilities to operate in compliance with federal, state and local laws. (Tr. p. 1317.) ORS asserts that the justifications provided by the Company for the legal expenses at-issue “do not address the reason the expenses were incurred initially[.]” and that, overall, the Company failed to provide “the substantial evidence required by decisions issued by the South Carolina Supreme Court” to recover expenses that are properly challenged. (*See* Tr. p. 1309.)

ORS also opposes recovery of legal expenses related to ongoing litigation as premature. Because generally recovery of litigation expenses “in legal disputes in which the company was found at fault” should be disallowed, it would be premature to grant recovery of litigation expenses related to ongoing litigation. (*See* Tr. p. 1310-3.) ORS asserts that there is insufficient information at this time to determine whether these expenses are incurred reasonably or whether they result from a violation of the law or otherwise imprudent management conduct.

DEP’s Position

“[A]s a general matter,” DEP asserts that “legal fees should be recoverable because they represent a legitimate, reasonable, and prudent business expenditure and, absent a finding that a specific legal expense was imprudent or unreasonable, these expenses should be recoverable.” (Tr. p. 839-28.) DEP is not seeking legal expenses “associated with fines or penalties related to environmental violations.” (Tr. p. 834.) DEP does seek recovery of all legal expenses relating to “ongoing litigation” so long as to-date “there has been no finding of environmental violations” in those matters. (Tr. p. 834.)

DEP asserts that the ongoing insurance litigation was initiated by the Company for the benefit of its customers to enforce insurance policies and obtain indemnity from insurers for costs incurred associated with coal ash remediation. (Tr. p. 839-29.) The Company claims that any costs it recoups from its insurers will be passed along to benefit its customers. (Tr. p. 839-29.) Further, the Company asserts that “it is reasonable to expect the Company to defend itself and ratepayers from the potential for expensive and unnecessary legal rulings and, in appropriate instances, settling lawsuits.” (Tr. p. 839-30.)

At the hearing, DEP offered what it represented to be supplemental responses to the ORS AIR's on coal ash litigation expenses, which DEP produced to ORS on April 3, 2019 and April 7, 2019. (Tr. pp. 1349-50.)

Commission Finding

According to S.C. Code Ann. § 58-27-810 every rate received by an electrical utility must be just and reasonable. In *Utilities Services of S.C.*, the Court stated the following with respect to the presumption and burden to be applied to a utility's expenditures:

Utility is correct that it was entitled to a presumption that its expenditures were reasonable and incurred in good faith, and therefore, a showing that its expenses had increased since its last rate case could satisfy its burden of proof. Nevertheless, the presumption in a utility's favor clearly does not foreclose scrutiny and a challenge. In those circumstances, the burden remains on the utility to demonstrate the reasonableness of its costs. It seems to us that Utility wants the presumption of reasonableness to be dispositive. In Hamm, 309 S.C. at 286-87, 422 S.E.2d at 112-13, we stated: Although the burden of proof of the reasonableness of all costs incurred which enter into a rate increase request rests with the utility, the utility's expenses are presumed to be reasonable and incurred in good faith. This presumption does not shift the burden of persuasion but shifts the burden of production on to the Commission or other contesting party to demonstrate a tenable basis for raising the specter of imprudence. This evidence may be provided . . . through the Commission's broad investigatory powers. **The ultimate burden of showing every reasonable effort to minimize . . . costs remains on the utility.** (emphasis added)

Utils. Servs. of S.C., 392 S.C. at 109-10, 708 S.E.2d at 762-63 (citing *Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 286-287, 422 S.E.2d 110, 112-113 (1992)).

"If an investigation initiated by ORS or by the PSC yields evidence that overcomes the presumption of reasonableness, a utility must further substantiate its claimed expenditures." *Utils. Servs. of S.C.*, 392 S.C. at 110, 708 S.E.2d at 763.

A presumption of reasonableness, therefore, applies to expenses for which a utility seeks recovery from ratepayers until another party demonstrates a “tenable basis for raising the specter of imprudence.” *Utils. Servs. of S.C.*, 392 S.C. at 109-110, 708 S.E.2d at 762-63. Once this occurs, the burden is on the utility to show that it made every reasonable effort to minimize costs and substantiate its claimed expenses. *Id.*

Finally, as this Commission has done previously, we look to *State ex. rel. Utilities Comm’n v. Pub. Staff, N. Carolina Utilities Comm’n*, 317 N.C. 26, 343 S.E.2d 898 (1986), for guidance. In that case, the North Carolina Supreme Court reversed a decision by the North Carolina Utilities Commission that allowed inclusion of utility legal fees in approved operating expenses resulting from the utility contesting a penalty that had been assessed for failure to provide adequate service. The North Carolina Supreme Court noted that the legal fees in question were not associated with the utility’s provision of water service but were a result of the utility’s failure to provide adequate water services in the first place. The North Carolina Supreme Court concluded it would be improper to require ratepayers to pay for the utility’s penalty-related legal fees through inclusion in the utility’s regulated expenses.

The issue of DEP mismanagement associated with its current coal ash legal expense reimbursement request is rooted in ORS concerns about the February 2014 Dan River coal ash discharge disaster in North Carolina involving 39,000 tons of coal ash flow into the Dan River after the DEP containment pond storm drainage pipe failed. (Tr. p. 1359.) Because of DEP management failure, DEP pled guilty to criminal negligence in North Carolina. “Criminal negligence” in North Carolina is defined as “recklessness or carelessness that shows a thoughtless disregard of consequences or a heedless indifference to the safety and rights of others.” *State v.*

Jones, 353 N.C. 159, 165, 538 S.E.2d 917, 923 (2000). ORS seeks to prevent DEP from charging its customers with any legal costs or expenses flowing from or related to its guilty pleading of criminal negligence.

Months before the start of the DEP rate case before the Commission, ORS staff were seeking to review and examine the coal ash legal expense evidence that DEP claimed justified its contested coal ash related legal expenses in the amount of \$389,995 should be included in customer rates. (*See* Tr. 1310-5, -7; Ex. 67.) During discovery, ORS requested the underlying invoices, billings and records and explanations that DEP claimed support DEP's argument that all coal ash legal costs and expenses should be included in customer utility rates. While DEP may be entitled to a presumption of reasonableness, once challenged, DEP has the burden of proof to substantiate the expense for which it seeks recovery by identifying, collecting, presenting and explaining the DEP coal ash legal expense evidence it introduced into the hearing record.

DEP was on notice in late 2018 that ORS was seeking discovery and substantial evidence supporting its rate case claim that all DEP coal ash legal expenses were reasonable and should be paid by DEP customers in their utility rates. During the rate hearing, ORS witnesses Morgan and Hamm testified that the company failed to provide the Commission with substantial factual and other related evidence required for the Commission to approve that those expenses be included in DEP customer rates. The evidence of record is sufficient to raise the "specter of imprudence" as to the origins of the litigation expenses that DEP seeks to recover in this case. *See Utils. Servs. of S.C.*, 392 S.C. at 109-110, 708 S.E.2d at 762-63

No DEP witness was offered before the Commission to present and explain the individual line-item legal and expense summary and dollar amounts listed in the computer print outs provided

by DEP to ORS in discovery. The Record reflects that DEP made no effort to explain or justify the additional legal expense printouts presented on the last day of the DEP hearing. (*See* Ex. 71.) Just as important, DEP made no effort to present evidence confirming which case or dispute was associated with each individual dollar amount entry on the new computer printouts. DEP failed to meet its burden of proof by substantiating the expenses for which it sought recovery to the Commission. Without establishing the evidentiary basis needed to cause the Commission to include the challenged DEP legal expenses in customer rates, the Commission has no record evidence basis to approve those contested coal ash expenses in rates in this proceeding.

A brief review of the coal ash legal summary information provided to ORS in discovery reveals that DEP seeks to require its customers to defend law suits filed by the state of North Carolina against DEP. (*See* Ex. 67 (DEP ORS 42-1: “Defense of coal ash state enforcement litigation”).) DEP made no efforts to explain to the Commission why its customers should be responsible for paying any legal cost or expense related to coal ash discharges when DEP earlier plead guilty to criminal negligence in mishandling its coal ash management responsibilities at Dan River. (*See* Tr. p. 1359.)

Additionally, Order No. 2018-802, provides clear guidance in this situation. “[R]atepayers should not be responsible for the payment of litigation expenses incurred” where “the ratepayers derived no benefit from the expenditures.” (Order No. 2018-802 at p.18.) But as we have recognized, where the “litigation was a smart strategic effort” the expenses may be recoverable even if the effort is ultimately unsuccessful. The Company bears the burden of showing that the legal action was a genuine value-adding proposition that did not arise out of imprudent conduct by the utility. Thus, an expense can “not be considered reasonable or necessary” where “the utility

could have avoided the expense” by fulfilling its obligations as a regulated utility. (Order No. 2018-802 at p. 19 (citing *State ex rel. Utilities Comm’n v. Pub. Staff, NCUC*, 317 N.C. 26, 41, 343 S.E2d 898, 907-08 (1986)).

DEP claims that the presumption of reasonableness is sufficient to support Commission approval of its contested legal expenses. The South Carolina Supreme Court made clear that the presumption of reasonableness does not shift the burden of persuasion. “[T]he ultimate burden of showing every reasonable effort to minimize costs remains on the utility.” *Utils. Servs. of S.C.*, 392 S.C. at 110, 708 S.E.2d at 762–64.

An examination of the DEP responses to ORS legal expense discovery filings merely reflect a series of dollar amounts without any reference to the specific litigation matter prompting the litigation expense in the first place. DEP failed to provide the Commission with any basis to support a claim that customers are responsible reimbursing DEP since the data provided by DEP is devoid of any case specific identifying data. DEP must substantiate the expenses for which it seeks recovery, and DEP has failed to do so. As a result, this Commission finds that DEP may not recover the associated legal expenses for which it seeks recovery. In addition, we note that expenses related to the CertainTEED Gypsum NC, Inc. litigation are also included in litigation expenses addressed by Adjustment 36. (See Tr. pp. 1310-8, -9.) For the reasons discussed in the next section of this Order, we conclude that DEP may not recover \$389,995 Coal Ash Litigation Expenses.

G. Payment Obligations to CertainTEED Gypsum, NC Inc. (Adjustment #38)

ORS's Position

ORS asserts that DEP should not be allowed to recover a total of approximately \$90 million to be paid by DEP to CertainTEED as a penalty and liquidated damages following unsuccessful litigation. (Tr. pp. 1317-18; *see also* Tr. p. 1306.) Allowing the payment obligations as an allowable expense forces ratepayer to pay for DEP's failure to comply with the terms of an agreement that it negotiated, drafted, and made a business decision to breach. (*See* Tr. pp. 1319-5, -6, -7; *see also* Tr. p. 1306.) Furthermore, the ongoing payment obligations are not related to providing adequate electrical service to customers and the customers derived no benefit from the expenditure. (Tr. pp. 1317-18.) While ORS does not dispute the prudence of the underlying contract, it asserts that the contract itself and the decision to breach that contract and the attendant consequences should be assessed separately. (*See* Tr. pp. 1324-4, -5; 1376.) ORS asserts "that the Company should not be able to insulate its shareholders" from management decisions "by externalizing costs to customers" related to management failures. (*See* Tr. pp. 1310-10, -11.)

DEP's Position

DEP argues that the series of contracts between DEP and CertainTEED provided a net benefit to customers despite the cost of the 2018 settlement. (Coppola Summ.) DEP does not accede that it did in fact breach the contract. (Coppola Summ.) DEP asserts that the contracts with CertainTEED were related to providing adequate electrical service to customers because the Company would never have entered into a contract to sell gypsum "but for the power plants that provide electric power to customers" that produce gypsum. (Coppola Summ.) DEP asserts that because customers benefitted overall from the contracts between DEP and CertainTEED that it is

reasonable for customers to bear the entire \$90 million cost of the settlement. (*See* Coppola Summ.; Coppola cross-examination by ORS.)

Commission Finding

The Commission concludes that the most instructive evidence of record on whether DEP's payment obligations to CertainTEED are allowable expenses is provided by the Opinion and Final Judgment issued by the North Carolina Business Court in the litigation between DEP and CertainTEED. (*See* Ex. 67, WJM-2.) The Opinion and Final Judgment shows that DEP elected to breach a contract and then failed to successfully defend the claim filed by CertainTEED in the ensuing litigation. DEP now requests the Commission require customers to pay for the costs of this adverse management decision.

In considering this issue, the Commission is mindful that it must balance the interests of the utility with those of the ratepayer. DEP seeks recovery of expenses for an action in a court in which it was not successful. We find that ratepayers should not be responsible for the payment of litigation expenses incurred in defending an action in which the ratepayers derived no benefit from the expenditures. DEP was found to have failed to comply with its agreement and "failed to carry its burden of proof on its defenses." (*See* Ex. 67, WJM-2 at ¶237.) This showing, coupled with the magnitude of DEP's payment obligation of \$90 million, clearly raises concerns. *See Utils. Servs. of S.C.*, 392 S.C. at 109-110, 708 S.E.2d at 762-63. The Company asserts that a series of contractual relationship between DEP and CertainTEED provided a net benefit to customers, (*see* Coppola Rebuttal pp. 2-3), but has produced no corresponding evidence to show that the decision to breach and the resulting \$90 million payment obligation was in the interest of customers. On the record before us, this Commission finds this obligation should not be charged to ratepayers.

H. Removal of Certain Expenses for Awards and Miscellaneous Items (Adjustment #36)

ORS's Position

ORS asserts that its recommended Adjustment #36 removes well-recognized non-allowable expenses not directly related to providing safe and reliable electric service to customers O&M expenses such as “incentive awards, safety and length-of-service awards, miscellaneous gift awards, and parties.” (See Tr. p. 1233-34.) Subsequent to its raised and reasonable challenge, DEP had the opportunity to provide supplemental information and analysis to support recovery of those expenses ORS concluded were non-allowable. (Tr. p. 1233.) ORS asserts that the Commission’s regulatory policy position on these types of expenses is clearly stated in previous Commission Orders, including Order Nos. 91-595, 94-1229, 01-887, and 02-285. (Tr. pp. 1238-11, -12.) ORS believes it is more appropriate for DEP’s shareholders to bear the burden of these types of expenses which have, at most, an attenuated relationship to providing low-cost and reliable electric service to customers. (See Tr. pp. 1238-11, -12.)

During the hearing as part of the Non-allowables Stipulation the ORS agreed that it would no longer contest \$26,231 in costs related to the Lineman’s Rodeo, \$4,066 in costs for allocations not 100% related to South Carolina, \$12,366 related to accruals and timing differences and half of the \$31,655 in costs for service/safety awards. (Tr. Vol. 5-1, p. 817-819.)

DEP’s Position

Other than ORS’s recommendation to remove \$97,000 in lobbying and advertising costs, DEP asserted that every expense included in Adjustment #36 should be allowed. These expenses include the lineman’s rodeo costs, as DEP asserts the rodeo drives a culture of teamwork, where

linemen refine their skills, and it is an important tool for recruitment. (Tr. p. 645-14, l. 14 to p. 645-15, l. 4.) DEP also asserts that “employee incentives, service and safety awards, and any costs to recognize and reward . . . the Company's employees who serve our customers” should be allowed. (Tr. p. 318, ll. 13-18.) This includes on-the-spot bonuses and exceptional contribution awards “to provide timely recognition to employees who make a significant contribution to business operations.” (Tr. p. 645-13, ll. 20-21.)

Likewise, DEP supports recovery of service (retention) and safety awards. (Tr. p. 645-14.) “Retention of [] critical skills are important to providing quality customer service,” and “[c]elebrating successful completion of critical safety milestones is an important part of providing a safety culture.” (Tr. p. 645-14.) The Company also disagrees “with the removal of [any] organization dues in support of business economic development in the communities we serve.” (Tr. p. 318, ll. 18-20.) The Company supports “reward and recognition” expenses, related to items like team lunches and office parties, as “a necessary part of creating and fostering a supportive corporate work environment.” (Tr. p. 645-15, ll. 8-9.)

During the hearing as part of the Non-allowables Stipulation, the Company agreed that it would withdraw its request to recover \$39,532 in costs related to employee recognition and reward and \$112,736 in other miscellaneous costs. (Tr. Vol. 5-1, p. 817-819.)

Commission Findings

After ORS began its audit review of the Company's filing, it submitted to the Company a list of miscellaneous O&M expenses totaling approximately \$875,000 that ORS determined were non-recoverable. Subsequent to receiving ORS's recommendations, the Company proposed Adjustment #36, recommending an adjustment of (\$97,000) and income taxes of \$24,000 to

remove lobbying costs and image building advertising costs that it had requested through its Application. (*See* Tr. p. 326-20; Tr. p. 1238-10.)) The stipulation executed by ORS and the Company on April 15, 2019 resolved some of these disputes. Additionally, as stipulated into the record orally by counsel on the afternoon of April 15, 2019, the Company agreed to remove Other Employee Recognition and Reward amount of \$39,532 and Other Miscellaneous in the amount of \$112,736 and ORS agreed to withdraw its objection to the line-men's rodeo of \$26,231, allocations of \$4,066, accrual/timing difference in the amount of \$12,366, and safety awards in the amount of \$15,828. The remaining amounts in dispute are Coal Ash Litigation Costs of \$389,995, Exceptional Contribution Awards of \$116,530, Service Awards of \$15,828, SC Chambers of Commerce and other SC community or economic development organizations in the amount of \$45,559. Excluding Coal Ash Litigation Costs (which is addressed at pp. 69-75 of this Order), the total amount remaining in dispute is \$177,917.

DEP and ORS also agreed to request an administrative proceeding to seek guidance from the Commission on what items should be considered "non-allowable" in future rate case proceedings. Clearly, the Company and ORS have "different perspectives of what should be recoverable." (Tr. p. 337, ll. 8-9.) We agree that an administrative proceeding to address "non-allowables" would be beneficial for future rate case proceedings.

Allowable expenses must be "related to utility operations" as opposed to "non-utility operations." (*E.g.* Docket No. 2003-213-W, Order No. 2003-657 at 2.) "The Commission cautions the Company that items not allowed for ratemaking purposes should not be charged to the Company's customers." (Docket No. 2012-218-E, Order no. 2012-951 at 24.) We believe that prior decisions of this Commission provide substantial guidance as to what expenses are "non-allowable." (*See, e.g.,* Docket No. 90-626-C, Order No. 91-595 at 23; Docket No. 93-503-C, Order

No. 94-1229 at 25; Docket No. 95-1000-E, Order No. 96-15 at 30-31; Docket No. 2000-207-WS, Order No. 2001-887 at 36; Docket No. 2001-164-WS, Order No. 2002-285 at 11; Docket No. 2012-218-E, Order No. 2012-951 at 24.) As DEP acknowledged with respect to luxury-type expenses, “perception is reality[.]” (Tr. p. 671.)

It is the established practice of this Commission to disallow “safety and length of service awards” as well as “other miscellaneous gifts and awards.” (Order No. 1994-1229 at 25; *see also* Order No. 1996-15 at 30 (disallowing recovery for “employee awards”).) Likewise, “novelty items” and “luncheons” have been disallowed. (Order No. 1994-1229 at 25; Order No. 1991-595 at 23.) We have allowed “grocery items,” particularly ones that relate to maintaining “sanitary conditions” in the workplace, (Order No. 90-694 at 27), and have long-recognized that Chamber of Commerce dues are 50% allowed. (Order Nos. 94-1229 at 26; Docket No. 95-1000-E, Order No. 1996-15 at 30-31; 01-887 at 36; 02-285 at 11.) We have previously disallowed expenses for non-professional organizations such as social and athletic clubs, (*e.g.* Docket No. 90-626-C, Order No. 91-595 at 20-21; Docket No. 93-503-C, Order No. 94-1229 at 8-9), and for charitable expenses, (Docket No. 89-178-E, Order No. 90-75 at 9). These expenses “have been traditionally classified as non-operating, or ‘below-the-line’, expenses for ratemaking purposes.” (Docket No. 79-196-E, Order No. 79-730 at 67; *accord* Docket No. 79-196-E, Order No. 80-375 at 61; Docket No. 89-178-E, Order No. 90-75 at 9.) The record in this case clearly reflects that these expenses have at best a tangential relationship to DEP’s provision of adequate and reliable electric service. DEP can be a good corporate citizen even if customers do not pay all the bills for DEP’s tax-favored expenditures. (*See* Tr. 420.)

The regulatory compact depends on DEP's earnest and good-faith cooperation in all respects. It is troubling to the Commission that these expenses would have been passed through to customers if the ORS did not identify them. As a regulated utility, DEP has the right to the opportunity to earn a reasonable return on its prudently incurred costs. But a corollary of DEP's duty to request only just and reasonable rates is to only request recovery of such expenses as are just and reasonable. *See* S.C. Code § 58-27-810. DEP's status as a regulated monopoly means it owes a heightened responsibility to its customers.

For these reasons and on the evidence of record, the Commission finds that DEP's request to recover its expenditures for, Coal Ash Litigation Costs of \$389,995 (as previously discussed on pp. 69-75 of this Order), Other Employee Recognition & Reward of \$39,532, Other Miscellaneous in the amount of \$112,736, and Lobbying and Advertising Expenses of \$96,586, should be disallowed.

I. Bonuses and Incentive Compensation (Adjustments #22, 29)

ORS's Position

ORS recommends the costs of bonuses, DEP's Long-Term Incentive ("LTI") and Short-Term Incentive ("STI") plans, be shared equally between customers and shareholders. (Tr. p. 1234.) ORS witness Major testified this Commission should disallow 50% of the Company's LTI and STI program costs, resulting in a total disallowance of \$4,172,000 from the Company's adjustment. Tr. p. 1234. Through ORS witness Major's surrebuttal testimony, ORS updated the salary allocator for DEP wages and salaries to the same date as O&M labor expenses, July 1, 2018. (Tr. 1238-3.)

Approximately 52.5% of DEP's LTI payouts are directly tied to the Company's stock performance. (Tr. p. 1238-4.) An additional 30% of DEP's LTI payouts, approximately \$947,000, are directly tied to retention. (Tr. p. 1238-4; *see also* Ex. 26.) For DEP's Executive Leadership Team ("ELT"), 50% of STI is directly tied to earnings. For all other employees, 30% of STI is directly tied to earnings. (*Id.*)

ORS witness Major testified an adjustment of 50% to LTI and STI program costs would equitably share the costs between customers and shareholders. (Tr. pp. 1238-4, -5.) Both customers and shareholders benefit when employees perform their duties. (*See* Tr. pp. 1270-71.) DEP's shareholders are the primary benefactors of increased EPS and TSR. (Tr. pp. 1238-4, -5.) EPS and TSR can increase "due to an increase in the Company's rates through a rate case with no actual improvement of company efficiency or operating performance[.]" (Tr. p. 1265.) Because these incentives are directly tied to stock performance rather than service to customers, a balanced approach is needed to fairly allocate the customer burden. (Tr. p. 1238-4.)

ORS's testimony addressed how the costs of funding DEP's employee compensation packages should be allocated among DEP's revenue sources. (Tr. p. 1238-5.) ORS did not make any recommendations as to how much DEP should pay its employees or to how any employees' incentive compensation packages should be structured or disagree with "the Company's total compensation program[.]" (Tr. pp. 1238-5, 1273.)

DEP's Position

DEP witness Metzler testified incentive pay is linked to specific goal accomplishments. Incentive pay thereby encourages employees to accomplish certain objectives, promotes DEP's overall success, and provides for a compensation package that is market-competitive. (Tr. p. 645-5, ll. 8-13.) DEP witness Ghartey-Tagoe noted, "[t]he Company has an obligation to be responsive

to the market for talent and assure the competitiveness of the total compensation package it offers employees.” (Tr. p. 295, ll.5-8.) DEP witness Metzler stated that “lowering the competitive levels of pay and benefits would be imprudent.” (See Tr. p. 645-9, ll. 7-8.)

All employees have STI as a component of their total pay. STI is variable based on performance and is at-risk to the employees. (Tr. p. 645-5, ll. 4-5.) LTI is a major component of the compensation plans of executive employees. (See Tr. p. 645-5, ll. 15-17; p. 645-6, Figure 2.) A portion of DEP’s STI and LTI plans are tied to EPS and TSR, which both “measure overall financial performance.” (Tr. p. 645-7, ll. 18-19.)

DEP asserts that the ORS rationale for disallowing 50 percent of incentive compensation is misplaced because less than 50 percent of DEP incentive compensation was based on EPS or TSR. (See Tr. p. 646, ll. 10-18.) DEP’s ELT of 100 senior manager employees receives STI payouts-based 50 percent on EPS; non-ELT employees’ STI is based 30 percent on EPS. (Tr. pp. 647, 649.) The LTI for ELT plans is 50 percent based on EPS and 25 percent on TSR. (See Tr. p. 648, ll. 1-3; p. 649, ll. 4-10.) Thus, 75 percent of the long-term bonus potential of Duke’s top executives is tied exclusively to DEP’s stock performance. (Tr. p. 647, l. 21 to p. 648, l. 3.) An additional 547 employees are eligible for retention-based LTI that is wholly unrelated to DEP’s financial performance. (Tr. p. 647, l. 13 to p. 648, l. 10.)

DEP witness Metzler testified that “compensation and incentives tied to metrics such as EPS and total shareholder return benefit customers because those metrics reflect how employees’ contributions translate into overall financial performance.” (Tr. p. 643, ll. 7-11.) For example, Ms. Metzler testified that EPS “is a measure of the Company’s financial performance and that performance is reflective of how certain goals, such as safety, individual performance, team

performance and customer satisfaction, all of which are components of incentive pay, are met in a cost-effective way.” (Tr. p. 643, ll. 11-17.)

DEP offered as an alternative position to “remove the actual portions [of total LTI and STI compensation] that are related to EPS and TSR,” resulting in a disallowance of \$2,582,000.” (Tr. p. 650, ll. 14-19.). Excluding incentive compensation associated with EPS and TSR for just the CEO and ELT, the disallowance “would be approximately 622,000.” (Tr. p. 650, l. 23 to p. 651, l. 5.) DEP continues to maintain that retention awards, because “not based on EPS or TSR” should be allowed. (Tr. p. 662, l. 22 to p. 663, l. 4.)

Commission Findings

As this Commission has previously recognized, it is just, reasonable, and consistent with sound regulatory policy to allow the Company to recover a portion of the cost of incentive pay for its officers and employees through rates. *See* Docket No. 2012-218-E, Order No. 2012-951, p. 18. “This treatment of incentive or at-risk compensation is consistent with treatment afforded to this expense item in past rate cases for . . . other electric utilities.” *Id.* at 29. While “[t]he declaration of an existing practice may not be the substitute for an evaluation of the evidence,” *see Heater of Seabrook*, 332 S.C. at 26, 503 S.E.2d at 742, several additional considerations serve to establish that a blended allowance/disallowance of incentive compensation is reasonable and appropriate in this case as well.

Most importantly, the evidence of record suggests that appropriately structured incentive compensation programs benefit shareholders and customers. Shareholders and customers share the benefits of DEP attracting and retaining quality employees. We conclude they should equitably share in the costs. To some extent, the proper level of allowable incentive compensation is difficult

to determine within the framework of a Test Year, given that “compensation payment levels may not be recurring” and no one can predict whether an eligible employee “will qualify for the incentive each year.” (Docket No. 1993-503-C, Order No. 94-1229, at 24.) What is clear is that in almost every case, incentive compensation benefits customers and it benefits shareholders.

We also note that incentives are not always awarded and, therefore, may be non-recurring items not appropriate for inclusion in the revenue requirement. (*See* Order No. 2002-214, Page 21.) After review of the record and consideration of all aspects of the benefits and costs to be allocated between the shareholders and ratepayers, it is just, equitable, and of sound regulatory discretion to disallow for recovery 75% of the South Carolina allocation of Duke Energy CEO Lynn Good’s compensation²⁵ and 50% of the compensation of the Company’s next three highest executives, and to otherwise accept the Company’s adjustment to normalize O&M labor expense and adjust O&M for executive compensation by (\$348,000) and income taxes by \$87,000.

The compensation packages DEP offers are under the control and discretion of management. The Commission does not direct the Company to compensate its employees under one method or another. The Commission agrees, as DEP witness Metzler testified, that “to attract a well-qualified and well-led workforce, the Company must compete in the marketplace to obtain the services of these employees.” (Tr. p. 642, ll. 8-11.) The Commission is not directing DEP in how it must structure its incentive compensation packages.

However, customers and shareholders share in the benefits of nearly every achievement a well-calibrated incentive compensation package facilitates. That is, when a DEP employee finds

²⁵ The Commission heard testimony involving myriad specific complaints at the public night hearings that the total compensation of Duke Energy CEO Lynn Good is excessive and should not be borne by the ratepayers.

a cheaper way to do the same job, customers can see a decrease in their monthly bill and shareholders an increase in their dividend. This Commission has previously approved limited recovery and a division of these costs between customers and shareholders. We believe that, based on the record evidence as a whole, that a similar split is reasonable under the circumstances now before this Commission.

J. Adjustment for Customer Connect (Adjustment #30)

ORS's Position

ORS witness Major through Surrebuttal Testimony updated ORS's position on Customer Connect O&M expense to accept the 2018 actual O&M amount recommended by DEP witness Bateman which, after factoring in the \$160,000 in Customer Connect expenses already included in the test year expenses, resulted in an adjustment to O&M of \$763,000. (Tr. p. 1238-9.)

ORS recommends that the Commission deny recovery from customers \$550,000 of inflation and contingency costs included by DEP in Adjustment #30 to normalize O&M for Customer Connect expenses based on the longstanding accounting principle that adjustments to Test Year expenses must be known and measurable. (*See* Tr. p. 1602-14, ll. 4-9.) As the inflation and contingency projections proposed by the Company are neither known nor measurable under regulatory principles, but merely estimates formulated by DEP employees, they should be denied by the Commission. (*See* Tr. p. 1238-9 (citing Commission Order Nos. 84-108 and 85-841).) Further, including these inflation and contingency estimates in the adjustment insulates the Company from any risks associated with project delays or cost overruns by shifting the risk to customers. (Tr. p. 1238-9.).

DEP's Position

The Company believes its proposed amount of \$1,387,000 is reasonable and should be allowed. (Tr. p. 326-19.) In her rebuttal testimony, Company witness Hunsicker states the Company does not agree with the ORS' recommendation because the expenses correlate to the underlying fixed contracts with its vendors, and are therefore "known," because the Company has entered into fixed contracts with multiple vendors to develop the program, and the contracts contain provisions requiring the Company to provide specified levels of internal labor to support execution of the work; and "measurable," because the fixed contracts contain specified price terms, which serve as the basis for the Company's forecasted expenses. (Tr. p. 484-3.) According to witness Hunsicker, executed contracts account for a significant portion of the overall cost of the program and the contracts specify the amount of labor the Company must provide to execute the contracts. (Tr. p. 481.)

DEP witness Hunsicker provided a breakdown of the Company's estimated expenses in her Rebuttal Testimony. The \$550,000 "to cover inflation and contingency" would "provide certainty that the program will not spend more than originally estimated." (Tr. p. 484-6.) DEP asserts that "[a]t a minimum, the Company's actual O&M in 2018 of \$923,000 should be allowed." (Tr. p. 326-19). During the hearing, DEP witness Bateman offered "[a]n alternative to the Company's request" in the form of a "deferral of the incremental operating expenses incurred related to Customer Connect . . . including a carrying charge[.]" (Tr. p. 318, ll. 2-7.)

Commission Finding

Adjustment #30 normalizes O&M related to the development of DEP's new customer billing interface known as Customer Connect. The Company is seeking to adjust its test-year

O&M expense associated with the project from approximately \$200,000 to approximately \$1.4 million, which reflects the average expected annual O&M expenses over the next two years, from 2019 through 2020. (Tr. p. 480, ll. 13-18.) ORS has agreed to use of the 2018 actual Customer Connect O&M-spend of \$923,000. (Tr. p. 1238-9; Tr. pp. 326-18, -19.) ORS and DEP dispute whether customers should be required to pay for an additional \$550,000 in estimated inflation and contingency costs that DEP includes in Adjustment #30.

Rate applications must be based on a historic 12-month test period. S.C. Code Ann. Regs.103-823(A)(3). Any adjustments to the Test Year must reflect known and measurable changes in the Company's operating experience. *Heater of Seabrook, Inc. v. Public Serv. Comm'n of South Carolina*, 324, S.C. 56, 60, 478 S.E. 2d 826, 828 (1996) (citing *Southern Bell Tel & Tel. Co. v. South Carolina Pub. Serv. Comm'n*, 270 S.C. 590, 244 S.E.2d 278 (1978)). According to *Hamm v. South Carolina Public Service Comm'n*, when making known and measurable adjustments absolute precision is not required, but the adjustment must be known and measurable within a reasonable degree of certainty. 309 S.C. 282, 291, 422 S.E.2d 110, 115 (1992). By adjusting from the Company's Test Year to the 2018 actual expense, the Commission is relying on a known and measurable amount. We therefore agree with DEP and ORS that the use of the 2018 actuals is reasonable.

However, no statute, regulation, or accounting principle permits the Company to collect from customers unknown and speculative expenses. First, DEP witness Hunsicker testified that the Company is requesting the \$550,000 in inflation and contingency to "provide certainty that the program will not spend more than originally estimated." (Tr. p. 484-6.) Thus, the \$550,000 reflects the upper limit of the costs of the project rather than reflecting expenses known and

measurable within a reasonable degree of certainty. Further, the Company's recommendation to recover the average of its projected 2019 and 2020 Customer Connect-related O&M would permit the Company to recover costs based on contingency and inflation. These adjustments are not known and measurable. "Historically, the Commission has rejected [inflationary] adjustments" and noted that "many of the Commission's ratemaking practices"—including "annualizing adjustments . . . and deferral accounting"—guard the financial interests of the utility. (Order No. 1985-841, pp. 21-22.) Thus, we have recognized that, in general, inflation adjustments are "generalized and speculative[.]" (*Id.* at p. 22; accord Order No. 1984-108, pp. 25-26.) Contingency and inflation costs are necessarily based on projections and estimates and serve to shift the risks from the Company to the customers *See id.*

Although DEP witness Hunsicker testified that the Company has "relooked at" its contingency and inflation estimates, and revised them downwards, DEP witness Hunsicker's prefiled testimony states the Company is requesting \$550,000 in contingency and inflation costs. (Tr. p. 484-6.) Ms. Hunsicker adopted this testimony from the stand. (Tr. p. 466.) There are additional reasons to believe that this number is not as known and measurable as the Company suggests. First, DEP's 2018 actual experience is already \$464,000 under DEP's estimated average spend for 2019 and 2020. (*See* Ex. 18 (projected O&M spend); Tr. pp. 326-18, -19 (actual 2018 O&M spend of \$923,000).) Second, while DEP asserted at the hearing that it had entered fixed contracts that reduced the amount of contingency costs it was requesting, it did provide any evidence to support the number it was asserting.

Most significantly, DEP assumes any fixed contracts will "be delivered on specific milestones and paid on those." (Tr. p. 537, ll. 15-16.) However, fixed contracts do not necessarily

establish that an expense is known and measurable. (Tr. pp. 1346-47.) Whether these contracts will be performed under all of their terms (including price) is, to a significant degree, “contingent upon a future event outside the control of” the utility. (*See* Docket No. 2005-13-WS, Order No. 2007-138 at 11.) Concluding that contracts are fixed before they have been fully performed also overlooks the possibility of one or both sides to “fail[] to understand their own contract,” which is an issue with respect to the CertainTEED Gypsum contract at-issue in this very proceeding. (*See* Tr. p. 1347.)

DEP’s proposed adjustments also require the Commission to look well-beyond the Test Year. ORS and DEP already agreed to update the Customer Connect expenses to reflect the Company’s 2018 operating experience; to go further based on the record before this Commission would be inappropriate and inconsistent with settled fundamentals of ratemaking principles.

For these reasons, the Commission adopts ORS’s recommendation to adjust other O&M related to Customer Connect to the actual amount experienced by the Company in 2018 of \$923,000. (Ex. 65, KLM-2.) Accounting-order Order No. 2018-552 for deferred expenses related to Customer Connect is null and void effective as of the date of this Order.

K. Deferral Treatment

ORS’s Position

ORS recommends that DEP recover a “return of” all deferred costs, with the exception of the Coal Ash Disallowance recommended by ORS witness Wittliff. (Tr. p. 1247-5.) To determine whether a return is warranted on a given deferral, ORS recommends that each deferral balance be separated into two categories of costs, operating-related costs and the capital-related costs. (Tr. p. 1247-4.) ORS recommends that each be subject to the same regulatory accounting treatment

required for each category absent an accounting deferral. (Tr. p. 1247-4.) ORS recommends the recovery of both the operating-related costs and the capital-related costs and a return on only the capital related costs. Allowing the Company a return on deferred O&M expenses not only allows the Company to recover out of test period expenses, but also gives it a return on expenses that it would not have earned had the expense been incurred within the test period. (Tr. p. 1247-10.)

ORS asserts that there is no accounting guidance or legal authority establishing the right of a utility to a “return on” a deferred cost and highlights the discretionary nature of the determination. (Tr. pp. 1245-3, -4.) While the Commission approved the Company’s request for an accounting order to defer the expenses detailed in the Application, the Commission orders provide no guarantee to the Company for cost recovery including a return on these expenses. ORS notes the NARUC Rate Case and Audit Manual does not guarantee a return either but recommends that the regulatory commission examine a deferral to determine whether a return and rate-base treatment are appropriate. (Tr. p. 1245-4.)

Likewise, regulatory commissions around the country take a variety of approaches to deferrals. (See Tr. pp. 1247-6, -7.) This includes the process for approving deferrals, for determining whether a return is warranted, and for inclusion in rate base. (*Id.*)

ORS highlights three significant issues with the Company’s position. First, ORS offers that DEP’s proposed treatment for “returns on” deferrals, if strictly applied, may encourage the Company to seek more accounting deferrals for O&M costs in the future that are not classified as extraordinary. (Tr. p. 1247-8.) According to ORS, the ultimate “impact of this practice will be greatly inflated costs in future years which will be passed on to customers through rates.” (Tr. p. 1247-8.) Second, allowing a “return on” and rate base treatment of operating expenses overlooks

the fact that operating expenses are typically collected through rates. (Tr. p. 1247-4, -5.) ORS notes that the Company collected \$562,000,000 in operating revenues from South Carolina customers during 2017 through rates designed to allow recovery of the Company's operating costs as well as provide a reasonable return on shareholders' capital investments. (Tr. p. 1245-5; pp. 1247-4, -5.) The Company does not rely solely on investments from equity holders or the issuance of debt to generate cash to support its operations. (*See* Tr. p. 1247-5.)

Finally, consistent with fundamental regulatory accounting principles, ORS proposes that O&M expenses are not entitled to a weight average cost of capital ("WACC") return and are not appropriate to include in rate base. (Tr. pp. 1254-4, -5; pp. 1257-4, -5.) However, ORS does not dispute that the Company may recover prudently incurred and deferred capital costs by recording capital costs to rate base and recovering those costs through amortization expense over the life of the asset, while earning a return on the unamortized balance. (*Id.*) ORS contends that its recommendation to limit the Company's ability to earn a return only to deferred capital-related expenses is bolstered by adjustments that allow the Company to include costs that were largely incurred outside of the test year. Out-of-test year expenses include approximately \$5,000,000 in amortization expense. (Tr. p. 1247-2.) ORS's recommended accounting treatment contributes approximately \$3,500,000 to the ORS original proposed revenue increase of \$32,130,000--more than 10 percent. (Tr. p. 1247-2; *see also* Order Ex. A (updating ORS proposed revenue change based on stipulation).) In comparison, the Company's deferred balance proposal includes approximately \$16,000,000 in amortization expense and approximately \$21,000,000 in unamortized deferral balances in rate base. (Tr. p. 1247-2.) The Company's recommended

treatment contributes roughly \$18,000,000 (more than 25 percent) to the Company proposed revenue increase of \$68,668,000. (Tr. p. 1247-2.)

Whether to allow a return presents “an accounting/revenue requirement issue[.]” (Tr. p. 803-19.) “[T]here is no requirement that the Company receive a return on its expenditures that are not related to traditional rate base items.” (*Id.*) According to ORS, when viewed within the context of the overall rate case, the overall financial position of the Company, and the needs of DEP’s customers, “ORS’s proposals represent a reasonable and equitable approach to the Company’s recovery of deferred costs.” (Tr. p. 1247-2.)

DEP’s Position

In support of its position that DEP should receive returns on deferred O&M expenses removed by ORS, the Company presented Rebuttal testimony from DEP witnesses Bateman, Wright, and Hevert. DEP points to the fact that “[t]here is a real cost of debt and a real cost of equity that the Company incurs in financing the costs” over time. (Tr. p. 316, ll. 2-4.) Thus, the Company asserts, “if a return on these deferred expenses is not allowed, . . . the Company has not been allowed the opportunity to recover its legitimate and prudent costs.” (Tr. p. 839-31.) The Company argues that “[t]o disallow recovery of these costs would be to disallow prudently incurred costs” because the deferred expenses “could not have been collected from customers in the period in which they were incurred,” necessitating borrowing. (Tr. p. 316; Tr. p. 326-7)

DEP also disputes the relevance of certain of the authorities cited by ORS in support of its position. DEP witness Bateman argues “that cite to the FERC chart of electric accounts has nothing to do with deferrals. It has to do with criteria to book items to certain FERC accounts that are extraordinary income or extraordinary deductions[.]” (Tr. p. 425, ll. 13-18.) Similarly, DEP

contends that it is difficult to compare the regulatory approaches to deferrals taken across jurisdictions in this country due to the myriad of regulatory schemes. (*See* Tr. pp. 327-28.)

With respect to the appropriate criteria for deferrals, DEP recommends a generic docket and offers that such a docket would allow more for clearer analysis of “what criteria’s appropriate for South Carolina given our regulatory framework[.]” (*See* Tr. pp. 327-28.) “Customers have benefited through the money spent for the underlying costs” and “from delays of and mitigation of rate increases that directly resulted from the deferrals in this case.” (Tr. p. 331, ll. 11-15.) When deferrals postpone rate cases, customers benefit every month that their bills are not increased. (Tr. pp. 332-33.) DEP witness Ghartey-Tagoe testified that “deferrals and the ability to earn returns on deferrals” allow the Company to postpone rate cases, and the Company will come in more frequently for rate cases if it cannot employ deferrals. (Tr. p. 398, ll. 7-21.)

Commission Finding

The Company requests recovery of deferred costs from accounting orders which the Company has accumulated. (*See* Application p. 8, nn.5-11; Ex. 66.) In each of the Company’s proposed deferrals, the Company calculated a WACC return on deferred costs that it also requests to recover. The Company further proposes to include the unamortized balance of each deferral in rate base. ORS agrees to a “return of” all deferred costs and a “return on” deferred capital related costs, but otherwise disagrees that the deferred balances should earn a return or that the unamortized balances should be included in rate base.

The Company proposes the recovery of deferrals through Adjustments #17 for deferrals granted before the Company’s last rate case, #18 for Deferred Environmental Costs, #19 for SC AMI, #30 for Customer Connect, and #35 for SC Grid Mod. (*See* Tr. p. 1247-4.) Adjustment #18,

relating to coal ash, is addressed in a separate section of this Order. Disputes between ORS and DEP as to the appropriate amortization period for the deferrals in Adjustments #17, 19, and 35, are also addressed in a separate section of this Order.

Treatment of deferrals is ultimately a matter of the Commission's discretion. The Commission has a duty to balance the needs of the public and the utility such that the public is served without the utility being disserved. *Fed. Power Comm'n v. Hope Natural Gas, Co.*, 320 U.S. 591, 603 (1944) ("the fixing of 'just and reasonable' rates involve a balancing of the investor and the consumer interests").

Both ORS and DEP have adduced evidence that customers and the Company, respectively, benefitted from the deferrals at issue in this case. DEP benefitted by gaining the possibility of recovering out-of-Test Year expenses and avoiding the need to come in for a rate case at a non-opportune time. Customers benefitted from receiving services that DEP paid for up-front and, to the extent that a rate case would have increased rates, from lower rates over that period. How this Commission treats returns on deferrals should reflect this sharing of these benefits.

DEP's proposal to, first, provide a WACC on all deferrals and, then, to include in rate base all unamortized amounts provides a double-benefit to the Company. Ensuring that the Company can recover carrying costs associated with capital-related investments strikes a balance between the interests of the Company and customers while adhering to a clear and well-established regulatory principle. In simple terms, "rate base and operating expenses are treated differently, with only rate base items being eligible for a return." (Tr. 803-19.) While the ultimate policy that this Commission will adopt with respect to deferrals and returns on deferrals should be determined in a subsequent administrative docket, this simple principle is backed by objective criteria, which

provides all parties with clear expectations. The existence of these objective criteria also promotes transparency and the ability to understand how this Commission sets the rates that a utility is allowed to charge.

We conclude that DEP is entitled to recover a “return of” all deferred costs (with the exception of coal ash costs discussed elsewhere in this Order) and that DEP shall be allowed a return on its capital-related deferred costs only. Such treatment achieves an equitable sharing of deferred costs between customers and shareholders that binding case law requires. *Hope*, 320 U.S. at 603 (“the fixing of ‘just and reasonable’ rates involve a balancing of the investor and the consumer interests.”)

Several other considerations support our conclusion. DEP’s proposed treatment for “returns on” deferrals, if strictly applied, would tend to encourage the Company to seek more accounting deferrals for O&M costs that are non-extraordinary. (*See* Tr. p. 1247-8.) The ultimate impact of this practice will be to greatly inflate costs in future years, which will be passed on to customers through rates. (*See* Tr. p. 1247-8.) Allowing a “return on” and rate base treatment of operating expenses also overlooks the fact that operating expenses are typically collected through rates. (Tr. pp. 1247-4, -5.) The Company collected \$562,000,000 in operating revenues from South Carolina customers during 2017 through rates designed to allow recovery of the Company’s operating costs as well as provide a reasonable return on shareholders’ capital investments. (Tr. p. 1245-5; Tr. pp. 1247-4, -5.) Thus, the Company does not rely solely on investments from equity holders or the issuance of debt to generate cash to support its operations. (*See id.*)

These facts and considerations support our conclusion that the Company’s requests for a WACC return on every dollar in a deferred account is unreasonable. Finally, the Commission is

mindful that it sets rates on a historic Test Year basis and allowing unconditionally a WACC on all deferrals would represent a significant departure from this fundamental standard.

We also disagree with the Company's contention that disallowing a return on deferred O&M expenses denies it "the opportunity to recover all of its costs associated with these deferred accounts." (Tr. p. 839-31.) The Company has the opportunity to recover carrying costs through this rate case. It is this Commission's prerogative to determine whether a return on deferred costs on O&M expenses is warranted. There is no denial of a legitimate and meaningful opportunity.

The Commission concludes that allowing the Company to earn a WACC return on capital-related costs and a return of its deferred operating-related costs is a reasonable, equitable, and lawful approach to allowing the Company's recovery of deferred costs. The Company may recover \$3,500,000 in deferred costs requested through this case. (*See* Tr. p. 1247-3.)

L. Amortization Periods (Adjustments # 17, 19, 35)

ORS's Position

With respect to Harris COLA, ORS bases its recommendation to amortize the deferral balance over an eight-year period on the time period the Company incurred and deferred the costs, which was from 2006 to 2013. (Tr. p. 1245-6.)

ORS witness Morgan testified that ORS recommends this Commission set the amortization period for the South Carolina AMI the amortization period based upon the service life of the underlying asset. (Tr. pp. 1319-4, 1319-5, 1380.) The fifteen-year amortization period mirrors the period of anticipated benefit to the customer paying for the asset. (Tr. p.p. 1319-4, -5)

ORS witness Sandonato testified that a five-year amortization period for SC Grid Mod will ensure that transmission and distribution investments for which the Company seeks recovery in this rate case will be paid for by the time of the next rate case, when the Company will likely seek to recover its next round of grid investments. (Tr. p. 1049-12.)

DEP's Position

DEP witness Bateman testified that “exact amortization periods are subjective,” offering that “there needs to be a balance of consideration of both the impact on customer rates and the impact on the Company’s cash flow.” (Tr. p. 326-11.) DEP also asserts that “the longer amortization periods exacerbate the disallowance” of a return on deferred O&M costs recommended by the ORS. (Tr. p. 326-11; Tr. p. 839-32.)

With respect to Harris COLA, witness Bateman asserts that ORS’s “recommendation [of 8 years] fails to recognize that absent the settlement in the last case, the Company would have begun amortizing these costs starting January 1, 2017.” (Tr. p. 326-11.) DEP therefore contends a five-year amortization period for Harris COLA is appropriate. (*Id.*)

Commission Finding

As an initial matter, the Commission notes that ORS and DEP are in agreement with respect to the appropriateness of a five-year amortization period for certain coal ash-related deferred expenses included in Adjustment #18. (*See* Tr. p. 326-11; pp. 1249-9, -10.) We agree with the parties that this is a reasonable amortization period.

ORS and DEP disagree on the appropriate amortization periods for deferred cost balances for costs incurred in connection with the development of proposed Units 2 and 3 of the Shearon

Harris Nuclear Station (“Harris COLA”) (Adjustment #17), SC AMI (Adjustment #19), and SC Grid (Adjustment #35). In its Application, DEP proposed a five-year amortization period for Harris COLA, three years for the SC AMI and two years for SC Grid. (Tr. p. 326-11.) ORS proposes an 8-year amortization period for Harris COLA, 15 years for SC AMI, and 5 years for SC Grid. (Tr. pp. 1245-6, -12; Tr. pp. 1319-4, -5; Tr. p. 1049-12.)

The Commission concludes that tying amortization periods to common-sense, objective measures is appropriate. Use of objective measures promotes transparency in regulation. With respect to Grid Mod expenses, the Commission concludes it is reasonable to amortize them in a manner akin to rate expenses, such that the costs incurred up to this rate case will be recovered by the time of the next rate case. *C.f., e.g., Porter v. S.C. Pub. Serv. Comm’n*, 328 S.C. 222, 231, 493 S.E.2d 92, 97 (1997) (“Ideally the amortization period matches the expected interval between rate cases.”) Such an approach avoids unnecessary compounding of costs and assures the Company of a return of its investment within a reasonable period of time.

With respect to Harris COLA, the most objective amortization period presented is an eight-year period equal to the time over which the expense was accrued. Had DEP begun amortizing these expenses then, a five-year amortization period now would be reasonable. Matching the period for unwinding the expense to the period over which the expense was incurred is generally recognized as a reasonable approach. Indeed, it is facially consistent with the parties’ agreed-upon treatment of unprotected Property Plant and Equipment in connection with the Tax Cuts and Job Act, where the unprotected PP&E is flowed back over the same amount of time it was collected. (*See* Tr. p. 555, ll. 8-13.)

With respect to AMI, a 15-year amortization period is consistent with principles of cost causation and cost-benefit mirroring. Further, DEP witness Schneider testified that the service life of the AMI meters may actually be over 20 years. (Tr. p. 519, ll. 16-24.) This suggests that a 15-year amortization period is conservative and reasonably balances the Company's cash-flow needs with customer rate impacts.

The nature of the customer's interests were expressed at the Night Hearings. Based on that testimony, the Commission concludes there is a substantial risk that many low and fixed-income, elderly, and agricultural customers would be disproportionately and negatively impacted by DEP's full-requested increases. Longer amortization periods can provide a measure of rate mitigation. The Commission agrees with DEP witness Bateman that it must balance customer rate impacts and the Company's cash flow needs. Based on the totality of the Commission's decision in this Order with respect to the rates the Company will be allowed to charge, and with special reference to the Commission's reasoning with respect to ROE, the Commission is fully satisfied that the Company has excellent cash flow and ability to access capital. Accordingly, the Commission concludes that balancing cash flow with rate impacts also tends to support a longer amortization period.

For these reasons, the Commission finds that the amortization periods for Harris COLA shall be 8 years; SC AMI 15 years; and SC Grid 5 years. These periods are just and reasonable.

M. Uncontested Adjustments

DEP's Service Charge, Landlord Service Charge, Reconnect Charge, and EFC calculation

ORS witness Seaman-Huynh testified that ORS reviewed DEP's proposed adjustment to its Service Regulations, specifically DEP's Service Charge, Landlord Service Charge, Reconnect Charge, and EFC calculation, and ORS found them to be reasonable. (Direct, p. 17, ll. 6-9).

No party contested these Company proposed adjustments. This Commission finds them to just and reasonable.

Customer Growth Factor

ORS's Position

ORS witness Seaman-Huynh also testified regarding the Company's customer growth factor. ORS found an increase in the number of DEP customers in South Carolina when comparing the end of the Test Year and the average number of customers during the Test Year. (Direct, p. 17, ll. 14-16). To capture the additional revenues and expenses generated by customers added to the Company's system, ORS included an adjustment for customer growth. (Direct, p. 17, ll. 16-17). The customer growth factor is calculated by taking the difference between the total number of customers at the end of the Test Year and the average number of customers during the year and dividing the result by the average number of customers during the Test Year. (Direct, p. 17, ll. 17-20). This methodology yields a retail customer growth factor of 0.0267 percent for the Company and is reflected in ORS witness Major's Adjustment #40. (Direct, p. 17, ll. 20-22).

DEP's Position

According to DEP witness Bateman, the customer growth adjustment compares the average number of customers during the test period to the end of test period number of customers in order to annualize the impacts of customer growth to an end of test period level. (Rebuttal, p. 15, ll. 5-8). Witness Bateman testified that the amounts calculated by the Company and ORS for this adjustment are different based on other areas of disagreement, but each party agrees on the concept and the use of the method used to calculate this adjustment. (Rebuttal, p. 24, ll. 18-20).

Commission Finding

The Company and the ORS agree on the concept and use of the method used to calculate this adjustment. The ORS and Company amounts differ only due to the underlying adjustments of the ORS and the Company and the recommended ROE. The Commission agrees to a Customer Growth factor of 0.0267 percent in this proceeding.

AMI Report

Upon inquiry from this Commission, DEP witness Schneider agreed that the Company would be willing to provide an annual report to the Commission on quantifiable customer savings related to AMI meter deployment. (R. p. 504, ll. 16-25, p. 505, ll. 1-9).

Medical Opt-Out Tariff

Upon inquiry from this Commission, DEP witness Schneider agreed that the Company would look into whether it could offer a medical opt-out tariff to its South Carolina customers in the same way it offers one to its North Carolina customers. (R. p. 505, ll. 10-25 through p. 507, l. 3).

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. We find most compelling and give the greatest weight to the objective testimony and analysis of witness Parcell. Mr. Parcell's analysis is buttressed by the analyses provided by witnesses Chriss and O'Donnell. Accordingly, we find that an award of a ROE of 9.50 percent is just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest.

2. We find that DEP's cost of debt is 4.16 percent, is just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record.

3. We find that a hypothetical capital structure of 47 percent debt and 53 percent common equity is just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest.

4. We find that the spill at Dan River was an impetus for the enactment of North Carolina's CAMA and that DEP's South Carolina customers cannot be forced to pay costs incurred pursuant to a unilateral act of the North Carolina legislature. We further find it would not be just and reasonable for DEP's South Carolina customers to pay costs incurred solely as a result of a North Carolina law, for which no benefit is received to South Carolina ratepayers. We find DEP may recover \$301,559,784 total on a system basis, as it related to coal ash expenses at this time.²⁶ Therefore, in this proceeding, DEP is denied recovery of \$333,480,308 on a system basis in coal ash expenses from its South Carolina customers. Remaining allowable coal ash expense should

²⁶ A portion of the DEP's recoverable coal ash expenses was approved for recovery in Commission Order No. 2016-871.

be amortized over a five-year period. These findings are just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest.

5. We find DEP's requested revisions to its depreciation rates is just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest.

6. We find the following to be just and reasonable based on the reliable, probative, and substantial evidence presented and in the public interest: BFC rates of \$11.78 for residential customers; \$12.34 for SGS customers; \$11.31 for SGS Constant Load customers; and as to MGS and S&I customers, the Company should limit the increase to the BFC to be no greater than the average percentage increase of the SGS and SGS Constant Load customers.

7. We deny DEP's request to:

- A. Reduce the differential between the declining block in the winter months for Schedule RES;
- B. Reduce the differential between summer and winter demand rates for Schedule R-TOUD;
- C. Reduce the differential between summer and winter demand rates for Schedule SGS-TOU;
- D. Reduce the differential between on-peak and off-peak energy rates for Schedule SGS-TOU;
- E. Increase the off-peak excess demand charge from \$2.95/kilowatt ("kW") to \$3.30/kW rather than the same percentage as other demand charges for Schedule SGS-TOU;

F. Decrease the off-peak excess demand charge from \$1.25/kW to \$0.89/kW rather than the same percentage as other demand charges for Schedule LGS-TOU; and,

G. Increase the on-peak demand charge by only 50 percent of the energy rate rather than the same percentage as the energy rate for Schedule LGS-TOU.

We find DEP's requests regarding the above are not just and reasonable and in the public interest at this time, because the AMI meters have not been deployed in sufficient quantities and for sufficient time to provide the necessary data to make these requested changes.

8. We find DEP's proposed adjustment to its Service Regulations, specifically DEP's Service Charge, Landlord Service Charge, Reconnect Charge, and EFC calculation to be just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest.

9. We find that a retail customer growth factor of 0.0267 percent is just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest.

10. We find that the adjustments agreed upon by the Company and ORS are reasonable and are as follows: removal of Lobbying and Image-building advertising expenses of \$97,000, removal of other Employee Recognition and Reward amount of \$39,532 and Other Miscellaneous in the amount of \$112,736; and ORS's withdrawal of its objection to line-men's rodeo costs of \$26,231, allocations of \$4,066, accrual/timing difference in the amount of \$12,366, and safety awards in the amount of \$15,828.

11. Regarding Adjustment #36 (remove certain expenses), the Commission disallowance of Other Employee Recognition and Rewards, Other Miscellaneous, Lobbying and

Advertising, and litigation expenses is just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest.

A. DEP should not be allowed to recover \$249,000 in expenses related to Other Employee Recognition and Rewards, Other Miscellaneous, and Lobbying and Advertising.

B. DEP should not be allowed to recover \$390,000 in litigation expenses.

12. We find that ORS Adjustment #38 (ongoing payment obligation) is just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest. The Commission accepts the ORS adjustment of (\$0) and rejects the Company's proposal to incorporate the ongoing payment obligations to CertainTEED into the revenue requirement.

13. We find that it is appropriate, equitable, and consistent with regulatory principles to adopt a 75% disallowance of the \$175,000 in South Carolina allocation of Duke Energy CEO Lynn Good's compensation, and a 50/50% disallowance of compensation of the next three highest-paid executives and otherwise accept the Company's Adjustments #22 and #29. We find that ORS Adjustment #30 (Customer Connect) removing \$550,000 in inflation and contingency costs and declaring Order No. 2018-552 for deferred expenses related to Customer Connect null and void is just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest. The Company shall be entitled to recover its actual 2018 Customer Connect O&M expenditure of \$923,000.

14. We find that with respect to Adjustments # 17, #18, #19, #30, and #35, allowing the Company a WACC-return on deferred capital-related expenditures is just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public

interest. Accordingly, the Company may recover \$3,500,000 in revenue annually to cover deferred costs requested through this case.

15. We find the following amortization periods are just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest: (i) 8 years for Harris COLA (*see* Adjustment #17); (ii) 15 years for the South Carolina AMI meters (Adjustment # 19); (iii) 5 years for South Carolina “Grid Mod” (Adj. #35); and (iv) 5 years for previously deferred coal ash-related expenses (Adjustment #18).

16. We find that the following uncontested adjustments are just and reasonable and supported by the reliable, probative, and substantial evidence on the whole record and in the public interest: ORS adjustment for Nuclear Materials and Supplies Inventory at Power Generation Sites.

17. Regarding Adjustment #20 (Normalization of Storm Costs) and as filed in the Adjustments Stipulation by the Parties, we find that the use of a 5-year average (removing the highest (2016) and lowest (2013) year) without any inflation adjustment to be appropriate. The Company shall adjust O&M by \$1,018,000 and income taxes by (\$254,000).

18. Consistent with the Adjustments Stipulation filed by the Parties, we find that the Company may establish an end-of-life nuclear reserve fund as proposed in Adjustment #15. The Company shall adjust depreciation and amortization by \$2,938,000, income taxes by (\$733,000), working capital by (\$2,938,000), and accumulated deferred taxes by \$733,000 to adjust the reserve for end-of-life nuclear costs. DEP shall provide ORS with an annual update of the accumulated value of such fund.

19. Requiring DEP to provide an annual report to this Commission on quantifiable customer savings related to AMI meter deployment is just, reasonable, and in the public interest.

20. Establishment of an administrative docket to address this Commission's policy with respect to non-allowable expenses is just, reasonable, and in the public interest.

21. Establishment of an administrative docket to address this Commission's policy with respect to deferral accounting is just, reasonable, and in the public interest.

22. Requiring DEP to provide an annual report to this Commission regarding the salary, benefits, and bonuses paid to utility company officers and members of management, breaking down the specific amounts being charged to South Carolina customers and otherwise consistent with NASUCA Executive Compensation Resolution 2009-09 is just, reasonable, and in the public interest.

23. We find DEP shall provide the medical opt-out tariff that it currently offers to its North Carolina customers to its South Carolina customers.

24. We find that the Adjustments Stipulation entered into between the ORS and DEP and filed on April 17, 2019, is just, reasonable, and in the public interest, and is therefore adopted by this Commission as part of this Order and attached hereto as Order Appendix A.

VI. IT IS THEREFORE ORDERED THAT:

1. The calculation of the base rates required to generate approximately \$41,474,000 revenue increase shall be established based on a 9.50% ROE and a capital structure that included 47% debt and 53% common equity.

2. DEP may recover \$301,559,784 total, as it related to coal ash expenses, at this time.

3. The following BFC rates shall be implemented: \$11.78 for residential customers, \$12.34 for SGS customers, \$11.31 for SGS Constant Load customers, and as to MGS and S&I

customers, the Company shall limit the increase to the BFC to be no greater than the average percentage increase of the SGS and SGS Constant Load customers.

4. DEP shall provide the medical opt-out tariff similar to that which it currently offers to its North Carolina customers to its South Carolina customers.

5. DEP shall examine the feasibility and customer benefits of a storm damage reserve fund and shall provide a proposal for ORS to evaluate before the Company's next rate case.

6. DEP shall provide ORS with an annual update of the accumulated value of its end of life nuclear fund.

7. The full benefits of the TCJA are passed through to Customers. As a result of the stipulation entered into between DEP and Nucor, to which no party objected, an EDIT Tax Savings Rider is authorized for the base rate savings due to the TCJA. The EDIT Tax Savings Rider will remain in place until base rates are reset to reflect these savings in a future rate case proceeding. The ORS will review the changing ARAM rate related to protected EDIT to ensure that it is correctly calculated during the annual change in the EDIT rider.

8. Also pursuant to the DEP and Nucor stipulation, the LGS class percentage revenue increase shall be applied equally to the LGS-CUR-TOU rate schedule.

9. DEP shall continue to file quarterly reports with the Commission and ORS showing:

- a. Rate of Return on Rate Base;
 - b. Return on Common Equity (allocated to South Carolina retail electric operations);
 - c. Earnings per share of common stock; and
 - d. Debt coverage ratio of earnings to fixed charges;
10. Deny any outstanding motions not otherwise addressed within this Order.

11. Revised tariffs shall be filed within 10 days of receipt of this Order, consistent with the Commission's Rules and Regulations. The tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System (<https://dms.psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (<http://etariff.psc.sc.gov>.) Future revisions should be made using the ETariff System. The tariffs shall be consistent with the findings of this Order and agreements with the other parties to this case. DEP shall provide a reconciliation of each tariff rate change approved as a result of this order to each tariff rate revision filed in the ETariff System. Such reconciliation shall include an explanation of any differences and be submitted separately from the Company's ETariff System filing.

12. DEP shall file a schedule showing the revenue produced by each and every tariffed rate approved by the Commission and reconcile the revenue produced, by tariffed rate, to the revenue requirement approved in this Order.

13. DEP shall provide an annual report to this Commission on quantifiable customer savings related to AMI meter deployment.

14. An administrative docket to address this Commission's policy with respect to non-allowable expenses shall be established.

15. An administrative docket to address this Commission's policy with respect to deferral accounting shall be established.

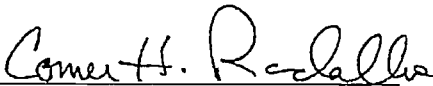
16. DEP shall provide an annual report to this Commission regarding the salary, benefits, and bonuses paid to utility company officers and members of management, breaking down the specific amounts being charged to South Carolina customers and otherwise consistent with NASUCA Executive Compensation Resolution 2009-09.

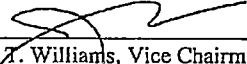
17. DEP shall charge the rates approved herein for service rendered after June 1, 2019.

The schedules will be deemed filed with the Commission under S.C. Code Ann. § 58-27-870.

18. This Order shall remain in full force and effect until further Order of this Commission.

BY ORDER OF THE COMMISSION:


Comer H. Randall, Chairman


Justin T. Williams, Vice Chairman

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2018-318-E

In the Matter of:	)	
	)	
Application of Duke Energy Progress, LLC	)	STIPULATION
For Adjustments in Electric Rate Schedules	)	
and Tariffs and Request for an Accounting	)	
Order	)	

This Stipulation is made by and between the South Carolina Office of Regulatory Staff ("ORS") and Duke Energy Progress, LLC (the "Company") (together, the "Parties").

WHEREAS, on November 8, 2018, the Company filed an application in the above referenced proceeding proposing changes in its rates, charges, and tariffs for electric service to be effective on June 1, 2019 ("Application");

WHEREAS, in the Application and through testimony the Company has proposed numerous accounting adjustments to be adopted in this proceeding for ratemaking and reporting purposes;

WHEREAS, the ORS has reviewed the Company's proposed accounting adjustments and offered its own adjustments where it believed necessary and appropriate to do so in light of ORS's statutory mission, accounting principles, and previous decisions of the Public Service Commission of South Carolina;

WHEREAS, through joint efforts to resolve rate case issues in this proceeding, the Parties have reached agreement as to Adjustments 22 (Normalization of Storm Costs); 28 (Credit Card

Fees); 25 (Rate Case Expenses); 15 (End-of-Life Nuclear Reserve); 39 (Nuclear Materials and Supplies); and 21 (Adjustment to Non-Labor O&M);

WHEREAS, the Parties have determined that their interests and those of the public would be best served by reaching an agreement on these matters under the following terms, and the Parties stipulate and agree as follows:

1. The Company hereby withdraws from Commission consideration accounting Adjustments #22 (Normalization of Storm Costs); #28 (Credit Card Fees); #25 (Rate Case Expenses); #15 (End-of-Life Nuclear Reserve); #39 (Nuclear Materials and Supplies); and #21 (Adjustment to Non-Labor O&M).

2. Regarding Adjustment #22 (Normalization of Storm Costs), the Parties agree to use a 5-year average (removing the highest (2016) and lowest (2013) year) without any inflation adjustment. The Company will examine the feasibility and customer benefits of a storm damage reserve fund and shall provide a proposal for ORS to evaluate before the Company's next rate case. Adjustment #22 is updated to reflect adjust O&M expense by \$1,018,000 and income tax (\$254,000)

3. Regarding Adjustment #28 (Credit Card Fees), the Parties agree to use the 2018 actual transactions 449,456 times the \$1.50 fee for a total of \$674,184. Accordingly, the Parties agree that Adjustment #28 shall reflect adjustment to O&M expense by 674,000) and income tax (\$168,000) to reflect actual expenses for year end.

4. The Parties agree to the calculation of rate case expenses reflected in ORS Adjustment # 25 (actual rate case expenses received and verified by ORS through December 31, 2018). The Company will continue to defer rate case expenses incurred after December 31, 2018 and will continue to send invoices to ORS for an audit for confidence in the transactions given the

issues raised in this case. For invoice documentation, the Company will either submit paper invoices or the information requested below for electronic invoices consistent with the following:

- a) Electronic invoice detail ~~in the format attached (Exhibit 1)~~
- b) Confirmation of payment for the electronic invoice.
- c) Affidavits from the vendor/counsel verifying that the amounts are related to this DEP rate case and are true and accurate.
- d) ORS retains the right to spot check or sample rate case expenses, and request paper invoices or other supporting detail and Duke agrees it will obtain and provide from the vendor/counsel unless not available.

ORS reserves its right to challenge the inclusion of the unamortized rate case expense in rate base in the current and any future rate case proceeding.

5. The Parties agree that the Company may establish an end-of-life nuclear reserve fund as proposed in Adjustment #15. The Company shall adjust depreciation and amortization by \$2,938,000, income taxes by (\$733,000), working capital by (\$2,938,000), and accumulated deferred taxes by \$733,000 to adjust the reserve for end-of-life nuclear costs.

6. In compromise and settlement of Adjustment #15, the Parties agree to ORS Adjustment #39. Accordingly, the Parties agree to adjust nuclear materials and supplies inventory by (\$599,000) to remove nuclear materials and supplies inventory at the Harris Nuclear Station that have remained in a hold status for a period greater than four years.

7. In compromise and settlement of Adjustment #15, the Parties agree to ORS Adjustment #21 to remove the inflation adjustment to non-labor O&M.

8. The Parties agree that the decision in this docket does not set precedent for rate recovery of new deferrals in future proceedings using criteria established in an upcoming generic docket or any other criteria the Commission determines appropriate.

9. This Stipulation shall be effective upon execution of the Parties and shall be interpreted according to South Carolina law and only applies to the matters in this docket.

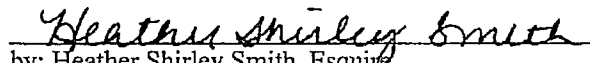
10. The Parties represent that the terms of this Stipulation are based upon full and accurate information known as of the date this Stipulation is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Stipulation is based, either Party may withdraw from the Stipulation with written notice to the other Party.

11. This Stipulation shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities), subsidiaries, affiliates, parent corporations, joint ventures, heirs, executors, administrators, trustees, and attorneys.

12. Each party acknowledges its consent and agreement to this Stipulation by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of this Stipulation. Facsimile signatures and e-mail signatures shall be recognized as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Stipulation.

13. The parties agree that signing this Stipulation will not constitute a precedent or evidence of acceptable practice for the matters described herein in future proceedings.

DUKE ENERGY PROGRESS, LLC


by: Heather Shirley Smith, Esquire
Deputy General Counsel
Duke Energy Progress, LLC
40 West Broad St., Suite 690
Greenville, South Carolina 29601
Telephone: (864) 370-5045
heather.smith@duke-energy.com

SOUTH CAROLINA OFFICE OF REGULATORY STAFF


by: Andrew M. Bateman, Esquire
Deputy Chief Counsel
South Carolina Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, South Carolina 29201
Telephone: (803) 737-0575
abateman@ors.sc.gov

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2018-318-E - ORDER NO. 2019-454
OCTOBER 18, 2019

IN RE: Application of Duke Energy Progress, LLC	) ORDER GRANTING IN
for Adjustments in Electric Rate Schedules	) PART AND DENYING IN
and Tariffs and Request for an Accounting	) PART MOTIONS FOR
Order	) REHEARING AND
	) RECONSIDERATION

This matter comes before the Public Service Commission of South Carolina ("Commission" or "PSC") upon the timely Petitions for Rehearing or Reconsideration filed pursuant to S.C. Code Ann. Sections 1-23-380 and 58-27-2150 and S.C. Code Ann. Regs. 103-825 (A)(4). Petitions to rehear or reconsider Commission Order No. 2019-341 ("Order") were filed by the South Carolina Energy Users Committee ("SCEUC"), the South Carolina Office of Regulatory Staff ("ORS"), and Duke Energy Progress, LLC ("Company," "DEP," or "Duke Energy"). The Commission finds that no rehearing of the evidence is necessary in this instance, but that, based upon a full review of the written arguments presented by the parties, in conjunction with a review of the record in this case, certain modifications to and clarifications of Order No. 2019-341 are warranted. This order sets out the Commission's changes to Order No. 2019-341, and to the extent that any rulings within this order conflict with Order No. 2019-341, this order supersedes the prior order. Any matters not specifically addressed in this order remain unchanged. Our holdings herein and the holdings contained in Order No. 2019-341 which remain unchanged are all supported by the entire record of this case.

We address each of the petitions below.

Petition of the South Carolina Energy Users Committee

The two points raised by SCEUC's petition may be summarized as asking for differing treatment of the recovery for the coal ash remediation costs at the H.B. Robinson coal plant and of the Real Time Pricing Tariff offered by the Company. Commission Order No. 2019-341 awarded recovery of coal ash remediation costs to the Company. These costs were incurred pursuant to a Consent Agreement entered by the Company and the South Carolina Department of Health and Environmental Control in September 2014. The Consent Agreement is valid, having been entered pursuant to SCDHEC's authority under the South Carolina Hazardous Waste Management Act, S.C. Code Ann. § 44-56-10, *et seq.*, the Pollution Control Act, S.C. Code Ann. § 48-1-10 *et seq.*, and the South Carolina Solid Waste Policy and Management Act, S.C. Code Ann. §44-96-10, *et seq.* The Commission found then, and continues now, to consider such costs reasonable and prudently incurred, and subject to recovery. This issue is discussed further in Order No. 2019-341 at pages 45-46.

Next, SCEUC has requested that the Commission require the Company to implement market-based real-time pricing. The real-time pricing ("RTP") tariff is a voluntary rate option that offers large customers the opportunity to purchase incremental energy at a rate calculated based upon the Company's marginal cost of the generator that is expected to serve the next kWh of system load based upon all available generating plants. It is not intended to be a proxy for wholesale market-based pricing, or to be a mechanism for the Company to shop the wholesale market for low cost electricity on behalf of RTP customers and allow them to choose between the current wholesale market price and a rate based upon the

Company's marginal cost to generate an additional kWh. (Tr. p. 709-21 – 709-23.) See Wheeler Rebuttal at pages 21-23. For these reasons, the Commission declines to require the Company to alter or amend its RTP tariff program at this time.

Petition of the Office of Regulatory Staff

The ORS made several requests for clarification from Order No. 2019-341. The issues were not necessarily contested matters, but rather, ORS sought specific enumeration of values for certain elements of the Company's Application. Those clarifications are as follows:

1. We clarify that the rate base is \$1,477,356,000, and the net income for return is \$103,271,000.
2. We clarify that the Company, for purposes of this rate case, is to use the Cost of Service Study presented by the Company to allocate all revenues, expenses, and rate base items and to design rates for all customer classes, unless otherwise specified by the Commission.
3. We clarify that the Commission intended to order a 75% disallowance of the \$351,000 of Lynn Good's executive compensation allocated to South Carolina ratepayers – a net allowance of \$88,000, rounded, with all attendant adjustments as recommended by the ORS in its petition.
4. We clarify that the Commission disallows the \$178,000 of non-allowable expenses remaining in dispute.
5. We correct a clerical error. The Company's accounting Order No. 2018-553, not Order No. 2018-552 should be, and is, declared null and void.

6. We clarify that the AMI deferral continuation sought by the Company is granted, subject to the deferral treatment outlined in section IV.K of the Order.

7. We clarify and amend section IV.L of the Order to include Adjustment #18. The remainder of the coal ash deferral not addressed in section IV.B of the Order, including the non-Asset Retirement Obligation amount, should be afforded the same treatment as ordered in section IV.K of the Order.

8. We clarify that the Commission explicitly approves the Grid Modernization Deferral, as stipulated between the ORS and the Company.

9. ORS has also challenged the sufficiency of the notice given to customers of the proposed rate increase, arguing that the dramatic decrease in Base Facility Charge (“BFC”) rates and the resulting increase in volumetric rates requested after the issuance of the initial notice to customers of the proposed new rates made the initial notice inadequate to afford them the opportunity to determine how they would be affected and whether they should intervene or otherwise oppose the new rates. ORS requested that the Commission require the Company to issue new notices and hold rehearing limited to the issue of the effect of the BFC on volumetric rates, and it stated that a hearing would not be necessary if no customer requested one.

We find that the notice of the Company’s proposed rate increase conforms with the requirements of due process, and we therefore reject ORS’s request that we require the issuance of a new notice and hold a limited rehearing. The South Carolina Supreme Court has held that substantial prejudice must be shown to establish a due process claim. *Tall Tower, Inc. v. S.C. Procurement Panel*, 294 S.C. 225, 233, 363 S.E.2d 683, 687 (1987). The

Court has also made it clear that due process is flexible and calls for such procedural protections as the situation requires. *Kurschner v. City of Camden Planning Dep't*, 376 S.C. 165, 172, 656 S.E.2d 346, 350 (2008). The ORS has not demonstrated such prejudice here. Put most simply, due process in this case does not require that the proposed rates stated in the Company's initial application foreclose adjustment of component elements of its proposed charges in response to customer concerns. In this case, all the stakeholders had adequate notice of the additional revenue the Company was requesting, since the revenue request contained in the initial notice exceeded the actual revenue awarded.

In this docket, eleven parties intervened, including influential advocacy groups like the S.C. State Conference of the National Association for the Advancement of Colored People ("NAACP"), Upstate Forever, the Sierra Club, and the South Carolina Coastal Conservation League. Many of these groups participated in this proceeding in a representative capacity, advocating for customers. These groups brought substantial expertise to the proceeding and offered expert testimony on the issue of the proposed BFC. These experts clearly and unmistakably understood the inverse relationship between the reduction in the BFC they were advocating and an increase in the volumetric component of the Company's proposed rates. It is significant that none of these parties has joined the ORS in its concern about the purported problem with the notice provided in the proceeding. Additionally, hundreds of customers filed letters of protest with the Commission, and hundreds more attended the two public night hearings held in Sumter and Florence. We find that the level of participation in the case by both the intervenors and by individual customers demonstrates that the notice given of the requested rate increase was sufficient to meet the

standards for due process. We therefore affirm the finding of adequacy of notice in Commission Order No. 2019-341 at page 20

Petition of Duke Energy Progress, LLC

The Company's petition seeks rehearing or reconsideration on effectively five matters: coal ash remediation and disposal costs; treatment of deferrals; return on equity; coal ash litigation expenses; and CertainTEED litigation costs.

1. Coal Ash Remediation Costs

The Company asserts that the Commission's decision to disallow portions of the coal ash remediation costs – especially those costs incident to the passage of the North Carolina Coal Ash Management Act ("CAMA") – prejudices the Company's substantial right to recover its expenses of providing service to the public. This issue is fully discussed in Commission Order No. 2019-341 at pages 39-52.

The Commission's decision to disallow recovery of \$333,480,308 in coal ash remediation and disposal costs ("Coal Ash Costs") is supported by the substantial evidence on the whole record and appropriate. The unpermitted discharge by Duke Energy of approximately 27 million gallons of coal ash wastewater and an estimated 39,000 tons of coal ash into the Dan River played a deciding role in the development of CAMA in its present form, not only accelerating the timing of action required, but also limiting the options to remediate and close coal combustion residuals impoundments more than would eventually occur under the Federal Coal Combustion Residuals ("CCR") Rule. (R. p. 1115-15, ll. 13-23). Information exposed in the Duke Energy federal plea deal revealed that on two separate occasions, Duke Energy engineers at the Dan River plant requested an

immaterial amount of budget funding to pay for video equipment to scope the pipe that later failed. (R. p. 1004-34, ll. 11-14). Duke Energy engineers were denied their request. (R. p. 1004-34, ll. 14-15). In response to the Dan River spill, the North Carolina Legislature passed CAMA that required the closure of existing coal ash ponds as well as conversion from wet ash to dry ash handling. (R. p. 1004-34, ll. 17-20).

ORS witness Witliff testified that Duke Energy Carolinas, LLC ("DEC") and DEP were criminally and civilly negligent in their operations and maintenance of the impoundments for years prior to the enactment of CAMA, confirming that DEC and DEP failed to responsibly address and correct these issues adequately -- and consequently in a much less costly -- manner than it is currently being required to do. (R. p. 1115-16, ll. 16-22). DEC's State President for South Carolina, Kodwo Ghartey-Tagoe, acknowledged in his testimony that in 2015, the Company pled guilty to violations of the Clean Water Act and its regulations as part of the criminal investigation following the Dan River spill. (Tr., p. 378). Duke Energy management made specific decisions that resulted in the coal ash spill in North Carolina, that in turn, led to the creation of CAMA. (R. p. 1004-38, ll. 32-33). North Carolina's CAMA is significantly more restrictive and stringent than the federal CCR Rule. (R. p. 1115-21, ll. 21-22).

Additionally, witness Wittliff testified that North Carolina's CAMA rules resulted in additional expenses being incurred at DEP's Asheville and Sutton plants, due to a more accelerated closure schedule than the federal CCR rule would have otherwise required. (R. p. 1115- 23, ll. 4-120). Regarding costs incurred at the DEP plant H.F. Lee, witness Wittliff testified that DEP's beneficiation project at H.F. Lee falls under the "CAMA-only"

category, and the ratepayers of South Carolina should not have to reimburse the Company for expenses related to North Carolina's CAMA-only beneficiation requirement. (R. p. 1115-36, ll. 1-4). According to witness Wittliff, the federal CCR rule does not require beneficiation and as a result, no savings could accrue to customers as a result of beneficiation performed pursuant to North Carolina's CAMA. (R. p. 1212, ll. 5-10). Regarding costs incurred at the DEP plant Sutton, witness Wittliff testified that the federal CCR rule does not require the closure of Sutton and therefore he reasonably concluded that the closure of Sutton was directed by North Carolina's CAMA and the North Carolina court orders mentioned by DEP witness Kerin. (R. p. 1115-37, ll. 16-21).

Regarding costs incurred at the DEP plant Asheville, witness Wittliff testified that the extent of compliance measures undertaken by DEP to comply with North Carolina's CAMA and other North Carolina laws resulted in much greater costs than what the federal CCR rules would have required. (R. p. 1115-40, ll. 7-19). Regarding costs incurred at the DEP plant Weatherspoon, witness Wittliff testified that DEP has represented its Weatherspoon efforts as beneficiation, which is not required under the CCR rule. (R. p. 1115-42, ll. 21-23).

DEP directly assigns certain costs to its North Carolina and South Carolina jurisdictions and often these costs are derived from laws and regulations specific to that jurisdiction. (R. p. 1099-6, ll. 10-16). Additionally, the Company has already excluded certain costs from this proceeding that were incurred due to North Carolina law including: recovery of certain costs that are associated with the provision of drinking water to North Carolina residents, the costs to comply with the North Carolina Clean Smokestacks Act,

North Carolina Renewable Portfolio Standards, and the North Carolina Competitive Energy Solutions for NC (HB.589) laws. (R. p. 1101-9, 11. 1- 5). Finally, the South Carolina General Assembly has not passed legislation that is similar to North Carolina's CAMA. (R. p. 1115-21, 1. 8-9).

"The party challenging a PSC order must establish that (1) the PSC decision is not supported by substantial evidence and (2) the decision is clearly erroneous in light of the substantial evidence in the record." *Kiawah Prop. Owners Grp. v. Pub. Serv. Comm'n of S.C.*, 359 S.C. 105, 109, 597 S.E.2d 105, 109 (2004). "Because the Commission's findings are presumptively correct, the party challenging the Commission's order bears the burden of convincingly proving the decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence of the record as a whole." *S.C. Energy Users Comm. v. S.C. Pub. Serv. Comm'n*, 388 S.C. 486, 491, 697 S.E.2d 587, 590 (2010). Although the burden of proof in showing the reasonableness of a utility's costs that underlie its request to adjust rates ultimately rests with the utility, the South Carolina Supreme Court has concluded that the utility is entitled to a presumption that its expenses are reasonable and were incurred in good faith. *Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 422 S.E.2d 110 (1992) (internal citations omitted). However, that presumption is not dispositive; the burden remains on the utility to demonstrate the reasonableness of its costs, and the presumption in a utility's favor clearly does not foreclose scrutiny and a challenge. *Utils. Servs. of S.C., Inc. v. S.C. Office of Regulatory Staff*, 392 S.C. 96, 109, 708 S.E.2d 755, 762 (2011). "The ultimate burden of showing every reasonable effort to minimize [] costs remain on the utility." *See Hamm*, 309 S.C. at 286, 422 S.E.2d at 113. Additionally,

"[i]n rate cases, [the] Public Service Commission is recognized as the 'expert' designated by the legislature to make policy determinations regarding utility rates." *Hamm v. S.C. Pub. Serv. Comm'n*, 294 S.C. 320, 322, 364 S.E.2d 455, 456 (1988) (citing *Patton v. S.C. Pub. Serv. Comm'n*, 280 S.C. 288, 291, 312 S.E.2d 257, 259 (1984)).

In this instance, other parties presented evidence that overcame the initial presumption of reasonableness to which the Company was entitled and that it failed to make every reasonable effort to minimize costs. Multiple witnesses testified that Duke's actions led to the release of coal ash into the Dan River and the subsequent enactment of CAMA. Parties presented evidence that CAMA was enacted by the North Carolina General Assembly as a direct result of the Company's action and that costs increased as a result of CAMA. Additionally, evidence was presented to the Commission that it would be unreasonable for South Carolina customers to bear these increased costs, which result from a North Carolina law and Duke's discharge of approximately 27 million gallons of coal ash wastewater and an estimated 39,000 tons of coal ash into the Dan River. According to witness Wittliff, ORS has taken the position that North Carolina laws, over which DEP's South Carolina customers have no meaningful input, should not place an additional economic burden on the ratepayers of South Carolina. (R. p. 1115-31, 11. 2-6).

Any presumption to which the Company was entitled is not dispositive. The Company's assertion that the Commission lacked a legal basis for denying its recovery of the Coal Ash Disposal costs is incorrect. The record is replete with evidence which supports the Commission's decision that recovery of the North Carolina Coal Ash Disposal costs from South Carolina ratepayers would be unreasonable. The Commission properly relied upon

substantial evidence on the whole record, which overcame the initial presumption of reasonableness, in determining it would be unreasonable for South Carolina customers to bear these Coal Ash Disposal costs.

The Company alleges that the Commission's Order results in an unconstitutional taking. The Fifth Amendment to the United States Constitution provides that private property shall not be taken for public use without just compensation. However, no such taking occurred here, because the Company had no property right to recovery of coal ash disposal costs. The Commission is empowered by the General Assembly to set rates, and its determination of which expenses are recoverable is a component of its ratemaking authority. Duke has cited no legal authority restricting the discretion of the Commission in determining the recoverability of the coal ash disposal expenses at issue. Because the Commission has this discretion, Duke Energy has no protected property interest in recovery of the expenses. In determining whether a protected property interest exists in the context of utility ratemaking, the focus must be on the degree of discretion given to the decisionmaker, not on the probability of the decision's outcome. *S.C. Elec. & Gas Co. v. Randall*, 333 F.Supp.3d 552, 571 (D.S.C. 2018).

The Company has also asserted that the Commission's Order violates the Commerce Clause of the United States Constitution. This is the first time the Company has raised this argument. In discussing Petitions for Reconsideration or Rehearing filed before it, the South Carolina Supreme Court stated, "[t]he purposes of a petition for rehearing is not to have presented points which lawyers for the losing parties have overlooked or misapprehended, and the purpose of a petition for rehearing is not just to have the case tried in this court a

second time." *Arnold v. Carolina Power & Light Co.*, 168 S.C. 163, 167 S.E. 234, 238 (1933). While *Arnold* relates specifically to a Petition for Rehearing filed at the South Carolina Supreme Court, the guiding principal remains. See *Kiawah Prop. Owners Grp. v. Pub. Serv. Comm'n of S.C.*, 359 S.C. 105, 113, 597 S.E.2d 145, 149 (2004) (holding that an issue the utility "first broached... in its petition for rehearing to the PSC" was "not preserved."); see also *Patterson v. Reid*, 318 S.C. 183, 456 S.E.2d 436 (Ct.App.1995) (a party may not raise an issue in a motion to reconsider, alter or amend a judgment that could have been presented prior to the judgment); *McGee v. Bruce Hosp. Sys.*, 321 S.C. 340, 468 S.E.2d 633 (1996) (a party may not raise an issue for the first time in a motion for a new trial). Additionally, the Commission has previously determined that a party may not raise an issue in a petition for rehearing that could have been presented prior to judgment. The Commission's Order does not engage in economic discrimination or burden the flow of interstate commerce. South Carolina's Commission does not dictate the actions of the Company, the North Carolina Legislature, or other Commissions and has not engaged in economic discrimination or burdened the flow of interstate commerce.

The Company has also asserted that the Commission's Order violates the doctrine of equitable estoppel. There is ample evidence in the record that the North Carolina Coal Ash Costs at issue were unreasonable and should not be forced upon the Company's South Carolina ratepayers and the Commission did not violate the doctrine of equitable estoppel. Generally, "estoppel does not lie against the government to prevent the due exercise of its police power or to thwart the application of public policy." *Quail Hill, LLC v. Cty. of Richland*, 387 S.C. 223, 236, 692 S.E.2d 499, 506 (2010) (quoting *Greenville Cty. v.*

Kenwood Enters. Inc., 353 S.C. 157, 171, 577 S.E.2d 428, 435 (2003)). Estoppel runs against the government only in certain limited situations. In these situations, the party claiming estoppel against the government "must prove: (1) lack of knowledge and of the means of knowledge of the truth as to the facts in question, (2) justifiable reliance upon the government's conduct, and (3) a prejudicial change in position." *Id.* at 236-37, 692 S.E.2d at 506. "In its broadest sense, equitable estoppel is a means of preventing a party from asserting a legal claim or defense that is contrary or inconsistent with his or her prior action or conduct." 28 Am. Jur. 2d Estoppel and Waiver 5 27 (2011). "The essence of equitable estoppel is that the party entitled to invoke the principle was misled to his injury." *S.C. Pub. Serv. Auth. v. Ocean Forest Inc.*, 275 S.C. 552, 554, 273 S.E.2d 773, 774 (1981). "The party asserting estoppel bears the burden of establishing all its elements." *Morgan v. S.C. Budget & Control Bd.*, 377 S.C. 313, 320, 659 S.E.2d 263, 267 (Ct. App. 2008) (quoting *Estes v. Roper Temp. Servs.*, 304 S.C. 120, 122, 403 S.E.2d 157, 158 (Ct. App. 1991)). "Absent even one element, estoppel will not lie against a government entity." *Id.* at 320, 659 S.E.2d at 267.

In this case, the Company cannot show that the Commission's disallowance of the coal ash disposal costs at issue meets any of the above-enumerated elements of estoppel. The Company itself removed certain costs attributable to CAMA and other North Carolina laws. The Company cannot now claim justifiable reliance that this Commission would allow recovery of the coal ash disposal costs. Additionally, the Commission has, in prior cases, removed from recovery costs incurred due to other states' laws that are over and above what South Carolina law requires. The Company also incorrectly claims that the Commission made factual errors. According to the South Carolina Supreme Court, "[t]he Commission

sits as the trier of facts, akin to a jury of experts." *Hamm*, 309 at 287, 422 S.E.2d at 113. While parties may present varying viewpoints, it is the Commission that tries the facts and bases its conclusion thereon. The Company lists errors that it alleges were made by ORS witness Witliff; however, it fails to connect many of these errors to the record or the Commission's analysis contained in the Order. In fact, many of the allegations cannot be substantiated by the record and are being raised for the first time in the Company's Petition for Reconsideration. The Commission is the trier of fact, and it properly weighed all evidence put before it by the parties and made a well-reasoned conclusion.

Finally, the Company alleges that the Commission's Order fails to make findings of fact or conclusions of law. This claim is without merit, as evidenced by the findings of fact and conclusions of law on pages 104-105 of the Order, which are supported by the facts and analysis presented on pages 39-52 of the Order. When making specific, express findings of fact, no particular format is required. See, *Airco Inc. v. Hollington*, 269 S.C. 152, 160, 236 S.E.2d 804, 808 (1977)). While it is true, "a recital of conflicting testimony followed by a general conclusion is patently insufficient to enable a reviewing court to address the issues," that is not what the Commission has done here. *Able Commc'ns Inc. v. S.C. Pub. Serv. Comm'n*, 290 S.C. 409, 411, 351 S.E.2d 151, 152 (1986).

The Commission clearly laid out and considered the evidence presented by the parties and, beginning on page 48 of its Order, detailed its analysis in reaching the conclusion that it would be unreasonable for the Company's South Carolina customers to bear the burden of these North Carolina Coal Ash Expenses. These costs directly stem from Duke Energy's negligence, would impose great costs upon South Carolina customers as a result of a law

they had no voice in, and allowing one jurisdiction's laws to impose these costs on another's ratepayers would be a departure from past Commission rulings and practice. As a result, the Commission's Order is not arbitrary or capricious, contains all required analysis and rests upon the substantial evidence in the whole record.

2. Treatment of Deferrals

The Company asserts that the Commission erred in denying a return during the deferral and/or amortization period for the expenses addressed in the following adjustments: GridSouth, Fukushima/Cyber Security (Adjustment #17), Environmental Costs (Adjustment #18), Advanced Metering Infrastructure (Adjustment #19), Customer Connect (Adjustment #30), and Grid Improvement Costs (Adjustment #35).

While the Commission previously approved the Company's requests for accounting orders to defer the expenses detailed in the Application, the Commission orders provide no guarantee to the Company for cost recovery, including a return on those expenses. ORS witness Payne testified that, per the National Association of Regulatory Utility Commissioners ("NARUC") Rate Case and Audit Manual, a company may recover prudently incurred operating expenses, without a weighted average cost of capital ("WACC") or rate base treatment.

The ORS position, which was adopted by this Commission, is that deferrals related to O&M expenses are not to earn a return, while those deferrals related to capital costs are to earn a return. Treatment of deferrals is ultimately a matter of the Commission's discretion. The Commission has a duty to balance the needs of the public and the utility such that the public is served without the utility being disserved. This approach represents exactly such a

balance, and we decline to rehear or reconsider our ruling on the deferral treatments. This issue is more fully discussed in Commission Order No. 2019-341 at pages 95-98.

3. Return on Equity

DEP also seeks reconsideration of the Commission's ruling adopting 9.5 percent as the appropriate Return on Equity ("ROE"). The Company complains that this Commission accepted Company witness Hevert's ROE testimony as reliable in the SCE&G Consolidated Cases¹, and that having done so, it cannot now find his testimony to be unreliable here. We reject this argument.

The standards governing the Commission's determination of the appropriate ROE are not in dispute. South Carolina law requires that the Commission's determination of a fair rate of return must be documented fully in its findings of fact and based exclusively on reliable, probative, and substantial evidence on the whole record. Moreover, a utility's ROE should be commensurate with returns on investments in other enterprises having corresponding risks, and must be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.

DEP is not asking this Commission to base its decision on evidence produced in the record of this case, but to base its decision on evidence that was produced in an entirely different docket and related to an entirely different utility, largely based upon the fact that

¹ Specifically, Docket No. 2018-370-E, the SCE&G proceeding incident to the abandonment of the nuclear projects V.C. Summer Units 2 and 3, and the merger with Dominion Energy.

the two utilities presented the same expert witness, who proposed the same ROE for both, in spite of the dissimilarity of the two companies. This request is contrary to South Carolina law. DEP presented no evidence in this case to suggest that DEP and SCE&G were comparable in terms of risk such that they should be awarded the same ROE, nor could it. Indeed, DEP's own evidence suggested that its corporate parent had strong credit ratings and was financially sound, which contrasts markedly with the evidence produced in the SCE&G Consolidated Cases showing that SCE&G was at risk of bankruptcy. Moreover, the ultimate ROE awarded in the SCE&G Consolidated Cases was the result of a settlement, while this case was fully litigated. Because SCE&G and DEP did not have corresponding risks, it is logical that they would be awarded different ROEs.

Three (3) parties' witnesses pre-filed testimony that specifically addressed the issue of ROE. Robert Hevert testified on behalf of DEP, David Parcell for ORS, and Steven Chriss on behalf of Walmart. Mr. Hevert recommended a ROE for DEP of 10.75% within a range of 10.25% to 11.25%. In the Company's Application, DEP requested that the Commission approve a ROE of 10.5%. *See, Application of Duke Energy Progress, LLC*, Para. 24 (Nov. 8, 2018). This recommended range is clearly extraordinarily high and exceeds the afore-cited averages by approximately 100 basis points. The differential between the averages and Mr. Hevert's recommended ROE clearly supports the Commission giving greater weight to the testimonies of witnesses Parcell and Chriss.

Witness Parcell testified that DEP's ratings were generally higher than most electric utilities in the United States and that its ratings are indicative of relatively lower risk. (R. p, 801-18, ll. 6-10). DEP witness Sullivan testified that rating agencies believe that DEP

operates in a constructive regulatory environment that supports long-term credit quality and view the Company's position within the Duke Energy corporate family as credit supportive. (Direct, p. 10, ll. 6-9). DEP's witness Hevert acknowledged in testimony that he has seen no instances where a company has sought an increase in its ROE as DEP here and was granted its request in the last three to five years. (R. p. 812, ll. 19-25, p. 813, ll. 1-2). In support of its reliance on his recommendation, the Commission provided in its Order that ORS witness Parcell has provided testimony as a ROE and Cost of Capital expert witness on several occasions before this Commission since the early 1980s (R. p. 801-2, ll. 4-6) and has testified in over 570 utility proceedings in approximately 50 regulatory agencies across the United States and Canada. (R. p. 801-1, ll. 21-22, p. 801-2, l. 1). The record thus establishes that Mr. Parcell has extensive experience in calculating ROE and Cost of Capital recommendations and that the Commission was justified in placing its reliance on his expert opinion in determining an appropriate ROE. The Commission additionally fully detailed in the Order the methodologies and procedures used by Mr. Parcell in reaching his recommendation.

The substantial evidence in the record supports the Commission's decision relying on Mr. Parcell. The Order recounts that the Direct and Surrebuttal Testimonies of Mr. Parcell employed three (3) recognized methodologies to estimate DEP's Cost of Equity: the DCF, CAPM, and Comparable Earnings (CE) models. He applied each of these methodologies to two (2) proxy groups -- his own and the one developed by DEP witness Hevert -- to establish a range of 9.1% to 9.5%, with a 9.3% mid-point. (R. p. 801-3, ll. 14-16; p. 801-4, ll. 3-5). Mr. Parcell established this range based on the results of his DCF (range of 9.0% to 9.2%

with a 9.1% midpoint) and CE (range of 9.0% to 10.0% with a 9.5% midpoint) models. (R. p. 801-4, 1. 1). As a result of these analyses, Mr. Parcell recommended a Cost of Capital in the range of 6.73 to 6.94 %, with a midpoint of 6.84 %. (R. p. 801-4, 11. 8-9). In reaching his recommendation of a 9.3% ROE, Mr. Parcell in large part relied on the DCF model, which is an analysis of current market conditions. The DCF model relies on current stock prices in the marketplace and has traditionally been regarded by this Commission as the best indicator of the return investors require in the marketplace for investment-grade regulated utility companies. Mr. Parcell relied on the results of both his DCF and CE analyses to determine his ROE recommendation and did not include the results of his CAPM analysis, as he found that the resulting range (i.e., 6.3% to 6.6%) was too low to be practical (R. p. 801-45, 11. 18-21). Mr. Parcell thus further established the reasonableness of his recommended ROE. By excluding his CAPM analysis, Mr. Parcell evidenced an effort to produce a fair and reasonable recommendation to the Commission. Conversely, DEP witness Hevert recommended that both of his DCF analyses be given little weight by the Commission, apparently in large part due to them yielding results which he believed to be too low, and thus disadvantageous to the Company (R. p. 948-8, 11. 1-3).

The Commission also relied on Mr. Parcell's testimony which demonstrated that Mr. Hevert's analyses showed a consistent pattern of choosing data and methodologies that result in the highest possible Cost of Equity conclusions. As the Commission correctly pointed out in questioning the testimony of Mr. Hevert, the data used by Mr. Hevert was filtered to produce an inflated ROE recommendation to the benefit of the Company. The Commission additionally accepted Mr. Parcell's assertion that Mr. Hevert's use of several "factors" to

create an impression of more risk for DEP are already considered by the rating agencies and essentially resulted in Mr. Hevert "double-counting" risk in order to artificially inflate his ROE recommendation (R. p. 801-57, 11. 1-21, p. 801-58, 11. 1-2). The Commission thus provided significant justification for its refusal to accept Mr. Hevert's recommendation in this case.

Mr. Parcell's ROE recommendation was further supported by his testimony evidencing ROEs authorized by other regulatory bodies across the country. The Commission relied on evidence presented by Mr. Parcell that, from 2017 to 2018, ROEs allowed by regulatory jurisdictions across the United States for all electric utilities averaged 9.59% with a median ROE of 9.58% (Exhibit DCP-2, Schedule 3). This national average is only 9 basis points higher than that awarded by the Commission, but it is 116 basis points lower than Mr. Hevert's recommended 10.75% ROE.

Testimony and evidence submitted to the Commission in this proceeding, primarily through Mr. Chriss and Mr. Parcell, confirms a decline in ROEs across the country in recent years, supports the strength of market conditions, and indicates an anticipated upward trend in interest rates in the near term. These factors, along with the financial stability of DEP, strongly support the slight reduction in the national average ROE awarded by the Commission in this case. The Commission has substantial support in the record to support its discounting Mr. Hevert's ROE recommendation as biased in the Company's favor. Both Mr. Parcell's factual testimony regarding a 9.58% national average and the Commission's legitimate rejection of Mr. Hevert's biased recommendation establish that there was

substantial evidence in the record to support the Commission's assignment of a 9.5% ROE.

Accordingly, we reject DEP's request for reconsideration of our ruling on this issue.

4. Coal Ash Litigation Expenses

The Company argues that it is entitled to a presumption of reasonableness of its expenditures, including litigation expenses. As a first step in the analysis and determination of cost recovery, the Company would be correct – however, that is not the end of the analysis.

Utility is correct that it was entitled to a presumption that its expenditures were reasonable and incurred in good faith, and therefore, a showing that its expenses had increased since its last rate case could satisfy its burden of proof. Nevertheless, the presumption in a utility's favor clearly does not foreclose scrutiny and a challenge. In those circumstances, the burden remains on the utility to demonstrate the reasonableness of its costs.

Utils. Servs. of S.C., 392 S.C. at 109-10, 708 S.E.2d at 762-63 (citing *Hamm v. S.C. Pub. Serv. Comm'n*, 309 S.C. 282, 286-287, 422 S.E.2d 110, 112-113 (1992)).

Here, based on the substantial evidence on the whole record, the Commission properly excluded from recovery the expenses incurred in the coal ash litigation. This Commission cannot presume that the expenses a utility seeks to recover in its rates and charges are legitimate if they cannot be subjected to the scrutiny of an audit or examination. Every rate received by an electric utility must be just and reasonable. S.C. Code Ann. §58-27-810 (2015). Here, the Commission concluded that it would be unreasonable to pass these coal ash litigation expenses on to the Company's customers absent more detailed information by way of which the Commission could determine with more certainty whether recovery of these expenses from the ratepayers would be just and reasonable. Accordingly, the Commission correctly found that the Company had failed to carry its burden.

5. CertainTEED Costs Incident to Litigation

The Company argues that it is entitled to recovery of an On-Going Payment Obligation incident to litigation from the CertainTEED litigation. The CertainTEED litigation came about due to a contract dispute resulting from an contractually mandated provision of gypsum products to CertainTEED that had become uneconomic. In 2012, DEP's predecessor, Progress Energy, had agreed to sell and deliver to CertainTEED and CertainTEED agreed to purchase from Progress Energy at least 50,000 tons of Gypsum Filter Cake per month through 2029. The gypsum is a by-product of the Company's coal-fired generation in that it is produced by environmental control equipment (scrubbers) at some of the Company's coal-fired power plants. The Company had two choices with what to do with the gypsum by-product: dispose of it at a cost to customers (such as placing it in a landfill) or sell it to companies like CertainTEED, who can use the gypsum for products that they produce and then give customers the proceeds that the Company receives for those sales. The byproducts would be sold, creating an additional revenue stream for the Company and reducing the handling and disposal of waste product in landfills. These types of contracts were standard when coal was being burned in large quantities to generate power. However, as time passed, the CertainTEED contract, due to the reduction in coal being burned for power, became very expensive to comply with, and DEP attempted to reduce its minimum monthly quantity of gypsum pursuant to the contract. (Hrg. Ex. 68, p. 25). CertainTEED subsequently pursued legal action against DEP due to DEP's failure to comply with the Agreement to provide a minimum amount of gypsum. The Company subsequently settled the amount in dispute for specified damages, rather than continue performance under the

contract for a much greater financial detriment to the Company – and ultimately – the ratepayers. (R. pp. 915-17). The net benefit under the CertainTEED contract to consumers was approximately \$50 Million, derived by calculating: 1) approximately \$12 million in customer costs avoided for stockpile management, 2) \$116 million in landfill cost avoidance savings to customers, 3) \$17 million in direct revenue benefit to customers, and 4) a net subtraction of approximately \$92 million from liquidated damages under the contract and associated legal fees. (R. pp. 921-25). The resulting more than \$50 million in savings to customers demonstrates to us that the decision to enter into litigation and settlement with CertainTEED was strategic, reasonable, and prudent. Therefore, the costs incident to the CertainTEED litigation, an adjustment of approximately \$830,000, are recoverable.

Conclusion

IT IS THEREFORE ORDERED:

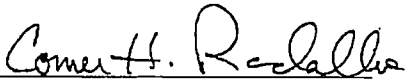
1. The Commission declines to rehear or reconsider the two issues raised in the SCEUC Petition.
2. Clarification is provided for eight (8) matters raised by the Office of Regulatory Staff.
3. Satisfactory notice was issued to satisfy due process concerns regarding the proceeding in this docket.
4. Reconsideration or rehearing is denied in regard to coal ash remediation and disposal costs; treatment of deferrals; return on equity; and coal ash litigation expenses.

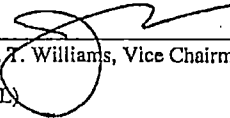
5. After reconsideration of the facts and circumstances, the Commission finds that the costs incident to the CertainTEED litigation were reasonable and prudently incurred, and therefore subject to recovery.

6. To the extent that this order and Order No. 2019-341 are in conflict, this order is the controlling ruling.

7. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:


Comer H. Randall, Chairman


Justin T. Williams, Vice Chairman
(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

DOCKET NO. 2018-318-E

In the Matter of:

Application of Duke Energy Progress,
LLC for Adjustments in Electric Rate
Schedules and Tariffs

)
)
)
)
)
)
)

APPLICATION OF DUKE ENERGY
PROGRESS, LLC FOR
ADJUSTMENTS IN ELECTRIC
RATE SCHEDULES AND TARIFFS
AND REQUEST FOR AN
ACCOUNTING ORDER

Pursuant to S.C. Code Ann. Sections 58-27-820 and 58-27-870, and 26.S.C. Code Ann. Regs. 103-303 and 103-823, Duke Energy Progress, LLC ("DE Progress" or "Company") hereby notifies the Public Service Commission of South Carolina ("Commission") of proposed changes in its rates, charges, and tariffs filed for electric service and respectfully requests that the proposed rates, charges, and tariffs filed with this Application be approved by the Commission and determined to be effective on June 1, 2019. In support of this Application, DE Progress would respectfully show unto the Commission the following:

1. The Commission and the South Carolina Office of Regulatory Staff ("ORS") were notified on October 8, 2018, as was the South Carolina Department of Consumer Affairs, of the Company's intent to file this application pursuant to the provisions of S.C. Code Ann. Section 58-27-860.

2. The correct name and post office address of DE Progress is:

Duke Energy Progress, LLC
410 South Wilmington Street
Raleigh, North Carolina 27601-1849

3. Legal counsel for Duke Energy Progress in this proceeding are as follows:

Heather Shirley Smith, Deputy General Counsel
Duke Energy Progress, LLC
40 W. Broad St., Suite 690
Greenville, SC 29601
Tel (HSS): 864.370.5045
heather.smith@duke-energy.com

and

Frank R. Ellerbe, III
 ROBINSON GRAY STEPP & LAFFITTE, P.C.
 Post Office Box 11449
 Columbia, South Carolina 29211
 Telephone: 803.227.1112
 E-mail: fellerbe@robinsongray.com

4. Copies of all pleadings, testimony, orders and correspondence in this proceeding should be served upon the attorneys listed above.

5. DE Progress is (1) a limited liability company duly organized and existing under the laws of the State of North Carolina; (2) duly authorized by its Articles of Organization to engage in the business of generating, transmitting, distributing, and selling electric power and energy; (3) a public utility under the laws of the State of South Carolina, and in its operations in this State is subject to the Commission's jurisdiction over Duke Energy Progress' rates, charges, tariffs, and terms and conditions of service as generally provided in S.C. Code Ann. Sections 58-27-10 *et seq.*; (4) a public utility under the laws of the State of North Carolina, and its operations in that state are subject to the jurisdiction of the North Carolina Utilities Commission; and (5) a public utility under the Federal Power Act, and certain of its operations are subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC"). DE Progress' service territory covers approximately 32,000 square miles, including an area in the northeastern portion of South Carolina, a substantial portion of the coastal plain of North Carolina extending from the Piedmont to the Atlantic coast between the Pamlico River and the South Carolina border, the lower Piedmont section of North Carolina, and area in western North Carolina in and around the city of Asheville. The Company supplies retail electric service to approximately 1.5 million retail customers in its service area. Approximately 170,000 of those retail customers are in South Carolina. During the twelve month period ending December 31, 2017 (the "Test

Period”), DE Progress’ electric revenues amounted to approximately \$5.1 billion, of which approximately 11 percent was derived from South Carolina retail jurisdictional customers.

6. The current rates now in effect, excluding riders and changes in the fuel cost component, were approved in Commission Order No. 2016-871, *Order Approving Increase in Rates and Charges and Settlement Agreement*, in Docket No. 2016-227-E (the “2016 Rate Case”). The appropriate Test Period for purposes of this Application is the twelve-month period ending December 31, 2017.

BRIEF SUMMARY OF APPLICATION AND COMPANY’S REQUEST

7. Recent work to modernize the electric system, generate cleaner power, responsibly manage and close coal ash basins, and continually improve service to customers have made it necessary for DE Progress to request a net increase in its retail revenues of approximately \$59 million¹, which represents an approximate overall 10.3 percent increase in annual revenues, to be updated to account for known and measurable expenses for grid investments of approximately \$5.1 million in 2020 and \$ 5.8 million in 2021. This request also includes \$10 million in net tax benefit resulting from the Federal Tax Cuts and Jobs Act (“TCJA”).

8. As proposed, a typical residential customer using 1,000 kWh will see an increase of approximately \$17.91 per month beginning with the rate effective date in this case, requested to be June 1, 2019, and then increased by an additional \$1.60 per month beginning June 1, 2020 and an additional \$1.81 per month beginning June 1, 2021, to

¹ The net annual revenue increase includes the impact of the return of deferred income taxes through the EDIT Rider of approximately \$10 million, as discussed below.

incorporate costs for grid investments in the Grid Improvement Plan described below.²

9. DE Progress also proposes modification of certain rate schedules to reflect more accurately its cost of service. The Company proposes an increase in the fixed monthly customer charges to recover the basic fixed cost of providing electric service that is not dependent upon customer usage. DE Progress has proposed, supported by costs to serve and consistent with the basic charges in place for many utilities in South Carolina, an increase in the Residential Basic Facilities Charge from \$9.06 to \$29.00 per month effective June 1, 2019. This means that customers would be paying approximately \$0.95 cents per day for facilities in place to serve them, regardless of how much electricity is used. The increase in the Residential Basic Facilities Charge is not additive to the rate increase requested in this case. Rather, this is a change in the manner in which the Company collects its costs. The Company proposes to collect fixed costs through the fixed monthly charge based on the cost to serve instead of the variable, volumetric energy rate. The Company's requested fixed monthly charge is comparable to the fixed monthly charge established by many other electricity providers in the State. More details on the proposed increase in the fixed monthly basic facilities charge may be found in the testimony of Witnesses Hager and Wheeler's testimony being filed today along with this Application.

10. The Company's request is driven by capital investments and environmental compliance progress made by the Company since the 2016 Rate Case, including the further implementation of DE Progress' generation modernization program, which consists of retiring, replacing and upgrading generation plants; investments in customer service

² The calculation of the bill impacts incorporate the most recently approved fuel cost factors in effect through June 2019 previously approved in Docket No. 2018-1-E.

technologies; and the Company's continued investments in base work to maintain the Company's transmission and distribution ("T&D") systems. The Company's investments also include costs associated with the ongoing deployment of the Company's new billing and Customer Information System ("CIS") (known as "Customer Connect"); the ongoing deployment of AMI infrastructure, including smart meters; nuclear development; environmental compliance with new regulations, particularly costs relating to the management and storage of coal combustion residuals, including fly ash, bottom ash, and flue gas desulfurization byproducts; and other costs incurred by DE Progress in providing safe, reliable and high quality power to South Carolina customers.

11. The Company also proposes, in this Application, its Grid Improvement Plan for approval by the Commission. The Grid Improvement Plan, attached to Witness Oliver's testimony as Exhibit 9 and incorporated herein by reference, is a long-term initiative, and the Company has provided a three-year plan built upon strategic, data-driven investments to improve reliability to avoid outages and speed restoration; harden the grid to protect against cyber and physical threats; expand solar and other innovative technologies across a two-way, smart-thinking grid; and give customers more options and control over their energy use and tools to save money. As explained by Witness Oliver, these investments will provide benefits now and in the years to come. More details about the Grid Improvement Plan are contained later in this Application.

12. The Company is also seeking approval of a Prepaid Advantage Pilot to allow for DE Progress customers to avail themselves of a prepayment plan that can eliminate the need for deposits. Further, as discussed later in this Application, DE Progress is also requesting that credit card fees be included in rates for residential customers, thereby

removing the credit/debit card fee for eligible residential customers enrolling in Prepaid Advantage.

13. Additionally, the Company is seeking a variety of accounting orders in this Application related to ongoing costs for environmental compliance, advanced metering infrastructure ("AMI") deployment, grid investments between rate changes, and regulatory asset treatment related to the retirement of a generating plant located in Asheville, North Carolina. Finally, the Company seeks approval to establish a reserve and accrual for end of life nuclear costs for materials and supplies and nuclear fuel.

DETAILED INFORMATION ABOUT THE COMPANY'S REQUEST

14. Major investments in generating plant additions and plant-related expenses, investments in the grid and metering systems, changes in depreciation rates as well as a new billing system, account for a significant portion of this case. Additionally, since its last rate case, DE Progress has invested heavily in state-of-the-art technology and environmental equipment to reduce emissions. Accordingly, the Company seeks an increase in revenues of approximately \$38 million for capital additions incurred since its last rate case through December 31, 2018. Some of the major additions are described below.

15. The Company's request includes the recovery of deferred compliance costs associated with state and federal environmental compliance requirements related to Coal Combustion Residuals ("CCR"). In particular, DE Progress seeks to recover costs incurred and deferred since July 1, 2016 through December 31, 2018 to comply with federal and state requirements related to CCRs.³ To mitigate rate impacts to customers, the Company request

³ Docket No. 2016-196-E, Order No. 2016-490 (July 13, 2016).

to recover these previously incurred expenses over a five year period.⁴ This case also includes the amortization of regulatory assets over time related to smart meters;⁵ investments necessary to implement Customer Connect;⁶ ongoing grid investments;⁷ rate changes from the most recent depreciation study;⁸ nuclear development costs for the nuclear development work completed for the Harris nuclear site;⁹ compliance with NRC requirements in response to cybersecurity requirements and events at the Fukushima Daiichi Nuclear Power Station in Japan;¹⁰ and the deferred costs associated with the exploration, along with other utilities in the state, of a Regional Transmission Organization.¹¹ Witness Bateman provides detail regarding these deferral balances and the requested amortization. As mentioned previously, the costs described herein are partially offset by the return of deferred federal tax liability to customers.

⁴ This case excludes any fines or penalties incurred by DE Progress related to ash basin closure or management.

⁵ In Docket 2018-205-E, the Company petitioned for approval to defer into a regulatory asset account the return and depreciation on the capital costs at its weighted average cost of capital. The Commission approved the Company's petition on August 9, 2018 in Order No. 2018-553 (2018). The Company is seeking recovery of the deferred costs over a three-year period.

⁶ In Docket 2018-205-E, the Company petitioned for approval to defer into a regulatory asset account the incremental O&M expense associated with the deployment of the Customer Connect program. The Commission approved the Company's petition on August 9, 2018 in Order No. 2018-553 (2018). The Company is seeking recovery of the deferred costs over a three-year period including a net of tax return on the unamortized balance of the regulatory asset.

⁷ In Docket 2018-206-E, the Company petitioned for approval to defer into a regulatory asset account costs incurred in connection with grid reliability, resiliency and modernization work in a regulatory asset account until the time the costs are reflected in the new rates from this proceeding. The Commission approved the Company's petition on October 3, 2018. The Company is seeking recovery of the deferred costs over a two-year period including a net of tax return on the unamortized balance of the regulatory asset.

⁸ In Docket 2018-205-E, the Company petitioned for approval to defer into a regulatory asset account the incremental depreciation expense resulting from the new depreciation rates. The Commission approved the Company's petition on August 9, 2018 in 2018-553 (2018). The Company is seeking recovery of the deferred costs over a three-year period.

⁹ Docket No. 2013-472-E, Order No. 2016-36 (January 20, 2016).

¹⁰ *Id.*

¹¹ Docket 2001-139-E.

16. The Company's request is necessary to pay for investments that build a cleaner, more reliable and smarter energy future in South Carolina. Since its last rate case, DE Progress has invested approximately \$201 million in reducing the Company's environmental footprint by adding state-of-the-art technology and environmental equipment to reduce emissions. The Company recently added two new combustion turbines ("CTs") for the Sutton Combined Cycle generation facility at the Sutton Energy Complex in July 2017, which provides an additional 78 MWs of capacity to the Company's fleet. The Company's investment in this project totaled \$101 million. The new Sutton CTs feature state-of-the-art technology for increased efficiency and reduced emissions, blackstart and fast start capabilities, and provide offsite power to Brunswick Nuclear Station. DE Progress also made capital additions at Roxboro Station to convert to a dry bottom ash system to comply with the Coal Combustion Residual Rule ("CCR"), totaling approximately \$100 million. More detail on these costs may be found in the testimony, including that of Witness Joseph A. Miller, being filed today along with this Application.

17. To bring more value to customers, including giving customers more choice, convenience and control over how they use electricity and how they can save more money, the Company is seeking recovery of both its deferred costs¹² and approximately \$1 million annually for operating and maintenance costs associated with implementing Customer Connect, which will replace the Company's current CIS system. At 30 years old, the Company's current CIS system is no longer supported or upgradeable, and is unable to continue to be fully integrated into Duke's other systems. The new system will also be

¹² See *supra* n. 6.

complementary to future technology, and includes the ability to interface with new smart meters to enable customers to more easily start and stop service, ask questions about their bills, view their usage, and allow the Company to identify the optimal rate plan for each customer when asked.

18. To bring customers additional choices and insight on their usage, the Company has begun a full roll-out of AMI technology in its service territory in South Carolina. AMI is the foundational investment that will enable enhanced customer solutions – giving customers greater control, convenience and choice over their energy usage, while also giving customers the opportunity to budget, save time and save money. AMI technology allows a utility to gather more granular usage data and utilize new capabilities to offer programs, products and services to customers that are not achievable through existing meters, which are drive-by meters. The data, when combined with the new Customer Connect CIS when deployed and referenced in Witness Hunsicker's testimony, will lead to expanded options and flexibility in supporting enhanced customer services and programs. The AMI technology will pave the way for programs that will allow customers to stay better informed during outages, control their due dates, avoid deposits, to be reconnected faster, and to better understand and take control of their energy usage, and ultimately, their bills.

19. Over time, the Company also expects AMI meters to contribute to cost reductions from reduced truck rolls in the years after deployments. DE Progress has approximately 38,000 smart meters currently installed, and the next phases of deployment will replace the Company's remaining approximately 128,000 older technology meters with smart meters. These meters for South Carolinians are being

manufactured by South Carolinians by Itron Inc. in Oconee County, South Carolina. This application includes recovery of the deferred balance over a three-year period resulting in an annual revenue requirement of less than \$1 million. The Company also seeks an accounting order below for costs for the remaining deployment of AMI occurring after this case.

20. The Company's request also contains compliance costs incurred since July 1, 2016¹³ through December 31, 2018 associated with state and federal environmental compliance requirements related to Coal Combustion Residuals ("CCR"). The Company is requesting recovery of its deferred costs through an amortization expense of \$10 million over 5 years plus a return on the deferred balance of \$3 million for a total annual revenue requirement of \$13 million. Like other utilities around the country similarly affected by such regulation, DE Progress has begun the process of closing, or submitting plans to close, ash basins in accordance with these regulations and requirements. Additionally, the Company is adding dry ash and Flue Gas Desulfurization ("FGD") blowdown handling systems to coal-fired plants that are not already so equipped. DE Progress is also modifying its entire active and decommissioned coal-fired plants to divert storm water and low volume waste water away from the basins. The nature of these costs is described in more detail in Witness Kerin's testimony.

21. Additionally, the Company expects to continue to invest significant amounts related to CCR environmental compliance after the December 2018 cut-off in this case.

¹³ In the 2016 Rate Case, the Commission approved the continuation of the ongoing deferral treatment of ash basin closure costs continue to defer ongoing coal ash basin closure costs incurred since the Company's last rate case, offset by the ongoing cost of removal amounts in a regulatory asset account, until the Company's next rate case. Order No. 2016-871 at 37 (December 21, 2016).

Accordingly, instead of requesting recovery of an ongoing level of these costs in this case, the Company is requesting the Commission approve a continuation of the deferral of CCR compliance-related costs, similar to what it approved in the 2016 Rate Case, for costs not included in this case. Specifically, the Company is requesting approval to defer coal CCR compliance spend related to ash basin closure beginning January 1, 2019, the depreciation and return on CCR compliance investments related to continued plant operations placed in service on or after January 1, 2019, and a return on both deferred balances at the overall rate of return approved in this case. No fines or penalties associated with coal ash basin closure are being sought for recovery in this case. The Company also requests an accounting order related to these costs below.

22. This rate increase is further necessary to enable DE Progress to maintain its current financial position in light of those significant capital expenditures undertaken to meet its customers' needs. In addition to modernizing its generating fleet and closing ash basins, the Company is committed to making South Carolina's air and water cleaner by making its grid smarter to allow distributed and small source renewables like rooftop solar. The investments described by the Company to modernize its generation portfolio and electric infrastructure, to comply with certain environmental requirements associated with ash basin closure, and to invest in modernizing the Company's CIS systems are not currently reflected in DE Progress' rates. As such, the Company's current rates are not providing sufficient revenues for the Company to meet its day-to-day operating expenses and also provide its investors with reasonable returns on their investments of needed capital.

23. The Company needs to be financially sound to continue providing the service customers expect, including making substantial capital investments to replace aging

and retired infrastructure, to comply with environmental requirements and to invest in new, more efficient technologies (e.g., digital automated technologies on the grid). The Company is deploying smart meter technology as well as investing billions in grid infrastructure over the next decade in South Carolina, improving the performance and capacity of the grid, making it smarter and more resilient and give customers greater convenience, control and choice over their electricity usage. Accordingly, the Company needs to remain financially strong to make such investments and to continue providing reliable electricity at reasonable rates. Therefore, it is imperative that the Company be attractive to the financial community to access the capital it needs on reasonable terms for the benefit of customers, as explained in detail in the Company's pre-filed direct testimony.

24. The opportunity for the Company's investors to earn a fair and reasonable return on equity will help ensure access to capital markets on reasonable terms. In his pre-filed direct testimony in this case, the Company's cost of capital expert Witness Hevert recommends that DE Progress be authorized to provide investors a 10.75 percent return on equity ("ROE") based upon a proposed capital structure containing 53 percent equity and 47 percent debt. The Company fully supports witness Hevert's testimony and analysis. However, as described in the testimony of Witness Sullivan, as a rate mitigation measure, and in recognition that a rate increase may create hardship for some customers, the Company has proposing setting rates at a 10.50 percent ROE.

25. DE Progress' most important objective is to continue providing safe, reliable, affordable and increasingly clean electricity to customers with high quality customer service, both today and in the future. The Company's systems and programs are complex and are subject to: (a) the continuously evolving needs of its increasingly diverse

customer base; (b) ever-increasing federal, state and local laws, regulations and ordinances; (c) the physical demands placed on its systems through extended historic use and natural causes; and (d) the need to invest in this critical infrastructure to power the lives of customers and the vitality of the communities served by DE Progress. This proposed rate adjustment is made to support investments that benefit the Company's customers. DE Progress strives to ensure that those investments are made in a cost-effective manner that retains the level of service and competitive rates for customers. The Company relies on a variety of fuel sources to generate power and has prudently managed its operating costs. This fuel diversity allows DE Progress to choose how to generate electricity – day by day, hour by hour – based on the cost of the fuel needed to run its different plants. DE Progress has managed its costs through continuous improvement to its operations (thereby benefitting customers through efficiency-derived controlled costs) as well as through significant cost containment policies and activities described in the Company's pre-filed direct testimony in this case.

26. The Company has committed considerable resources, as explained in the testimony of witnesses in this case, to mitigate the customer impacts of the costs requested for recovery in this case. The Company has donated millions of dollars to assist low-income customers with their electric bills, facilitated customer access and awareness of agencies and programs that can help them pay their bills or manage their ability to maintain electric service and implemented programs to give customers a variety of payment options. The Energy Neighbor Fund is a good example of an assistance program for DE Progress customers in need, helping low-income individuals and families cover home energy bills. Over the life of the Energy Neighbor Fund program, it has provided

approximately \$3.2 million to DE Progress' South Carolina customers. Most importantly, DE Progress has saved customers' money by operating efficiently and managing costs and its excellent operational performance translates into lower fuel bills and reliable service. The Company also offers optional bill management programs designed to assist eligible customers in either managing fluctuations in their monthly bill or who are having difficulty paying their entire bill by the due date.

27. The Company also remains committed to energy efficiency ("EE") and demand side management ("DSM") programs, as well as innovative rate designs to allow customers to better manage their electric usage, and as a result, their bills. Through EE, DE Progress saves its customers in the Carolinas over 1.7 billion kWh annually, or over \$170 million, which is about four percent of total retail kWh sales. Combined, its EE and DSM programs offset capacity requirement by the equivalent of over four power plants.

28. DE Progress' requested rate increase is necessary and justified. The Company strives every day to contain costs and continually apply downward pressure to operation and maintenance expenses so that rate increase requests are no more frequent than they need to be. This request reflects investments the Company has made—and is still making—to comply with existing state and federal environmental and other regulatory requirements and to upgrade and modernize its generation and power delivery systems. The Company is also committed to maintaining its operational focus through the proposals included in this case.

FEDERAL TAX REDUCTION BENEFITS INCLUDED IN THIS REQUEST

29. The Company's requested increase includes a proposal to flow back to customers excess deferred income taxes ("EDIT") and deferred revenue resulting from the

impact of the federal tax reform legislation, the TCJA, on utility operations. On December 28, 2017, the Office of Regulatory Staff ("ORS") filed a petition in Docket No. 2017-381-A requesting that the Commission order all investor-owned utility companies to report the impact of the TCJA on each company's operations. At its April 25, 2018 meeting, the Commission decided that the effects of the Act should be addressed in each utility's next rate case and directed each utility to defer as a regulatory liability (1) all excess accumulated deferred income tax balances created in 2017 by the TCJA, and (2) the estimated difference between customer revenues actually billed and what would have been billed taking into effect the reduced corporate tax rate beginning January 1, 2018. See Order No.2018-308 (April 25, 2018).¹⁴

30. As Witness Panizza explains in his pre-filed testimony being filed today along with this Application, the TCJA provides the most extensive changes to the internal revenue code in over thirty years and provides the Commission and utilities opportunity to help reduce and smooth out customer rates over the short-and longer-term. However, these benefits to customers should also be balanced with ensuring the Company is able to maintain the same financial strength it had prior to the Act's passage, a financial strength that has helped the Company to keep customers' rates well below the national average. The Company believes its proposal provides appropriate near- and longer-term solutions that will lower customers' bills immediately and help offset future rate increases.

31. One change Witness Panizza discusses from the TCJA is the reduction in the corporate income tax rate from 35 percent to 21 percent. As described in the pre-filed

¹⁴ Previously, in joint comments submitted by DE Carolinas and DE Progress on January 24, 2018 and April 12, 2018, the companies already committed to establishing deferral accounting for the balances subsequently identified by the Commission.

testimony of Witness Bateman, the Company has incorporated into the base rate revenue requirements in this case the reduction in the tax rate. For the remaining benefits of the TCJA, the Company is proposing to create an EDIT rider to flow back to customers, outside of base rates, the following five categories of benefits to customers: (1) Federal EDIT – Protected; (2) Federal EDIT – Unprotected, Property Plant and Equipment (“PP&E”) related; (3) Federal EDIT – Unprotected, non PP&E related; (4) Deferred Revenue; and (5) North Carolina EDIT. The Company proposes to reduce the balances the Company has accrued in these categories by \$13 million to offset the balance accrued for Distributed Energy Program (“DERP”) costs that have yet to be recovered and were most recently the subject of Docket No. 2018-1-E. More information on the TCJA deferral amounts, less the DERP balances, may be found in the testimony of Witnesses Bateman and Ward being filed today.

**REQUEST FOR APPROVAL OF CUSTOMER OFFERINGS FOR PREPAID
ADVANTAGE AND “NO-FEE” CREDIT CARD PAYMENTS**

32. The current deployment of AMI technology in DE Progress’ service territory enables the Company to offer new programs that rely on AMI to customers. Accordingly, in accordance with S.C. Code Ann. § 58-27-250(c), the Company seeks approval to launch a Prepaid Advantage Program Pilot (“Prepaid Advantage” or the “Pilot”) for DE Progress in South Carolina in late 2019. Prepaid Advantage is designed for residential customers on non-time of use rate schedules, where the Company has installed AMI technology at the residence. The Pilot will be similar to the Prepaid Advantage Program Pilot approved by the Commission for the Company’s affiliate, DE Carolinas, in Docket No. 2015-136-E. Eligible customers will be able to:

- (1) begin service with a lower up front cost, avoiding a traditional deposit if one would otherwise be required;
- (2) see usage and electricity costs on a daily basis from anywhere via the web or a Smartphone;
- (3) have more choice in payment options, giving the customer the flexibility to determine when to pay and how much based on the customer's lifestyle and receipt of income;
- (4) potentially avoid bill surprises at the end of an unusual weather month; and
- (5) have service reconnected fast through remote capability if service is disconnected.

As discussed in Witness Schneider's testimony, the Company respectfully requests a partial waiver of Rule 103-352, *Procedures for Termination of Service*, with respect to timing, the delivery method, and the information provided on any notice of disconnection and payment arrangements would not be offered for participating customers.

33. The Company's request also includes a proposal to offer a fee-free payment program for all payment methods the Company offers, including credit and debit cards, to its residential customers to pay their electric bill. Currently, customers are required to pay a convenience fee, collected by a third-party vendor, for payments made by a credit or debit card or a one-time Automated Clearing House (ACH) payment via phone or on the Company's website. The Company believes residential customers should not be charged a convenience fee for payments made through any of its payment channels. The requirement to pay a convenience fee when making a payment is one of the largest frustrations customers experience. Customers have grown accustomed to paying for other products and services with a credit or debit card without a separate, additional fee. Therefore, to offer this program, the Company proposes to pay these costs on behalf of its residential customers and recover these costs as part of its cost of service.

More details on the Company's proposal are included in the pre-filed direct testimony of Witnesses Gharthey-Tagoe and Bateman.

GRID IMPROVEMENT PLAN

34. The Company also proposes, in this Application, its Grid Improvement Plan for approval by the Commission. The Grid Improvement Plan is a long-term initiative, and the Company has provided its multi-year plan built upon strategic, data-driven investments to improve reliability to avoid outages and speed restoration; harden the grid to protect against cyber and physical threats; expand solar and other innovative technologies across a two-way, smart-thinking grid; and give customers more options and control over their energy use and tools to save money. The Company proposes additional rate changes in 2020 and 2021 to reflect the remaining years of the multi-year plan, with costs captured in a regulatory asset for recovery between rate changes. As explained by Witness Oliver in his testimony, these investments will provide benefits now and in the years to come.

35. From routine, day-to-day activities to powering high-tech manufacturing, the electric power grid is the backbone of South Carolina's digital economy; – not just today, but also 5, 10, 20 years in the future. As recent events have reinforced, the Company must be ready for severe weather before it strikes, and reduce the impact of storms that are worsening in frequency and intensity. DE Progress must be vigilant and prepare now for the very real threat of cyber and physical attacks. DE Progress also needs to provide more options for customers to allow more control over the way they use electricity. And as renewable energy technologies like solar energy, battery storage, micro-grids and electric vehicles become more affordable and accessible; the Company needs to take steps now to ready the grid to support the growth of these technologies that are important to South

Carolina's energy future.

36. The Grid Improvement Plan addresses all of these needs, while also managing costs. This Grid Improvement Plan was built using advanced data analytics that helped identify strategic opportunities for improvement. It also incorporates extensive input from customers, customer and advocacy groups and others who helped to refine this plan to better serve their energy needs and the needs of our state. The Grid Improvement Plan includes investments designed to strengthen the grid and mitigate the impact of major storm events, as well as to harden and defend the grid against critical physical and cybersecurity risks. Examples of the Company's multi-layered improvements designed to protect the grid include: updating grid technology including monitoring and communication equipment; installing protective devices to limit access to critical systems and minimize outages from physical or cyber-attack; and relocating, raising or reinforcing equipment in flood-prone areas.

37. The Grid Improvement Plan also helps modernize the grid. Technology is rapidly changing, and the Company must do more to incorporate and anticipate new technology to better serve a growing state. Customers deserve the same options from their electric utility that they can receive from other service providers, such as self-selecting billing and payment dates, scheduling appointments, and accessing real-time usage data and information updates when outages occur. These are all examples of basic services consumers expect but require technology to deliver. And increasingly, consumers desire access to information about how they use energy and tools to take control of that energy use and save money. Examples of improvements designed to modernize the grid include: distribution automation and dispatch tools to improve power quality and reliability, and

support the growth of distributed energy resources and customer-owned technologies, integrated system operations planning, automation and system intelligence, to prepare the grid for increased distributed resources and the dynamic power flows that these technologies bring. These technologies, proposed in the Grid Improvement Plan, will interact with Smart Meters to bring our service into the 21st century.

38. The Grid Improvement Plan optimizes the total customer experience and transforms the grid to prepare it for the energy opportunities that lie ahead. Optimization upgrades in the grid improvement plan include: a self-optimizing, smart-thinking grid that anticipates outages and automatically reroutes service to keep power on for customers. Self-optimizing technology can reduce outage impacts on customers by as much as 75 percent. It will also provide the foundation for the two-way power flows needed to support more rooftop solar, battery storage, electric vehicles and microgrids – technologies that will increasingly power the lives of customers. Investments also include expanded energy storage capabilities and infrastructure, which will help to power self-optimizing technologies in areas where building a redundant power line may not be feasible. It includes additional electric vehicle charging infrastructure improvements to expand transportation options for customers across the state, as well voltage optimization and distribution of power to customers to improve reliability, increase system intelligence and support the two-way power flow needed to grow distributed resources.

39. In addition to these improvements, the Company must also have the right skill sets available at the scale necessary to bring about this important transformation. That means recruiting thousands of new contractors and employees, expanding training for our existing workforce and thinking ahead to future needs as we move through this multi-year

initiative.

40. To provide better visibility regarding the Company's plans and investments, the Company has undertaken Grid Improvement Plan Workshops with interested stakeholders, and those conversations have informed the Company's request. One of the requests from these workshops is to have investments considered by the Commission. Accordingly, the Company proposes a three-year view of its Grid Improvement Plan (as incorporated by reference from the testimony of Witness Oliver), including projects and investments for the Commission's approval, as well as a multi-year rate plan that allows for pre-defined, step-up rate changes for grid investments in Phase 1, Year 2020, and Phase 2, Year 2021, to correspond with the annual progress on the Grid Improvement Plan in each year. After such time, the Company would need to seek authority for future increases related to grid, repeating the process for Commission consideration for future investments for grid investment.

41. The proposed Phase 1 and Phase 2 rate changes will best support the Company's cash flows as it implements the grid improvements detailed in the Grid Improvement Plan. Additionally, the Company is willing to file quarterly status reports to apprise stakeholders of the progress and expenditures made on the Grid Improvement Plan. The Company also commits to a 60-day audit, during which time the ORS and interested parties could review the costs incurred relative to the Grid Improvement Plan ultimately approved in this case. The Company proposes to file the information for the prior year for auditing purposes by March 1, 2020 and March 1, 2021, as explained in further detail by Witnesses Bateman and Oliver, to allow for such audit, as well as notice the opportunity for hearing if requested by an interested party.

REQUEST FOR ACCOUNTING ORDER

42. As part of this Application, the Company requests an accounting order for approval to: (i) continue the deferral for coal ash basin closure compliance costs after the cut-off date for this rate case; (ii) establish a regulatory asset at the time of the Asheville plant's retirement for the remaining net book value, and permission to defer to this regulatory asset any costs related to obsolete inventory, net of salvage, at the time of retirement; (iii) continue the deferral for ongoing costs incurred in connection with the deployment of AMI in-service after December 31, 2018; (iv) continue the deferral for ongoing Grid Improvement costs until such costs are included in customer rates either through the Phases 1 and 2 rate changes or a future rate case, or if the Commission does not approve Phases 1 and 2 rate changes then, in the alternative, it approve the deferral of ongoing Grid Improvement costs until the Company's next rate case; and (v) establish reserves for end of life nuclear costs and to begin accruing for the expense related to materials and supplies and a portion of the last core of nuclear fuel in the reactor at the end-of-life of its nuclear generating plants.

43. DE Progress requests an accounting order for the continued deferral of coal ash basin compliance costs after the December 2018 cut-off in this case. Instead of requesting recovery of an ongoing level of these costs in this case, the Company is requesting the Commission approve a continuation of the deferral, similar to what it approved in the 2016 Rate Case for costs not included in this case. Specifically, the Company is requesting approval to defer CCR compliance spend related to ash basin closure beginning January 1, 2019, the depreciation and return on CCR compliance investments

related to continued plant operations placed in service on or after January 1, 2019, and a return on both deferred balances at the overall rate of return approved in this case.

44. The Company requests an accounting order for approval to establish a regulatory asset related to the retirement of the Company's Asheville coal plant. Originally, the Company's depreciation consultant, Gannett Fleming, had proposed new depreciation rates that would fully depreciate the Asheville coal plant by its expected retirement date in 2020. To mitigate the impact on customers, DE Progress asked the consultant to adjust the rates to reflect a recovery of the remaining net book value of the Asheville coal plant over a ten-year period, similar to the treatment of other coal plants that were retired early in DE Progress' prior depreciation study. Since under this approach, the net book value of the plant will not be fully recovered at the time of retirement, the Company is requesting permission to establish and include in rate base a regulatory asset at the time of the plant's retirement for the remaining net book value and the ability to continue amortizing the costs over the remaining portion of the ten-year period at that time. The Company also requests permission to defer to this regulatory asset any costs related to obsolete inventory, net of salvage, at the time of retirement.

45. DE Progress requests an accounting order for approval to defer the financial effects of the incremental O&M expense and the depreciation expense incurred for AMI meters installed after December 31, 2018, and the carrying costs on the investment and the deferred costs at its weighted average cost of capital. The deferred costs to be recorded on the Company's accounting records will be based on actual costs. Without the accounting treatment requested by the Company, these costs will impact the Company's financials on a project by project basis through the deployment program; accordingly, unlike capital

projects of similar financial magnitude, the Company will not recover its time value of money in the form of allowance for funds used during construction. Instead, the Company's earnings are impacted every time a project is completed as it creates an instant degradation to the Company's financials. This deferral will allow the Company to bridge this timing gap until the Company's next rate case in a manner similar to AFUDC accounting.

46. DE Progress also requests an accounting order for approval to defer costs associated with the incremental grid investments placed in service after December 31, 2018, until those costs are included base rates, either through the Phase 1 or 2 rates or a subsequent general rate case, incurred in connection with the Grid Improvement Plan. Specifically, the Company seeks to defer the incremental O&M, depreciation expense and property taxes associated with the capital assets installed as part of its Grid Improvement Plan, as well as the carrying cost on the investment and on the deferred costs at the Company's weighted average cost of capital. The Company proposes to recover the deferred costs in accordance with its proposed three-year rate plan request, allowing for pre-defined rate changes, Phases 1 and 2, for these investments in 2020 and 2021, respectively. For any costs not included in the Phase 1 or Phase 2 rate changes, the Company would continue deferral until its next rate case. In the alternative, if the Commission does not approve the Company's three-year rate plan request, the Company asks the Commission to approve the ongoing deferral of Grid Improvement Plan costs until the Company's next rate case. Without this accounting treatment, costs incurred for grid improvement will negatively impact the Company's financials on a project by project basis since they would not be captured in rates, and unlike capital projects of similar financial magnitude, the Company's will not have the opportunity to fully capture these costs absent the requested deferral.

47. DE Progress requests an accounting order for approval to establish a reserve for end of life nuclear costs. Currently, there are some end-of-life costs at a nuclear plant that are not captured in a decommissioning study (e.g., the expense to write off the materials and supplies in inventory at the time of decommissioning that have little or no salvage value). The Company is proposing to create a reserve to start accruing for these end-of-life expenses and, therefore, create a better matching of cost and benefit for ratemaking purposes. The annual accrual amount will be determined by dividing the projected inventory balance at the end of each unit's life by the number of years remaining in the unit's life and summing this result for the Company's three nuclear plants. In this proceeding, the Company is requesting an annual accrual amount of approximately \$2.2 million as allocated to South Carolina retail. The annual accrual amount can be reviewed and adjusted, if needed, in each future general rate case before the end of the plant's life. The Company is also proposing to create a reserve to start accruing for the expense related to a portion of the last core of nuclear fuel in the reactor at the end-of-life of its nuclear generating plants and, therefore, create a better matching of cost and benefit for ratemaking purposes. The annual accrual amount will be determined by dividing the projected remaining value of the last core of nuclear fuel at the end of each unit's life by the number of years remaining in the unit's life and summing this result for the Company's three nuclear plants. In this proceeding, the Company is requesting an annual accrual amount of \$0.7 million as allocated to South Carolina retail. The annual accrual amount can be reviewed and adjusted, if needed, in each future general rate case before the end of the plant's life. The reserves, once they are created, will be included as an offset to rate base in the cost of service.

REQUESTED RATES

48. Copies of the rates now in effect are attached as **Exhibit A**. The proposed schedules of rates and charges, attached to this Application as **Exhibit B**, are filed in accordance with the provisions of S.C. Code Ann. §§ 58-27-860, 865, 870. The proposed rates set forth in **Exhibit B** include a base combined fuel, environmental and the Public Utility Regulatory Policies Act ("PURPA") purchase power capacity cost factors of 3.087 cents per kWh for the residential class, 2.801 cents per kWh for the general service (non-demand) class, 2.366 cents per kWh for the general service (demand) class, and 2.366 cents per kWh for the lighting class.¹⁵ These base combined fuel, environmental, DERP Avoided Capacity and PURPA Avoided Capacity cost factors are not being adjusted in this case and are equal to the total of the fuel and environmental cost factors by customer class approved by the Commission in Docket No. 2018-1-E, as well as all other riders approved by the Commission. The rates set forth in **Exhibit B** are designed to increase annual revenues from South Carolina retail operations by \$59 million or a 10.3 percent average increase in rates, based on the test year of the twelve month period ending December 31, 2017 adjusted for known changes.

49. The Proposed revenue increase is distributed among classes of customers by increasing the rate schedules as follows: 12.5 percent for the residential class, 14.5 percent for the small general service class, 6.7 percent for the medium general service class, 9.6 percent for the large general service class, and 6.3 percent for the outdoor lighting class. The different percentage increases for customer classes reflect the allocation of the rate

¹⁵ The General Service (Demand) class also includes a rate of \$0.89 per firm kilowatt of billing demand. These rates exclude gross receipts tax and utility assessments.

increase based on the overall rate of return. The Company proposes to modify certain rate schedules to reflect more accurately the cost of service and to consolidate and cancel certain rate schedules.

50. The rates set forth in **Exhibit A** are unjust and unreasonable because they do not allow the Company the opportunity to earn a fair rate of return. In Order No. 2016-871, the rates were set based on a 10.1 percent return on common equity. The overall rate of return on rate base was set at 7.2 percent. During the twelve month period ended December 31, 2017, as adjusted for known changes, the rate of return on South Carolina retail rate base, as shown on **Exhibit D**, was only 4.1 percent.

51. The exhibits attached to this Application are as follows:

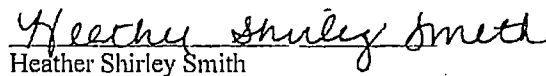
- **Exhibit A.** The schedule of the Company's electric rates and charges in effect and on file with the Commission at the time of filing this Application, which the Company seeks to increase.
- **Exhibit B.** The schedules of electric rates and charges the Company proposes to put into effect on June 1, 2019.
- **Exhibit C.** Current tariffs highlighting all changes requested in the proposed schedules.
- **Exhibit D.** The financial data for the 12-month period ended December 31, 2017, filed in compliance with 26 S.C. Code Ann. Regs. 103-823.
- **Exhibit E.** The schedules of Phase 1 and Phase 2 rate changes to reflect rate changes to recover known and measurable costs being incurred for the proposed Grid Improvement Plan.

DE Progress proposes that all accounting and pro forma adjustments set forth in the attached exhibits be adopted in this proceeding for ratemaking and reporting purposes.

WHEREFORE, DE Progress requests the Commission approve the electric rates and charges filed as **Exhibit B**, effective June 1, 2019, as indicated in the tariffs filed in this case, as well the rates filed in **Exhibit E**, effective 12 and 24 months subsequent to the rates

and charges in **Exhibit B** going into effect; that the Commission approve the Company's accounting order and program approval requests described in this Application; and that the Commission grant DE Progress such further, different, or other relief as may be just and reasonable.

This the 8th day of November, 2018.



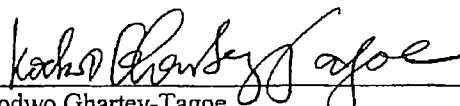
Heather Shirley Smith
Deputy General Counsel
Duke Energy Progress, LLC
40 W. Broad St., Suite 690
Greenville, SC 29601

VERIFICATION

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

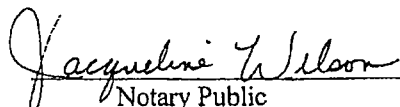
KODWO GHARTEY-TAGOE, being first duly sworn, deposes and says:

That he is President of Duke Energy Progress-South Carolina; that he has read the foregoing Application, and knows the contents thereof; that the same is true as to matters stated therein on information and belief, and as to those matters he believes it to be true.


Kodwo Gharthey-Tagoe

Sworn to and subscribed before me

This 8th day of November, 2018.


Notary Public

My Commission Expires: 8-27-2028



Jacqueline Wilson
NOTARY PUBLIC
State of South Carolina
My Commission Expires
August 27, 2028

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2018-318-E

In the Matter of:)
)
Application of Duke Energy Progress,)
LLC for Adjustments in Electric Rate)
Schedules and Tariffs and Request for)
an Accounting Order)
_____)

**PETITION OF
DUKE ENERGY PROGRESS, LLC
FOR REHEARING OR
RECONSIDERATION OF
ORDER NO. 2019-341**

Pursuant to S.C. Code Ann. §§ 1-23-380, 58-27-2150 and 10 S.C. Code Ann. Regs. 103-825(A)(4) and applicable South Carolina and federal law, Duke Energy Progress, LLC (“DEP” or the “Company”) hereby petitions the Public Service Commission of South Carolina (“Commission”) to reconsider a portion of its rulings in Order No. 2019-341 (the “Order”). The Order was served on DEP on May 21, 2019. As explained further below, the Commission should reconsider its decision in Order No. 2019-341 because substantial rights of the Company are prejudiced by unlawful, arbitrary and capricious rulings by the Commission on certain issues presented in this proceeding. The specific rulings that are the subject of this petition are set out separately below.

GROUND FOR RECONSIDERATION

A. Coal Ash Remediation and Disposal Costs.

The Commission’s decision to disallow recovery in rates of the South Carolina portion of \$333,480,308 in coal ash remediation and disposal costs (“Coal Ash Costs”) prejudices the Company’s substantial right to recover its reasonable and prudently incurred expenses of

providing service to the public. The generating units that burned the coal and produced the ash that is now being remediated provided electricity to DEP customers in South Carolina and North Carolina. The costs of building and operating those plants have been shared by the customers of both states on a fair and equitable basis since the plants were brought on line, in most cases decades ago. The Commission's decision in this case that certain of the costs associated with those plants should not now be borne by the South Carolina customers who benefited from the electricity produced by those plants is unsupported by either law or fact. The inequity of the Commission's decision in this case is amplified by the fact that North Carolina customers are paying for these same types of costs for South Carolina sites.

As set forth more fully below, the Commission's decision violates constitutional protections afforded by the South Carolina and United States Constitutions; suffers from multiple errors of law; is founded on multiple factual errors that render the decision clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; and is arbitrary and capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion. Accordingly, the Commission's decision on Coal Ash Costs should be reconsidered, and DEP should be allowed to recover the full amount of those costs.

1. The Commission's Decision Violates Multiple Provisions of the South Carolina and United States Constitutions.

The rates established by the Commission must provide the utility with the opportunity of recovering its reasonable operating expenses, as well as provide a fair and reasonable return on the investments made by the company in providing utility service to its customers. *Southern Bell & Tel. Co. v. Pub. Serv. Comm'n*, 270 S.C. 590, 600 (1978); *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm'n*, 262 U.S. 679 (1923); *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 604 (1944). Although the burden of proof in showing the

reasonableness of a utility's costs that underlie its request to adjust rates ultimately rests with the utility, the South Carolina Supreme Court has concluded that the utility is entitled to a presumption that its expenses are reasonable and were incurred in good faith. *Hamm v. S.C. Pub. Serv. Comm'n*, 422 S.E.2d 110, 309 S.C. 282 (1992) (internal citations omitted). Other parties are therefore required to produce evidence that overcomes both this presumption and any evidence the utility has proffered that further substantiates its position. *See Utilities Servs. of S.C., Inc. v. S.C. Office of Regulatory Staff*, 392 S.C. 96, 110, 708 S.E.2d 755, 762–63 (2011).

In this proceeding, no evidence was presented to the Commission that overcame the presumption of the reasonableness and good faith of the DEP Coal Ash Costs. The basis of the Commission's decision was that certain of the Coal Ash Costs incurred at generating plants in North Carolina were required by provisions of the North Carolina Coal Ash Management Act ("CAMA"), and, for that reason alone, that portion of the Coal Ash Costs should not be recovered from South Carolina customers. No evidence was presented that the Coal Ash Costs were imprudent or unreasonable, and it is undisputed that South Carolina customers benefited from the electricity generated at the plants located in North Carolina from which the purported CAMA costs in question arise. Accordingly, the Commission's denial of these costs violates several constitutional provisions.

First, the Commission's decision amounts to an unconstitutional taking under the United States Constitution and South Carolina Constitution, which both prohibit the government from taking property without just compensation. *See* U.S. Const. art. V; U.S. Const. art. XIV; S.C. Const. art. I, § 13.

Second, because the Commission's decision lacks any cognizable legal basis for denying Coal Ash Costs and is predicated on clearly erroneous factual conclusions, it deprives DEP of

substantive due process under the Fourteenth Amendment of the United States Constitution and Article I, Section 3 of the South Carolina Constitution.

Finally, the Commission's denial of DEP's Coal Ash Costs based on the "sovereignty" of the State of South Carolina (Order No. 2019-341, pp. 50-52) violates the Commerce Clause of the United States Constitution, which prevents states from engaging in economic discrimination and burdening the flow of interstate commerce. U.S. Const. art. I, § 8.

2. The Commission's Decision Suffers from Multiple Errors of Law.

As discussed above, no evidence was presented in this proceeding that the Coal Ash Costs at issue were imprudent or unreasonable, and it is undisputed that South Carolina customers benefited for decades from the electricity generated at the plants located in North Carolina from which the purported CAMA costs in question arise. Since South Carolina customers have undisputedly received the low-cost power from these North Carolina plants for decades under the "regulatory compact" that compels DEP to serve them, the Commission's order denying the cost to comply with North Carolina environmental compliance laws violates the doctrine of unjust enrichment. Additionally, in deciding to provide South Carolina customers with low-cost electricity from its North Carolina coal-burning plants, DEP reasonably relied on the representation and ongoing presumption that it would be allowed to recover the reasonable and prudent costs associated with generation of that power and the byproducts thereof, including environmental compliance costs. Since DEP has reasonably relied on this fact to its detriment, the Commission's Order denying these costs violates the doctrine of equitable estoppel.

3. The Commission's Decision Is Clearly Erroneous in View of the Reliable, Probative, and Substantial Evidence on the Whole Record.

In denying Coal Ash Costs in the amount suggested by ORS witness Wittliff, the Commission made the following factual errors:

Error No. 1 (All DEP Sites): ORS witness Wittliff's calculated disallowances are based on an incorrect test year. DEP's request for coal ash expenses covers July 2016 through December 2018. (Order No. 2019-341, p. 45). Kerin's Exhibit 10, when the application was originally filed, included costs dating back to January 1, 2015. This mistake was corrected when DEP filed its errata testimony in January 2019 which included a Revised Kerin Exhibit 10. Witness Wittliff did not account for these revised numbers in his direct or surrebuttal testimony and instead based his proposed disallowances on incorrect numbers.

Error No. 2 (Sutton): For its disallowance at this site, the Commission relied on ORS witness Wittliff's erroneous calculations built on erroneous assumptions that he later disclaimed in his sur-rebuttal testimony and on cross examination.

Error No. 3 (Asheville): For its disallowance at this site, the Commission relied on ORS witness Wittliff's testimony that North Carolina's CAMA rules resulted in additional expenses being incurred at DEP's Asheville Plant, due to an accelerated closure schedule, which the federal Coal Combustion Residuals ("CCR") rule would have otherwise required after he admitted that the closure timeline at Asheville was not affected by CAMA.

Error No. 4 (Sutton): The Commission relied on ORS witness Wittliff's testimony that North Carolina's CAMA rules resulted in additional expenses being incurred at DEP's Sutton Plant, due to an accelerated closure schedule, which the federal CCR rule would have otherwise required after he admitted that a CCR rule timeline would not have reduced costs at that sites.

Error No. 5 (Weatherspoon): The Commission disallowed costs incurred at the Weatherspoon site based on witness Wittliff's claim that Weatherspoon was being treated as a beneficiation site under CAMA after witness Wittliff admitted that he had made a mistake regarding this assertion.

Error No. 6 (Asheville): The Commission disallowed \$98,200,932 in costs incurred at the Asheville plant based on witness Wittliff's testimony that the Asheville plant could have been remediated via cap-in-place under the CCR rule after witness Wittliff admitted that he had no support for this claim and that he had not conducted any analysis to rebut testimony to the contrary.

Error No. 7 (H.F. Lee and Cape Fear): The Commission tied its disallowance at H.F. Lee and Cape Fear to CAMA's beneficiation requirements being performed at these sites without regard to undisputed evidence that the beneficiation activities at these sites are saving, not costing, DEP customers millions of dollars in overall closure costs.

Error No. 8 (Cape Fear): The Commission disallowed \$33,631,199 which accounted for all coal ash compliance costs incurred to-date at the Cape Fear plant based upon witness Wittliff's incorrect testimony that the CCR Rule and other regulatory requirements do not require any remediation at that site.

Error No. 9 (Multiple Sites): The Commission based its disallowances for the alleged increased costs for these sites on witness Wittliff's calculation using the "weighted average of engineering and planning as a percentage of total project costs," which witness Wittliff admitted was imprecise and not reflective of actual costs.

Error No. 10 (Legal Fees): The Commission tied its disallowance of certain legal fees to the assertion that DEP should be prevented “from charging its customers with any legal costs or expenses flowing from or related to its guilty plea of criminal negligence” without regard to undisputed evidence that no such costs or expenses were included for recovery.

4. The Commission’s Order is Arbitrary and Capricious.

“A decision is arbitrary if it is without a rational basis, is based alone on one's will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards.” *Deese v. S.C. State Bd. of Dentistry*, 286 S.C. 182, 184–85, 332 S.E.2d 539, 541 (1985). Where, as here, the Commission makes no findings of fact or conclusions of law, South Carolina courts have found orders to be arbitrary and capricious. As the South Carolina Supreme Court has held, “a recital of a recital of conflicting testimony followed by a general conclusion is patently insufficient to enable a reviewing court to address the issues.” *Able Communications, Inc. v. South Carolina Pub. Serv. Comm’n*, 290 S.C. at 411, 351 S.E.2d at 152.

With respect to its decision to disallow certain of the Coal Ash Costs, the Commission did not, in its Order, make any competent findings of fact or conclusions of law to support its decision, nor did it articulate any fixed rules or standards under which the Commission’s order can be judged. In the absence of any such findings, a court would be compelled to find that the Commission’s Order denying Coal Ash Costs is without a rational basis; is based alone on the Commission’s own will; and is not governed by any fixed rules or standards. For all of these reasons, the Order with respect to the Coal Ash Costs is arbitrary and capricious and amounts to reversible error.

B. Treatment of Deferrals.

The Commission’s treatment of DEP deferrals violates the Company’s right to recovery of the prudently incurred expenses of providing service to its customers. Pursuant to the

principles established in *Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679 (1923) and *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944), DEP has a constitutional right to a reasonable opportunity to recover its prudently incurred costs of providing service. In this proceeding, it was undisputed that the deferred costs were both prudently incurred and used and useful. The Commission's decision to refuse to allow DEP to recover any return on substantial portions of its deferrals, combined with the adoption of excessively long amortization periods for the deferrals, will prevent DEP from recovering its prudently incurred expenses in a manner that is required by the constitution.

Following are the specific deferral rulings by the Commission that are unlawful for the reasons stated in this section.

- GridSouth, Fukushima/CyberSecurity (Adjustment #17). The Order requires the amortization of deferred O&M expenses totaling \$8.975 million over five years without allowing any return during amortization periods. These deferred balances were included in rate base in the last rate case, so this is a change from prior practice. In granting a continuation of these deferrals in the 2016 rate case, the Commission recognized that "extension of these deferrals has helped to mitigate rate increases" in past cases. *Order Approving Increase in Rates and Charges and Settlement Agreement*, In Re: Application of Duke Energy Progress, LLC for Authority to Adjust and Increase its Electric Rates and Charges, Docket No. 2016-227-E, Order No. 2016-871 at 28 (December 21, 2016). Further, in approving the Company's request for an accounting order for the Fukushima/CyberSecurity deferrals, the Commission expressly concluded that the deferrals served as a means to prevent earnings degradation. See Order No. 2014-138 at

6 (“[c]learly, it is reasonable that degradation of the Company’s earnings be prevented; in so much as it is related to a lack of deferral of the regulatory assets and liability cited in the Company’s Petition.”).

- Environmental Costs (Adjustment #18). The Order requires the amortization of deferred depreciation expenses totaling \$227 thousand over five years without allowing any return during the deferral or amortization period.
- Advanced Metering Infrastructure (Adjustment #19). The Order requires the amortization of deferred depreciation expenses totaling \$640 thousand over a period of fifteen years without allowing any return during the deferral or amortization period.
- Customer Connect (Adjustment #30). The Order requires the amortization of deferred O&M expenses totaling \$923 thousand over a period of three years with no return allowed during the deferral or amortization periods.
- Grid Improvement Costs (Adjustment #35). The Order requires the amortization of deferred depreciation, O&M and property tax expenses totaling \$848 thousand over a period of five years without allowing any return during the deferral or amortization periods.

The Commission’s ruling on DEP deferrals is arbitrary and capricious because it is inconsistent with prior rulings allowing DEP to establish the deferrals accounts. In Order No. 2014-138, Order No. 2016-36, Order No. 2016-490, Order No. 2018-553, and Order No. 2018-751 the Commission approved the establishment by DEP of the deferral accounts at issue in this proceeding. Several of these orders allowed DEP to accrue a weighted average cost of capital (“WACC”) return on the deferred balance as has been the practice of the Commission in the past. Those orders also reserved questions of the prudence of the underlying costs for a subsequent

rate proceeding. No party contested the prudence of the deferred expenses and the Commission has not made any finding that the expenses were imprudent. In refusing to allow DEP to recover a WACC return on a substantial portion of the deferred balances, the Order is inconsistent with the Commission's prior rulings. The change in treatment is arbitrary and capricious and in violation of law. The Commission should reconsider its decision to refuse to allow the recovery of a return on the full amount of the deferred balances.

The Commission's ruling on DEP deferrals is arbitrary and capricious because it fails to recognize that the deferred accounts that it allowed DEP to establish in Order No. 2014-138, Order No. 2016-36, Order No. 2016-490, Order No. 2018-553, and Order No. 2018-751 represented money that DEP spent to provide service to its customers and which DEP was required to raise from debt and equity investors. Because debt and equity investors must be compensated for the time value of their money, DEP incurs substantial costs associated with the funds in the deferred accounts. By denying DEP any recovery on the deferred funds and requiring the funds be recovered over extended periods of time, the Order fails to allow DEP its constitutionally protected opportunity to recover its costs of providing service to the public. Moreover, there is no accounting guidance to support the treatment proposed by the ORS and adopted by the Commission of separating the deferred balances into two categories, deferred operating expenses and deferred capital costs. These financing costs (the return on the deferred costs) are real costs that the Company incurred and to disallow recovery of these costs during the deferral period or the amortization period would be to disallow prudently incurred costs.

The Commission also ignored the fact that the ORS' logic is misplaced and inconsistent because there are carrying costs on regulatory liabilities that the ORS is willing to accept when they benefit customers. Indeed, the Commission heard testimony that customers earn a return on

a number of costs that they “pre-pay the Company.” *See* Tr. 432 (Company witness Bateman testified that the end-of-life nuclear reserve would serve as a reduction to rate base); Tr. 456-457 (the Company is proposing that customers earn a return on the EDIT balance which would not have existed if the Commission had not ordered that deferral.) As a further example, the treatment in the Order of the effect of the Tax Cuts and Jobs Act (“TCJA”) is inconsistent with the treatment of deferred expenses, demonstrating that the Commission’s rulings on deferrals are arbitrary and capricious. Income taxes are an operating expense like depreciation, O&M and property taxes. Deferred income taxes result from the timing difference between when the Company collects taxes in rates and actually pays the taxes. Because the funds are collected from customers before they are paid to the U.S. Treasury, a regulatory liability is created instead of a regulatory asset. The regulatory liability is used as an offset to rate base resulting in substantial savings to customers. If the logic of the position recommended by the ORS, and accepted by the Commission, for deferrals was applied to the impact of the TCJA, rates would significantly increase. The inconsistency of the treatment of deferrals and the TCJA regulatory liability is arbitrary and capricious and supports DEC’s request for reconsideration of the Order.

C. Return on Equity.

The Commission’s decision to set DEP’s revenue requirements using a return on equity (“ROE”) of 9.5% is arbitrary and capricious and should be reconsidered. The undisputed evidence establishes that 9.5% is well below authorized ROEs for the Company’s peers in the Southeast with which the Company competes for equity capital. The higher ROEs awarded to the Company’s peers reflects the risks attendant upon owning and operating vertically integrated utilities, including nuclear generation, and a 9.5% ROE simply does not adequately account for

those risks. Additionally, the following are errors and inconsistencies that demonstrate that the decision on ROE is arbitrary and capricious and should be reconsidered.

- The Order was issued just months after the Commission issued Order No. 2018-804 in consolidated Docket Nos. 2017-207-E, 2017-305-E and 2017-370-E. In that consolidated proceeding, the Commission was asked to make a determination of the cost of equity for SCE&G assuming that the merger of its parent SCANA and Dominion Energy was approved. SCE&G presented the testimony of Robert Hevert, the same witness called by DEP to testify about ROE issues in this proceeding. Not surprisingly, the testimony of Hevert was similar in the two cases. However, in the SCE&G proceeding the Commission made the following ruling on the ROE issue:

In short, the Commission finds that there is ample evidence and reason to conclude that the analyses conducted by Mr. Hevert are accurate and reliable estimates of SCE&G's cost of equity. The Commission further finds that it is appropriate and reasonable to consider a range of estimates under various methodologies in order to more accurately estimate SCE&G's cost of equity. Accordingly, the Commission rejects Mr. Baudino's analysis as flawed and incomplete, concludes that the Company's current cost of equity most likely ranges between 10.25% and 11% as determined by Mr. Hevert, and that the most likely point estimate of the costs of equity is 10.75%, assuming the merger is approved.

Order No. 2018-804 at pp. 89-90.

- The ROE ruling by the Commission in Order No. 2018-804 was one of the issues addressed in petitions for reconsideration filed by intervenors. In Order No. 2019-122, issued on February 12, 2019, the Commission rejected their arguments asking for reconsideration on the ROE issue:

The decision to adopt Mr. Hevert's return on equity calculation is supported by the evidence and is neither capricious nor arbitrary. See *S. Bell Tel. & Tel. Co. v. Pub. Serv. Comm'n*, 270 S.C. 590, 598, 244 S.E.2d 278, 282 (1978) (finding that a return of equity is appropriate if supported

by the evidence and neither capricious nor arbitrary). It supports a cost of equity of 10.75%.

Order No. 2019-122, at p. 27.

- ORS witness Parcell testified that the Commission should set a lower ROE for DEP because of the effect of what he termed “favorable regulatory mechanisms” including several deferral requests that DEP has pursued in this proceeding. Tr., Vol. 6, pp. 1178-18 - 1178-24. However, in the Order the Commission has rejected DEP’s requests to use some of the very regulatory mechanisms that Parcell cited as a basis for his lower recommended ROE. There is no indication that the Order took into account that the Commission would refuse to allow DEP to use the very regulatory mechanisms that Parcell relied on for his opinion that a lower ROE was appropriate because DEP faced less risk.
- The Order characterizes Hevert’s testimony in this proceeding as biased and not credible. However, in the consolidated SCE&G proceedings the Commission found Hevert’s testimony - in which he offered the same opinions that he offered in this proceeding - to “provide accurate and reliable estimates” of SCE&G’s cost of equity.

The ruling in this proceeding that DEP must set rates using an ROE of 9.5% cannot be reconciled with the Commission’s rulings in the SCE&G consolidated cases. It is also based on a misreading of the testimony of DEP witness Hevert’s testimony and gives substantial weight to the clearly erroneous testimony of ORS witness Parcell. The ROE set by the Commission for DEP is arbitrary, capricious and unlawful, and it prejudices substantial rights of the Company. The Commission should reconsider this issue.

D. Coal Ash Litigation Expenses (Adjustment #36).

Under well-established South Carolina law, “[a]lthough the burden of proof of the reasonableness of all costs incurred which enter into a rate increase request rests with the utility; the utility’s expenses are presumed to be reasonable and incurred in good faith.” *Hamm v. South Carolina Public Service Commission*, 309 S.C. 282, 266, 422 S.E.2d 110, 112 (1992). The record in this docket does not provide a basis for overcoming the presumption that the Company’s coal ash litigation expenses were reasonable and incurred in good faith. DEP presented testimony and exhibits that showed that the coal ash litigation expenses it seeks to recover in rates do not relate to any criminal matter or to any matter in which it has been determined that DEP violated environmental laws. Instead, the testimony and exhibits, including late-filed Exhibit 56, showed that the coal ash litigation expenses relate to the normal and prudent operations of an enterprise like DEP.

A substantial portion of the litigation expenses relate to efforts by DEP to recover sums it has had to pay for coal ash related issues from more than twenty-five insurers that provided DEP with liability coverage during the time-period from 1971 to 1986. Any benefits derived from the insurance litigation will flow to the rate-payers who funded such litigation. It was prudent and reasonable for DEP to pursue coverage under these policies and it is appropriate that the expenses related to the litigation be included in rates. The Commission’s decision not to allow recovery of these expenses is arbitrary and capricious. The Commission’s decision to disallow these expenses should be reconsidered and reversed. Otherwise, if the litigation proves fruitful, then the proceeds of that litigation should be shared by those who paid for the litigation – shareholders and customers in North Carolina, not customers in South Carolina.

E. CertainTEED Litigation Costs.

The Commission's decision to disallow recovery of costs related to the CertainTEED litigation is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, and is affected by an error of law. Supporting its decision that the Company not be permitted to recover its CertainTEED litigation costs, the Commission reasoned that the Company had produced no evidence to show that the alleged decision to breach the contract at issue and the resulting payment obligation was in the interest of customers. Order No. 2019-341 at 77. The Commission also found that the conclusions in the relevant order issued by the North Carolina Business Court, along with the Company's payment obligation of \$90 million, "clearly raises concerns." *Id.* (citing *See Utils. Servs. of S.C.*, 392 S.C. at 109-110, 708 S.E.2d at 762-63). In referencing *Utils. Servs. of S.C.*, the Commission's Order hints that the order issued by the North Carolina Business Court raises a "specter of imprudence," thereby overcoming the presumption that the Company's expenses were reasonable and incurred in good faith. By this line of reasoning, however, the Commission erroneously focuses its analysis on a judicial proceeding that addressed exclusively *whether* the Company had breached a contract to supply gypsum, not on the prudence of the Company's actions throughout the entire timeline in question. This is a vital distinction in the analysis of whether the presumption of reasonableness due to the Company is overcome.

To overcome the presumption of reasonableness discussed in *Utils. Servs. of S.C.*, evidence must have been supplied by a party that calls into question the prudence of the Company's actions throughout the entire period relevant to contractual arrangement and the results that it obtained and not solely focused on what a trial court found a single step along that timeline. The evidence relied upon by the Commission—the North Carolina Business Court

order—has no bearing whatsoever on the prudence or lack of prudence of the actions that the Company took in dealing with litigation in question; the subsequent decision to appeal the lower court order, and the settlement that resulted after the Company filed its notice of appeal. Because no evidence was proffered to overcome the presumption of reasonableness to which the Company is entitled, the Commission's decision to deny cost recovery is erroneous.

Furthermore, the Commission's finding that customers did not benefit from the actions the Company took under the entirety of this arrangement is belied by the undisputed testimony given by Ms. Coppola where she demonstrated that customers benefitted from the CertainTEED contract on the order of \$50 million, net of these litigation costs. Had the Company followed what the Commission and ORS appear to believe would have been the most prudent course of action and not defended itself in the CertainTEED litigation, customers would have paid more to CertainTEED and this \$50 million net benefit would have been reduced. *See* Tr. Vol. 5-2, at 916 ("Under that agreement, DEP has to only pay the liquidated damages set under the 2012 contract, a sum much less than what [CertainTEED] claimed in the lawsuit."). Moreover, it would be fundamentally unfair for customers to benefit from the sale of gypsum and then be held harmless from litigation that results from such sales. Ultimately, the Company's decision to defend itself and to enter into the settlement was a strategic, reasonable, and prudent decision, and a decision that directly benefitted ratepayers, and no evidence to the contrary was proffered. For that reason, the Company is entitled to a presumption that its expenses were reasonable and incurred in good faith, and the Commission's decision to disallow recovery of these costs was erroneous.

CONCLUSION

The Commission should reconsider Order No. 2019-341 to address and remedy the unlawful rulings described in this petition. Pursuant to S.C. Code Ann. §58-27-2150, DEP requests that the Commission grant this petition, vacate order No. 2019-341 and issue a new order consistent with the arguments set out in this petition.

Dated this 31st day of May, 2019.

Heather Shirley Smith, Esquire
Deputy General Counsel
Duke Energy Carolinas, LLC
40 West Broad Street, Suite 690
Greenville, South Carolina 29601
Phone: 864-370-5045
heather.smith@duke-energy.com

and

s/Frank R. Ellerbe, III
Frank R. Ellerbe, III
ROBINSON GRAY STEPP & LAFFITTE, LLC
Post Office Box 11449
Columbia, South Carolina 29201
Phone: 803-929-1400
fellerbe@robinsongray.com

Attorneys for Duke Energy Progress, LLC

1 wanted to be able to address everyone.

2 VOICE: We can't hear nothing in there at all.
3 Absolutely nothing.

4 CHAIRMAN RANDALL: Okay. So I don't know what
5 we can do about that. That's really not in the
6 hearing room, so - okay, we're going to check that
7 real quick before we continue. Okay.

8 [WHEREUPON, discussion was had off the
9 record]

10 We think we're about to get the situation
11 straightened out, so folks can hear in the other
12 room.

13 [Brief pause]

14 Okay, Ms. Edwards. I think we're ready to
15 move ahead.

16 MS. EDWARDS: Thank you, Mr. Chairman. Does
17 that work? You can hear me? Okay.

18 First off, let me start by introducing myself.
19 I'm Nanette Edwards, and I'm the Executive Director
20 of the South Carolina Office of Regulatory Staff.

21 I mentioned before I have Alex Knowles, who is
22 a staff attorney, here with me tonight. The lady
23 in the pink jacket, far, far in the back, who is
24 waving, that's Dawn Hipp; she's over all our
25 program areas. She's basically like our Chief

1 Operating Officer. She's here tonight, as well as
2 two members from our Consumer Services Department.
3 These are people that take calls, complaints,
4 regarding utility services. I have Brad Kirby and
5 Takisha Waller here tonight. If you have questions
6 either during or after the hearing, we'd be pleased
7 to answer any questions that you have, to the
8 extent we can.

9 So, who is the Office of Regulatory Staff?
10 Well, we represent the public interest. We
11 represent you, the customers. And so, I'm here
12 tonight – we're a separate State agency from the
13 Commission. We're a party, just like any other
14 party, before the Commission, and we make
15 recommendations.

16 So, with regard to recommendations in this
17 rate case, I wanted to take a moment and go through
18 some of the major areas of disagreement.

19 First, for example, coal ash: The company is
20 seeking rate coverage for coal ash removal cost.
21 Our position, in a nutshell, is that anything that
22 is above and beyond what South Carolina or federal
23 law requires – if North Carolina passed a law,
24 which we believe they did, that causes increasing
25 costs for our South Carolina customers, we don't

1 believe that South Carolina customers should pay
2 for something that they didn't get a chance to vote
3 on. Kind of the no-taxation-without-representation
4 line.

5 What is that dollar value? Well, that dollar-
6 value difference between our position and the
7 company's is about \$11.6 million annually. The
8 company had requested about \$12.7 million on an
9 annual basis.

10 The second item is return on equity or, you
11 know, more commonly called profit. The company is
12 seeking an ROE of 10.5 percent. ORS is
13 recommending 9.3 percent. The dollar difference on
14 an annualized basis is about \$12½ million.

15 And third and last is compensation. There
16 is – as one of the contested issues in this case,
17 ORS removed about \$3.9_[sic] million of the \$3.2_[sic]
18 million requested by the company in compensation
19 incentive programs. We believe that they're tied
20 to corporate earnings and not necessarily solely
21 tied to employee performance or customer service.

22 But this hearing tonight is for you, the
23 customers. It is your opportunity to tell the
24 Commission how you feel and what the impact of this
25 rate application would have on you in your daily

1 life. The Commission will take the information
2 that you provide to them very seriously, and it
3 will – this is testimony; you are going to be sworn
4 in and put under oath. And so this will be
5 testimony that goes into the record of evidence of
6 the case.

7 I mentioned to you earlier that the Office of
8 Regulatory Staff – we take customer complaints,
9 billing errors, service issues. Again, if there is
10 an opportunity and you come up to the podium and
11 you have an issue that you've been trying to get
12 resolved, clearly the company is here. And Ms.
13 Smith has already mentioned that they are here to
14 speak with you, as well. But if you don't get
15 resolution, you are welcome to come see us. We're
16 just outside the door.

17 Lastly, I would just mention that if – it is a
18 fairly packed room tonight, so I'm going to give
19 you our toll-free number. If you want to get home
20 and you don't want to take the time – you know, we
21 take calls. It's 1-800-922-1531. That's 1-800-
22 922-1531. And please do give us a call. We also
23 have business cards to hand out, outside. So if
24 tonight is just too much and you want to get home,
25 the kids need to be put to bed, please don't

1 hesitate to call us anytime during the week. We'll
2 be happy to take your call and resolve your issue
3 at that time.

4 Finally, thank you for your attention and your
5 participation.

6 CHAIRMAN RANDALL: Thank you, Ms. Edwards.

7 Okay. I'm going to turn now -- we've got
8 several sets of instructions -- oh, okay. Sorry.
9 Go for it.

10 MS. SMITH: No worries. Hopefully you folks
11 can hear me.

12 CHAIRMAN RANDALL: Get closer and talk right
13 into that mic.

14 MS. SMITH: Like this [indicating]?

15 CHAIRMAN RANDALL: Yeah.

16 MS. SMITH: Okay. We appreciate being here.
17 We appreciate the Commission being here. It's the
18 Commission's hearing, of course. Our primary role,
19 other than answering questions from Mr. Preston, is
20 to make sure that we listen and take into account
21 everything that is said tonight. As I mentioned,
22 our President is here. Our leaders are paying a
23 lot of attention to these public hearings. And we
24 really want to hear what you have to say and take
25 that into account in our plans and our requests.

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8
4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 **CHAIRMAN RANDALL:** Thank you.

2 All right. I'm going to turn -- as I was
3 saying a minute ago, we've got a lot of
4 instructions. I'm going to give it to our
5 attorney, Mr. Josh Minges, first.

6 **MR. MINGES:** Thank you, Mr. Chairman.

7 Good evening, folks. Please silence your
8 phones. Also, please make sure you've signed in at
9 the back, if you'd like to speak this evening.

10 In a moment, Commission Staff Member Rob
11 Bockman will call the names of those who've signed
12 up to speak to come forward and be sworn in.

13 Please give your name and state where you're
14 from, and then proceed with your testimony. After
15 you're done, please remain at the podium for any
16 questions that the Commissioners or the parties
17 might have.

18 I'd like everyone to note that the
19 Commissioners are unable to answer questions due to
20 the judicial nature of this hearing. Duke and ORS,
21 like they've mentioned, will be here after the
22 hearing, or I guess even during the hearing, for
23 any questions that you might have.

24 There's another public hearing tomorrow night
25 in Sumter, but it's our policy you only speak at

1 one public hearing. And the hearing where Duke
2 will present its case begins on April 11th at the
3 Commission's hearing room in Columbia.

4 Thank you, Mr. Chairman.

5 **CHAIRMAN RANDALL:** Thank you.

6 Now I'm going to ask – turn it over to Mr. Rob
7 Bockman. You may hear some of the instructions
8 over again, but it never hurts to say it a couple
9 of times.

10 So, Mr. Bockman.

11 **MR. BOCKMAN:** Thank you.

12 Good evening, and welcome to tonight's public
13 hearing for Docket No. 2018-318-E, concerning Duke
14 Energy Progress' Application for a rate increase.

15 You just heard a brief overview of the process
16 tonight from Josh Minges, who is counsel for the
17 Commission. The seven people seated with him in
18 front of you tonight are the Commissioners of the
19 Public Service Commission, who were elected by the
20 South Carolina General Assembly to represent the
21 public interest and serve as a deliberative body
22 charged with regulating our State's public
23 utilities and adjudicating conflicts that arise
24 between individuals, organizations, and utility
25 providers.

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8
4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 These seven Commissioners are here in a
2 judicial capacity and, per the Code of Judicial
3 Conduct, will not be able to answer questions about
4 ongoing cases, including this one. We ask that you
5 do keep that in mind and keep your comments to just
6 that – comments – as questions will go unanswered
7 by the Commissioners tonight.

8 The Office of Regulatory Staff and Duke Energy
9 Progress have representatives here tonight, and
10 they are willing and able to answer your questions.
11 ORS, as you heard, is home to a consumer advocacy
12 department, and I do want to underline that they
13 are here to advocate for you, the ratepayer.
14 Complaints can be made to ORS, who will investigate
15 them fully. You have the right to receive the
16 services you pay for, and the Commission and ORS
17 were created to secure that right and support a
18 strong utility economy. We remain committed to
19 that principle.

20 Since Josh Minges gave you a brief overview of
21 the process tonight, I won't belabor that, but I
22 will ask you to silence your cell phones and ask
23 that when you hear me call your name, which will be
24 momentarily, please be ready to deliver your
25 testimony. I'll be calling your name in the order

1 in which you signed up outside, so when you hear
2 your name, please approach the podium to be sworn
3 in. You will then state your name and your city of
4 residence clearly and speak directly into the
5 microphone, and then proceed with your testimony.

6 Because of the number of people signed up
7 tonight and because we want to hear from every
8 single one of you, testimony is strictly limited to
9 three minutes. After three minutes, you'll hear a
10 beep from our timer up here, which will signal that
11 your time has ended. Commissioners may also have
12 follow-up questions for you, so after you're done
13 speaking, please don't leave the podium just yet.

14 And there will be another hearing tomorrow
15 evening in Sumter, so if you do not have a chance
16 to speak tonight, please consider attending that.
17 But also please keep in mind that you may only
18 speak at one of these night hearings.

19 Finally, we encourage you to follow us on
20 Facebook at Public Service Commission of South
21 Carolina and on Twitter @PSCofSC to learn more
22 about the PSC's operation. In addition, our SC
23 Utility Consumer platform is designed to interact
24 with the public directly. We encourage you to
25 follow us on Twitter @UtilityConsumer and on

1 Facebook at SC Utility Consumer.

2 We do have this listed on a little sheet
3 outside, if you want to grab one of those postcards
4 on your way out.

5 I would also note here that each Commission
6 Business Meeting and Commission hearing, including
7 the hearing beginning on April 11th related to this
8 case, they're all livestreamed online. And you can
9 find that link on our website at www.psc.sc.gov.
10 Again, that's www.psc.sc.gov.

11 Thank you very much, again, for your
12 attendance at this meeting. By attending, whether
13 you have chosen to speak or not, you demonstrate
14 your dedication to our State and to our shared
15 utility system. Everyone in this room has a stake
16 in this proceeding, and we appreciate you taking
17 the time to meet with us tonight. Thank you.

18 **CHAIRMAN RANDALL:** Thank you, Mr. Bockman.

19 Before we get started, I know – I wanted to
20 welcome Agricultural Commissioner Hugh Weathers
21 tonight. Would you like to say anything before we
22 get going, Commissioner?

23 **COMMISSIONER WEATHERS:** I've signed up to
24 speak, so...

25 **CHAIRMAN RANDALL:** Okay. Well, let you go

1 first, if you want to.

2 [Witness affirmed]

3 THEREUPON came,

4 H O N O R A B L E H U G H E . W E A T H E R S ,
5 who, having been first duly affirmed, testified as follows:

6 WITNESS: Good evening. My name is Hugh
7 Weathers. I have the privilege to serve South
8 Carolina as your Commissioner of Agriculture. And
9 quite a few of my constituents, within the total
10 constituency, are here. And I'm going to speak
11 maybe on their behalf, but I'm going to speak as a
12 farmer, I'm going to speak as someone who's visited
13 this part of the State for three of the last four
14 years for the same reason. It always has to do
15 with something that Mother Nature has in store for
16 us with too much water, too much weather-related
17 events – wind, water from hurricanes and floods.
18 During those times, I've seen farmers go from the
19 resilient bunch that we are to being just
20 emotionally challenged by the weather events beyond
21 their control.

22 Now let me just speak a little bit about maybe
23 how a farmer is impacted by this a little
24 differently. A lot of us in farming have many
25 locations within our farms that would have a meter

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 base. Some of them might only be used seasonally,
2 either for irrigation, might be used for drying of
3 crops, and other things that are not a year-round
4 basis. So when you have that multiplied by,
5 sometimes, 30 or 40, the base rate change that's
6 proposed, it can have just an undue impact from
7 that base rate change on that particular farming
8 operation, because the base-load change would not
9 be spread over as much electricity usage as perhaps
10 someone 365 days out of the year.

11 So the farming economy is different. It is
12 challenged. We do not have a PSC to go before when
13 we need more for our milk or our corn or our
14 soybeans. We have the markets, and the markets
15 have not been very kind to farmers in the last few
16 years, for a lot of reasons. World economies
17 affect all these things. So the agricultural
18 economy of South Carolina right now is on a
19 downward end of a cycle, so for what seems like a
20 minor adjustment in the electricity charges across
21 their farm is not minor in this particular case,
22 again because of the reasons we pointed out – the
23 last three years or so that we've had challenging
24 us, and now the market conditions.

25 So as Commissioner of Agriculture and perhaps

1 a spokesperson for what some of the farmers here
2 will tell you later, this rate change will have
3 just an exorbitant impact based on the way that a
4 lot of the farmers are set up with their
5 electricity usage. I don't want to take too much
6 of your time. I just appreciate the chance for you
7 to be here, for you to hear this, and I'll just
8 stay for any questions that you may have of me.

9 CHAIRMAN RANDALL: Thanks, Commissioner.

10 Any questions?

11 COMMISSIONER WHITFIELD: Mr. Chairman.

12 CHAIRMAN RANDALL: Yes, sir, Commissioner
13 Whitfield.

14 EXAMINATION

15 BY COMMISSIONER WHITFIELD:

16 Q Good to have you with us tonight, Commissioner.
17 Wondering if you've had any discussions with ORS or any
18 other group. Typically, their Consumer Services
19 Division represents residential ratepayers, and
20 oftentimes we have parties intervene on behalf of large
21 industrial customers. But with your seasonal metering,
22 like irrigation and some of those things, have you had
23 any discussions with Ms. Edwards of ORS, or with any
24 other group –

25 A Commissioner, I – unfortunately, I have not. I've had

1 conversations with representatives of Progress Energy,
2 just to speak to the same things I've said here. But, I
3 have not.

4 **Q** Well, certainly, you've got them here tonight, and
5 you've got –

6 **A** Hopefully, they heard.

7 **Q** And we, of course, can't get involved, but I certainly –
8 you've got the right folks here, I think, tonight.

9 **A** Also, unfortunately, I usually cross paths with ORS when
10 we're fighting hurricane relief, so...

11 **COMMISSIONER WHITFIELD:** Yes, sir. We're
12 aware of the devastation that's occurred down here
13 in the past. Thank you.

14 Thank you, Mr. Chairman.

15 **CHAIRMAN RANDALL:** Any other questions of
16 Commissioner Weathers?

17 **MS. EDWARDS:** I'm sorry, I do have one
18 question, but I didn't want to jump ahead of the
19 Commissioners, but I didn't want you to leave me
20 out.

21 **CHAIRMAN RANDALL:** Go ahead. You go for it.

22 **MS. EDWARDS:** Okay.

23 **CROSS EXAMINATION**

24 **BY MS. EDWARDS:**

25 **Q** Thank you for your testimony tonight. Can you guys hear

1 me? Okay.

2 I appreciate the fact that you brought forward that
3 the farming economy is different than maybe certain
4 other businesses –

5 A Yes, ma'am.

6 Q – that would be impacted. In particular, I wanted to
7 get to the point: Would you agree with me that raising
8 prices for your commodities or for what farmers have,
9 that's not like in a normal business environment; you
10 can't just take the increase and pass it on. Is that a
11 fair statement?

12 A That's very much an understatement. It is strictly the
13 nature of agriculture – we buy it retail and we sell it
14 wholesale – and the markets for most of the crops grown
15 here in the Pee Dee area are based on world economies.
16 What happens in China can impact a farmer from Florence
17 as much as the rain here, with the prices that they
18 receive.

19 Q What difficult choices do you believe that farmers would
20 have to make if the increase was granted, as requested?

21 A Well, some of them might be forced to look at a
22 different way to operate. You can use diesel-operated
23 generators for your irrigation. It's impractical.
24 Would it cost out to be effective? I don't know. But
25 then they'll have to look at each individual case, "Can

1 I afford to still operate this piece of my business?"
2 They'll look at it on an incremental basis across the
3 farm, not just as a whole.

4 Q And, of course, diesel, when we're in a period of time
5 about looking at greener technology, that would not be
6 optimal.

7 A It would not be.

8 Q Okay.

9 A Just, it is an option.

10 Q Okay. Thank you, sir.

11 A Thank you.

12 CHAIRMAN RANDALL: Thank you.

13 Any other questions?

14 [No response]

15 Thank you, Commissioner. Appreciate you being
16 here.

17 [WHEREUPON, the witness was excused.]

18 Before we start calling names, Commissioner
19 Hamilton, from the Seventh District, had a question
20 or two. Commissioner, pull that microphone down to
21 you.

22 COMMISSIONER HAMILTON: Yes. Thank you, Mr.
23 Chairman.

24 Ms. Smith, if I could ask you a couple of
25 questions, I realize in the Duke Carolinas case we

1 have a stipulation for the base rate or fixed
2 charge. Can you tell me where we are in this case
3 with that stipulation?

4 MS. SMITH: On March 26, Duke Energy Progress
5 filed a letter based on feedback that we received
6 through a number of filings on the Commission's
7 website, feedback that our folks had heard directly
8 from the community. And as a result of that, the
9 company revisited its request to include a \$29
10 basic facilities charge in the rate increase.

11 And so on March 26th, with all that feedback,
12 the company revised its opinion on the matter, and
13 going off of some testimony and analysis that the
14 ORS had provided, the company indicated that,
15 rather than the \$29 basic facility charge, it was --
16 it could be agreeable to an \$11.78 residential
17 charge, and then a \$12.34 SGS charge, and an \$11.31
18 constant-load SGS charge. And it's my
19 understanding that a lot of the farming community
20 is on these SGS rates for the multiple meters that
21 we just heard the Commissioner speak of.

22 And with that, that would be the change in the
23 basic facilities charge, and the remaining revenue
24 requirement that the company would be seeking would
25 be in the volumetric component.

1 **COMMISSIONER HAMILTON:** Okay. So it would be
2 a reduction from \$29 to the three figures you gave,
3 which the lowest was \$11.78?

4 **MS. SMITH:** Eleven seventy-eight [\$11.78] for
5 residential customers, and then the small general
6 service was \$12.34.

7 **COMMISSIONER HAMILTON:** Okay

8 **MS. SMITH:** And \$11.31 for SGS constant load.

9 **COMMISSIONER HAMILTON:** And that's the farm –

10 **MS. SMITH:** It's my understanding, sir.

11 **COMMISSIONER HAMILTON:** Thank you, ma'am. One
12 other question we had in another hearing. We had
13 an awful lot of discussion about executive
14 salaries. And I know that ORS had presented – Mr.
15 Nelson – in the other hearing, an amount that was
16 much less than we read about in the *Charlotte*
17 *Observer*. Do you know what the agreement was that
18 worked out between you two, before it comes to the
19 Commission was, like, 540?

20 **MS. SMITH:** Yes, sir. The company takes the
21 salaries of its executives and spreads them across
22 the multiple jurisdictions in which Duke operates,
23 and the approximately \$500,000 number you mentioned
24 was attributable to our CEO, Lynn Good. That is
25 how much customers in the Duke Energy Carolinas

1 territory are being requested to compensate for the
2 CEO's salary. In the Duke Energy Progress
3 territory, \$175,000 is allocated from this region
4 for Ms. Good's salary.

5 COMMISSIONER HAMILTON: Okay. And that kind
6 of replaces the *Charlotte Observer* information; is
7 that right?

8 MS. SMITH: Yes, sir. That was an aggregate
9 number, not broken down by jurisdiction and
10 customers.

11 COMMISSIONER HAMILTON: Thank you, Ms. Smith,
12 very much, for this clarification.

13 MS. SMITH: Thank you, sir.

14 CHAIRMAN RANDALL: Thank you. Thank you,
15 Commissioner Hamilton.

16 Okay, Mr. Bockman.

17 MR. BOCKMAN: At this point, we're going to
18 read out three names. We ask that the first person
19 take the podium and the other two be in the aisle
20 behind them, ready to take the stand, please.

21 We are going to be very loud here, so that we
22 can assure that everyone to the side and out in the
23 hall can hear us.

24 So, if we could have at this point Harry Ott,
25 Anthony Ward, and Kenneth Nance approach the

1 podium, please.

2 [Witness affirmed]

3 THEREUPON came,

4 H A R R Y O T T ,

5 who, having been first duly affirmed, testified as follows:

6 WITNESS: My name is Harry Ott. I live in St.
7 Matthews, South Carolina, and I am the President of
8 South Carolina Farm Bureau.

9 Are we ready, Mr. Chairman?

10 CHAIRMAN RANDALL: I think we're - we're
11 trying to make sure we call everybody's name out in
12 the hall, as well as when we call them in here.
13 But I think, Mr. Ott, I believe it's time for you
14 to go.

15 WITNESS: Well, thank you, Mr. Chairman.

16 On behalf of all the farmers that are here
17 tonight and all across the great State, I want to
18 thank you for the opportunity of allowing us to
19 come and make some public statements as it relates
20 to the power increase that Duke is asking.

21 There's an old saying out on the farm, you can
22 mash a pancake as flat as you want to, but it will
23 always have two sides on it. And I'm sure you have
24 heard Duke Energy's side of the equation on why
25 they need an increase in their rates. I want to

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8
4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 talk with you tonight about agriculture and follow
2 up on what the Commissioner has already told you,
3 and give you our side of that pancake and tell you
4 why we believe that this rate increase is
5 unjustified at this point in time.

6 Obviously, we probably would not have been
7 here tonight if Duke had not chosen to ask for 123
8 to 133 percent increase on their base utility rate.
9 That's what got our attention. But, you know, we
10 also understand that you've got people in this
11 audience that live on a fixed income, Social
12 Security check. So this isn't just about
13 agriculture. This is about everybody that turns
14 their lights on every day. So while I'm going to
15 talk to you about agriculture, I want everybody in
16 this audience to know that we feel your pain also,
17 and we are here in your support.

18 But you heard the Commissioner tell you that
19 we've had two years, out of the last four, of
20 floods in the Pee Dee. We have a lot of farmers
21 who are very stressed out in the financial world,
22 and we can't come to grips with somebody asking for
23 an overall 14½ percent increase on utility rates in
24 the Pee Dee.

25 Now 14½ percent might not sound like a lot to

1 y'all sitting behind that desk. But if you're out
2 here on the farm and your margins are about 1 to 2
3 percent right now – and that's if you have a good
4 year and getting to cut all your crops. If y'all
5 drove in on I-95, you probably saw soybeans and
6 cotton that are still in the field from last year,
7 that will never be harvested. We spent 100 percent
8 of our money to harvest zero. We might have gotten
9 a little bit of crop insurance.

10 But these rate increases, Mr. Chairman and
11 members of the Commission, we don't have a way to
12 pass these costs to anybody. If you take the low
13 prices, the problems that we have on the world
14 market with the tariffs and the trade situations,
15 the old saying down on the farm is you just can't
16 squeeze any more blood out of this turnip. And
17 that's why we're here to put a face on this
18 request. And we need for y'all to hear us, hear
19 our plight –

20 [3-minute signal]

21 – and take this into consideration when you
22 are making this decision. And remember,
23 agriculture is the largest economy – economic
24 driver in the State, and it is the largest employer
25 in the State of South Carolina. The Pee Dee is the

1 capital of agriculture in the State of South
2 Carolina. These rate increases are going to have a
3 very detrimental impact on agriculture in the Pee
4 Dee, and I would ask for your consideration.

5 CHAIRMAN RANDALL: Thank you, sir. Hang on
6 right there and let me see – any questions from the
7 parties? Ms. Edwards.

8 CROSS EXAMINATION

9 BY MS. EDWARDS:

10 Q Thank you for being here tonight.

11 A Thank you.

12 Q Just very quickly, I had asked, earlier, the
13 Commissioner, you know, what difficult choices would you
14 need to make, whether it's the volumetric charge or BFC,
15 what – one question I have as follow-up is, I mean,
16 could it put some of the farmers out of business?

17 A I would tell you, in all honesty, our alternatives are
18 none. We have become dependent on electricity, which is
19 why we're here saying we can't do without electricity.
20 We understand you provide a product that we cannot get
21 along without. We have to have it. So if you ask me if
22 I've got any alternative, the answer is no. I'm going
23 to hit the switch on my irrigation pump, I'm going to
24 hit the switch on my fuel pump and put fuel in my
25 tractors, and I'm going to turn lights on in my shop to

1 run the welder. What that means is I might not have
2 enough money to pay some of my other bills, but you've
3 got me over a barrel. I've got nowhere to go to get
4 electricity except from Duke Energy -- my customers in
5 the Pee Dee.

6 So it's not like we have choices. We are hooked on
7 Duke.

8 [Laughter]

9 So we are just asking for some fairness in this
10 equation, so that we can pay our bills.

11 And I want to mention one thing, if I could, Mr.
12 Chairman. I know -- I told a few of my acquaintances I'd
13 probably run over. And I want to thank Duke for coming
14 to the table and reducing some of these rates. But they
15 only reduced -- if I'm reading the letter correctly -- two
16 of the categories. And we believe we've got a lot of
17 farmers that will fall into that medium range, and we
18 would request that those rate reductions also come to
19 those medium-range farmers that get their -- so that
20 their rates don't go from \$17 per meter to \$40 per
21 meter. So we believe at least those top three rates --
22 while I appreciate the movement on the first two -- I
23 would ask that y'all consider reductions on that third
24 one.

25 Q You anticipated my very next question. Thank you.

1 [Laughter]

2 CHAIRMAN RANDALL: Thank you.

3 Commissioners, any questions? Commissioner
4 Ervin.

5 EXAMINATION

6 BY COMMISSIONER ERVIN:

7 Q Mr. Ott --

8 A Yes, sir. Good to see you.

9 Q -- good to have you with us tonight.

10 A Thank you.

11 Q How many members do you have now in South Carolina?

12 A We've got right at 100,000.

13 Q And I would be interested in knowing if ORS has
14 researched the possibility of having an agricultural
15 rate. I know that, historically, we had a cotton gin
16 rate. I don't know how much cotton is being grown now
17 in the Pee Dee.

18 A Actually, I'm a partner in a cotton gin. We get a rate
19 on natural gas when it's available, and then they turn
20 it off and you've got to go to something else.

21 Q But the idea, I think, back then -- and maybe still is --
22 that it's a seasonal usage, but when you use it
23 sometimes you're using it 24 hours a day when you're
24 ginning cotton. Is that what you do?

25 A Yes, sir. When we run, we run constantly. And that

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 takes us to the irrigation systems.

2 Q Right.

3 A You know, those systems sit out, oh, nine months out of
4 the year sometimes, but we still pay that base rate –

5 Q Exactly.

6 A – every month, even when we're not using it. And then
7 when we turn them on, if it's 100 degrees in July and
8 we've got corn in the field, we pretty much run them
9 24/7.

10 COMMISSIONER ERVIN: So, I don't know if we
11 can do it in this docket, but in future dockets I
12 would like for you to look into a lower
13 agricultural rate.

14 BY COMMISSIONER ERVIN:

15 Q Since our farmers have been impacted by so many
16 different things coming at you, with the floods and the
17 trade barriers, the tariffs, and all of the problems
18 that you're having, you know, getting in the foreign
19 markets. We could adjust it, you know, if some of these
20 problems could be solved long-term, but for now it seems
21 to me that you really need help. You need a hand up.

22 A I would appreciate anything – Mr. Commissioner, I will
23 tell you, we heard testimony in Washington DC, the farm
24 economy – not only in South Carolina, but across the
25 nation – is bordering on the 1980s, when a lot of people

NIGHT HEARING/FLORENCE - VOLUME I OF 8
4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 went out of business in agriculture. We are about one
2 more flood away from that level. I've heard people in
3 Washington talking to senators and House members that
4 have been five- and six-generation farmers, and they
5 don't want to be the last generation to work the land.

6 So any consideration that this Commission or Duke
7 or ORS can give to us in agriculture, and all of these
8 ladies and gentlemen in this audience, would be greatly
9 appreciated.

10 Q And it could be that Duke could also look at the, you
11 know, the historic rates for cotton gins. You might
12 even could incorporate it under that category for a
13 special seasonal rate.

14 A We would certainly appreciate any –

15 Q So we'll – I'd like to look into that on the regulatory
16 side and see if there's any relief that can be offered.
17 Thank you for being with us.

18 A Thank you for allowing me to give my testimony.

19 CHAIRMAN RANDALL: Thank you.

20 Other Commissioners? Commissioner Williams.

21 **EXAMINATION**

22 **BY VICE CHAIRMAN WILLIAMS:**

23 Q Good evening, Mr. Ott.

24 A Good evening.

25 Q Thank you for being here this evening. I appreciate

1 your commentary about the rates, and we're taking all
2 that into consideration. I had a question about a topic
3 other than the rates, since you're representing some of
4 the farmers here this evening.

5 How is the customer service from Duke? Have there
6 been any issues on your farm, regarding customer
7 service, dealing with your meters, running your farm
8 effectively and efficiently?

9 A I'm going to be as honest with you as I can. Having -
10 not being a member of this area and getting my service
11 from Duke, I have heard of a few farmers who have had
12 some issues with Duke. I think the person coming behind
13 me would be more likely to be able to give you an answer
14 as far as the service that he receives on his farm from
15 Duke Energy, if that's - I just don't get my power from
16 them, so I don't deal with them on a daily basis.

17 VICE CHAIRMAN WILLIAMS: Thank you, I
18 appreciate that.

19 CHAIRMAN RANDALL: Thank you.
20 Commissioner Howard.

21 EXAMINATION

22 BY COMMISSIONER HOWARD:

23 Q Mr. Ott.

24 A Hello.

25 Q Hello. A couple things you mentioned, I'd like you to

1 elaborate a little more. Number one, exactly – and I
2 know it does, but exactly where in the world economy
3 affects the Pee Dee the most? And tell me about how
4 those tariffs affect the Pee Dee.

5 A Where in the country affects the Pee Dee the most,
6 obviously I think China has the biggest impact on
7 everybody. I mean, they are the biggest customer on the
8 block. We grow a lot of soybeans in the Pee Dee. Most
9 of y'all have probably read in the paper where China
10 quit buying a lot of our soybeans because they – both
11 the tariff situation and then the retaliatory tariffs
12 that China put back on us. So, you know, I would say
13 China and the tariffs and the access to world markets
14 have probably taken \$1.50 or \$2 away from the price of a
15 bushel of soybeans that farmers in the Pee Dee area
16 receive.

17 Q Thank you, very much.

18 A Thank you.

19 CHAIRMAN RANDALL: Thank you.

20 Commissioners, any other questions?

21 COMMISSIONER WHITFIELD: Mr. Chairman.

22 CHAIRMAN RANDALL: Commissioner Whitfield.

23 COMMISSIONER WHITFIELD: Thank you.

24 <

25 <

EXAMINATION

BY COMMISSIONER WHITFIELD:

Q Mr. Ott, I've got one quick follow up.

A Yes, sir.

Q You have some of your members behind you, and citizens behind you, may clarify this area. I realize you're not a resident of the Pee Dee. But have you heard any of your farmers in this area talk about like what Commissioner Weathers suggested, having to use diesel for the irrigation of the seasonal use? Or have you heard any discussion, would this proposed increase force people to do that, something that might not be as economical? Or what's your thoughts on that?

A While that would always be an option, I don't think it's a very likely choice at this point, because, now, if you were putting in a new pivot, you may choose – if these rate increases keep going – you may choose to set up that new pivot on diesel power. But if you've made the investment and you've already got your pumps in the ground and you've got all of your things wired for electricity, it would be very costly to undo all of that to put in diesel power, because generally – I mean, a lot of people don't understand this about agriculture, and I'm going long, but a lot of times when they run these three-phase power lines to our fields they don't

1 do it out of the goodness of their heart; we have to pay
2 for it. You know? We end up putting in the power lines
3 to run to our fields, and they get the ownership and
4 then they charge us money for giving us power. You
5 know, if you want to look into a way to help alleviate
6 some of that pain, now, we could have a real
7 conversation about —

8 [Laughter]

9 — "Why am I buying power lines to run electricity
10 and you get to own the power lines and charge me to
11 bring me electricity on the power line I paid for?" So,
12 and it's not just Duke, okay? That's across the whole
13 area, so — but we could have a lot of conversation about
14 those. But I'm not really here to talk about that.

15 I just want a fair opportunity to make a living.
16 And I'll say this: There's not a farmer in this crowd
17 that wants to be here tonight. Not a single one of us.
18 We would much rather be planting corn or trying to disk
19 up some of those wet spots that might be dry enough to
20 get in right before this next rain comes in tomorrow.
21 But it's important to us. Our livelihood is at stake
22 and we cannot continue to get rate increase after rate
23 increase, on top of fertilizer prices going up, and
24 commodity prices going down. We are at that proverbial
25 spot that we don't have any more to give. So, now we

1 have to come to y'all.

2 Q Thank you, Mr. Ott.

3 A Thank you.

4 COMMISSIONER WHITFIELD: Thank you for your
5 testimony.

6 CHAIRMAN RANDALL: Thank you. Appreciate you
7 being here tonight.

8 WITNESS: Thank y'all.

9 [WHEREUPON, the witness was excused.]

10 CHAIRMAN RANDALL: Okay, Mr. Bockman?

11 MR. BOCKMAN: Yes, Chairman. Anthony Ward,
12 followed by Kenneth Nance and Woody Timmons.
13 Anthony Ward, Kenneth Nance, and if Woody Timmons
14 could join us at the podium, please.

15 [Witness affirmed]

16 THEREUPON came,

17 A N T H O N Y W A R D ,

18 who, having been first duly affirmed, testified as follows:

19 WITNESS: Anthony Ward. Florence County
20 President, Farm Bureau.

21 Before we get started on the clock, I just
22 wanted to clarify that there were three documents
23 that you guys got, entered into the docket. I want
24 to make sure you guys got that.

25 And I also have a question for the President

1 of Duke Progress, about the number of agricultural
2 meters. Okay? Just wanted to clarify that.

3 Thank you, Commission, for being here. My
4 name is Anthony Ward, President of Florence County
5 Farm Bureau. I represent approximately 4500
6 people.

7 I currently am a full-time farmer. I farm
8 2300 acres of land: 1000 acres of cotton, 1000
9 acres of soybeans, and a couple hundred acres of
10 corn.

11 Gentlemen, let me just tell you, this is a
12 rough road. One more year – I'm probably a sixth
13 or seventh generation farmer. There have been many
14 farmers in my family sit down at a family reunion,
15 five, six farmers in the house. I'm the last man
16 standing. One more year of this, and it's over.
17 It's over. Pack my bags and I'm going somewhere
18 else, because I can't make it.

19 How does this affect the farmer? Farmers have
20 many meters. Tobacco houses, pack houses,
21 irrigation systems, small services, barns, bulk
22 barns, grain bins, so you name it. How many meters
23 do I have? Probably about 12 or 13 between the co-
24 op and Progress Energy. This directly affects my
25 bottom line. I cannot recoup any cost. None.

1 None.

2 My soybean prices aren't going up. My input
3 costs are going up. I have no control whatsoever.
4 You cannot borrow yourself out of this hole. You
5 can't do it. It's not going to happen.

6 The farming economy, let's talk about where
7 we've been and where we are. '15, a hundred-year
8 flood; '16, hurricane; '18, one hurricane wasn't
9 enough, two hurricanes was not enough. We were
10 faced with continuous rainfall throughout the
11 harvest season and left many, many, many acres of
12 cotton left out in the fields. I had approximately
13 1000 acres of cotton; I left about 500-600 acres in
14 the field.

15 Return on investment: I'm hearing 9.3
16 percent. It would be really nice if I could use
17 somebody else's capital to farm with and be
18 guaranteed a 9.3 percent return on my investment.
19 I'd love to do that.

20 Medium general service rates: It's one thing
21 that got mentioned. Pivots fall in those rates.
22 That's 133 percent, \$17 to \$40. That's \$23 a
23 meter, times 12, per pivot. That's a big number.

24 Gentlemen, thank you for being here and
25 listening to the farmers. Agriculture is the

1 number one –
2 [3-minute signal]
3 – industry in the State of South Carolina. We
4 do want reliable energy but, at the same time,
5 what's more important: food or electricity?
6 Thank you, gentlemen.
7 **CHAIRMAN RANDALL:** Thank you, Mr. Ward. Hang
8 on.
9 Questions from the parties?
10 **MS. EDWARDS:** Thank you.
11 **CROSS EXAMINATION**
12 **BY MS. EDWARDS:**
13 **Q** Thank you for being here tonight. I know you just
14 mentioned the 9.3 percent. It sounds like the last
15 couple of years you not only had – you had zero profit;
16 is that a fair statement?
17 **A** Yes, ma'am, that's an understatement.
18 **Q** That's an understatement? In light of the company's
19 request for an increase, do you have an account manager
20 with Duke? Or do you deal with – who do you deal with
21 at Duke?
22 **A** Great question. We deal with a 1-800 number. Used to
23 have a contact, an account manager. But about eight,
24 nine years ago, they did away with that. So we really
25 have no representation as a farmer, from an account

1 manager standpoint.

2 Q So there used to be someone for the agricultural
3 community, like an account representative, that the
4 agricultural community could talk to, but now you're
5 just funneled directly through the same toll-free number
6 everybody else is?

7 A Yes, ma'am.

8 Q Okay.

9 A So when we call to ask for point of delivery for a
10 chicken pen or a chicken house, they think it's a coop.
11 We're investing millions of dollars to build this
12 infrastructure. We need some kind of representation.

13 Q Thank you for that. You mentioned the medium general
14 service. I think there's some confusion. When you –
15 what is a pivot? I'm sorry, I don't know.

16 A A pivot is the irrigation system that allows you to
17 water your crops.

18 Q And that would fall under the medium general service,
19 you believe?

20 A Depending on the size of your well and the usage. If
21 you're over 33 kW, I believe, you go into to a medium
22 general – a medium rate.

23 Q And would you or other farmers fall into that category?

24 A Yes, ma'am. I actually currently have an irrigation
25 system that falls in this medium general service rate.

1 Q Okay. And that --

2 A Most pivots are in the medium general service rate.

3 Q And that rate, again, it would go from \$17.17 to \$40.03?

4 A That's \$23 a month --

5 Q Okay.

6 A -- increase.

7 MS. EDWARDS: Thank you, sir.

8 CHAIRMAN RANDALL: Thank you.

9 Commissioners, any questions?

10 VICE CHAIRMAN WILLIAMS: Mr. Chairman.

11 CHAIRMAN RANDALL: Commissioner Williams.

12 EXAMINATION

13 BY VICE CHAIRMAN WILLIAMS:

14 Q Sir, thank you for coming and sharing your testimony
15 today. I have a similar question to that I asked Mr.
16 Ott. Could you share with me some stories about your
17 experience or some of your members' experience in
18 dealing with Duke and the level of customer service?
19 Good, bad, otherwise?

20 A Yes, sir, I'm glad to. First, DuPree Atkinson -- is he
21 in the room?

22 MR. ATKINSON: Right here [indicating].

23 WITNESS: Mind if I share your story?

24 MR. ATKINSON: Go right ahead.

25 WITNESS: Thanks, DuPree.

1 DuPree is a full-time farmer. I don't know if
2 DuPree got a chance to get on the list to talk.
3 DuPree added some tobacco barns several – or, a
4 year or two ago. And while they upgraded the
5 transformer, they forgot to upgrade the service.
6 So when you don't upgrade the service and you add
7 load, you burn the line down. Lost his tobacco
8 barn, lost his crop.

9 I think it would be a fair statement to say
10 that Mr. DuPree was probably jerked around a little
11 bit on getting paid for his loss, and it was the
12 power company's fault for not upgrading the
13 secondary wire. That's one case.

14 I'd like to share with you another case, on my
15 behalf. About seven years ago when I took off on
16 this venture, I had a low secondary line – a guy
17 wire, sorry, a span guy wire coming over the road,
18 growed up in vines, and it lacked about a foot from
19 my GPS on the top of my tractor. Well, if I go
20 through there and I yank that line down and it
21 falls on my equipment, what's that going to do to
22 me? It's gonna kill me, kill whoever's in that
23 tractor, more than likely. Twenty-three thousand
24 [23,000] volts is a lot of voltage.

25 So not one time, not two times. It'd be safe

1 to say three, if not four times, I called the
2 Public Service Commission to let them know about
3 what was going on. Nobody responded. On the last
4 phone call, you can imagine how heated I was. So I
5 called up there and I told them whoever's in
6 charge, I needed to talk to them. At that point, I
7 sent a picture. That got their attention. Hours
8 later, tree crews showed up, fixed the problem.
9 Why did I have to take my time out of my farming
10 operation to do this? I should be able to call or
11 talk to anybody at the company and they should be
12 able to address it. And I was having conversations
13 with the mana- -- or, supervisor at that time.

14 Hopefully, that answered your question.

15 BY VICE CHAIRMAN WILLIAMS:

16 Q It did. I just want to clarify something, now. You
17 said you called us, the Public Service Commission, or
18 you called Duke, with the wire?

19 A I called the Public Service Commission.

20 Q Okay. Any reason why you didn't call Duke about that
21 wire?

22 A I was talking with the supervisor, and I couldn't get
23 any help.

24 Q So, no response from Duke --

25 A No response.

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8
4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 Q - so you tried the Public Service Commission?

2 A Yes.

3 Q I gotcha. And I take it you are familiar with ORS's
4 role, as well.

5 A I understand, yes.

6 Q Okay, being the consumer advocate?

7 A Yes.

8 Q Okay. All right. Thank you for sharing your story,
9 sir.

10 WITNESS: Anybody got any other questions?

11 CHAIRMAN RANDALL: Hang on one second.

12 Any other Commissioner questions?

13 [No response]

14 All right. I want to make sure we get the
15 three documents that you were talking. We've got
16 those down, Ms. Wheat? We'll enter those as
17 Hearing Exhibit No. 1.

18 [WHEREUPON, Hearing Exhibit No. 1 was
19 marked and received in evidence.]

20 WITNESS: If I could, real quick, a quick
21 question for the President - South Carolina
22 President? I received a letter from Lynn Good in
23 regards to how many meters agricultural has. In
24 her response - I'm looking for this number. I
25 thought I saw 513 agricultural-related accounts.

1 That number seems a little low. I'd like to ask
2 the President how they come up with that number.

3 CHAIRMAN RANDALL: I would say, why don't you
4 get with Mr. Preston back there in the back.

5 WITNESS: Okay, sure.

6 CHAIRMAN RANDALL: And get him to help you
7 with that, and get you to the right direction.

8 WITNESS: Gotcha. Thank you guys. Appreciate
9 it.

10 COMMISSIONER WHITFIELD: Mr. Chairman, I would
11 like to say one other — ask one thing of Mr. Ward.

12 What Commissioner Williams was telling you,
13 now that you're familiar with the South Carolina
14 Office of Regulatory Staff, when you call the
15 Commission, since Act 175 was passed, that does not
16 allow the Commission to do anything. That call
17 will get immediately forwarded to the Office of
18 Regulatory Staff. And Ms. Edwards gave that 800
19 number out, earlier this evening. So, please, make
20 sure you have that in the future.

21 WITNESS: Got it.

22 COMMISSIONER WHITFIELD: Because we're not
23 allowed to help with consumer complaints anymore,
24 as of 2004.

25 Thank you, Mr. Chairman.

1 CHAIRMAN RANDALL: Thank you.

2 Okay. Thank you, Mr. Ward.

3 MR. BOCKMAN: Thank you, Mr. Ward.

4 [WHEREUPON, the witness was excused.]

5 We have Kenneth Nance, Woody Timmons, Buquilla
6 Cannon. Kenneth Nance, Woody Timmons, Buquilla
7 Cannon.

8 [Witness affirmed]

9 THEREUPON came,

10 K E N N E T H N A N C E ,

11 who, having been first duly affirmed, testified as follows:

12 WITNESS: Kenneth Nance, and I live at 1721
13 North Douglas Street, Florence.

14 Gentlemen, thank you for letting me speak here
15 tonight. I'm touching on a few different areas,
16 and much of what I wanted to say, the gentlemen
17 ahead of me, they covered it.

18 But it's a growing trend in this country now,
19 and I refer to it as WDIS, "Where does it stop?"
20 I'm not opposed to anybody or any business making a
21 profit. You've got to make a profit to keep your
22 door open. But just to reach back in your back
23 pocket and pull out a list, "Yeah, we need a price
24 increase for this, this, and this, and this,"
25 without being able to justify it, no, I don't agree

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 with that.

2 There's too many people out here having hard
3 times right now, like the Farm Bureau President was
4 saying. You know, much more, and we're all going
5 under. And right now — I'm a retired farmer, but
6 26 percent of people in this country are feeding
7 the world. That's 26 percent feeding the world
8 population.

9 You know, we just voted down — we had a
10 referendum here about three or four weeks ago. The
11 school district was trying to raise \$194 million to
12 pay for four schools, a gymnasium and an athletic
13 facility for each one of those schools. And we
14 voted it down three-to-one because where does it
15 stop? We can't take much more.

16 Whether you go to Burger King or a fine-dining
17 restaurant, get your receipt. You're paying a 10
18 percent food tax on whatever you buy — even a
19 hamburger or a hotdog, you're paying 10 percent
20 food tax. Where does it stop?

21 I had a problem with Duke Energy back here
22 last year. I've got about 10 acres of right-of-way
23 land on my farm that, back in 1920, they only paid
24 \$125 and cut through 10 acres of my farm. That was
25 under different ownership. A hundred and twenty-

1 five dollars [\$125], and I've got the paperwork to
2 show that, if you want to see it. But the thing
3 about it, Duke -- they sort of put the old strong
4 hand on me and told me, "Hey, you're gonna have to
5 let us put chemicals on that right-of-way, or
6 you're gonna have to cut it yourself."

7 [3-minute signal]

8 Well, these chemicals are serious. I ended up
9 having to sign an agreement and agree to cut as
10 much of that area as I could -- and, you know, some
11 of it is swampland and I can't cut that. But
12 anyway, I had to agree to mow and keep the right-
13 of-way cut for Duke Energy, and that was about 10
14 acres. But you know, here again -- we're getting
15 down to the end of my little speech here, and I
16 thank you very highly. WDIS: Where does it stop?
17 Where does it stop? you know, we can all sit back
18 and say, "Yeah, man, we'd love to have a pay raise,
19 we'd love to have new cars, this, that, and the
20 other. We just pass along to the consumer and let
21 them suck it up." Well, I can assure you I'm not
22 part of the suck-it-up generation.

23 [Laughter; applause]

24 I'm sorry, I am not part of the suck-it-up
25 generation. Thank you.

1 CHAIRMAN RANDALL: Commissioners, any
2 questions?

3 WITNESS: I believe in doing things the right
4 way, but let's -- you know, where does it stop?

5 CHAIRMAN RANDALL: Thank you, sir.

6 MS. EDWARDS: I just have a clarification
7 question.

8 CROSS EXAMINATION

9 BY MS. EDWARDS:

10 Q Are you maintaining that right-of-way now?

11 A Yeah.

12 Q And so, rather than have the chemical -- which I guess
13 this is part of vegetation management.

14 A Yeah, uh-huh.

15 Q But rather than have them using a chemical, you elect to
16 do that clearance yourself.

17 A Yeah. Yeah, because my land is valuable to me. I'm
18 grazing livestock out there.

19 And there's been -- there was another case back here
20 a number of years ago, where they came in the back side
21 of my farm and sprayed chemicals out there, and it was
22 under CP&L then. And they got the contractor out there
23 and made him fence it off, so my cows wouldn't get it.
24 The guy made the statement, he says, "Man, that stuff is
25 harmless." He said, "I'll drink a glass of it right

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 now." I said, "Well, get you a glass and drink it," you
2 know?

3 [Laughter]

4 But, anyway, he went out and he put a fence around
5 it. But, you know, getting on the Duke's customer
6 service, my line coming into my house from the main line
7 had a lot of limbs hanging over it. Well, I called Duke
8 and they sent a guy out there. And he said, "Well, we
9 don't do anything about that until it falls on the line
10 and tear the line down. Then we'll come out and put the
11 lines back up." We just had a new crew come through
12 here about two weeks ago, and I explained my predicament
13 to them, and they were very generous and they came out
14 and they cut that. But Duke's policy was, "We'll just
15 let it fall on the line. We can't afford to go out and
16 trim lines for, you know, all these things." You know,
17 hey, I believe in being proactive rather than reactive.
18 It's a whole lot more organized.

19 CHAIRMAN RANDALL: Thank you, Mr. Nance.

20 Any other questions, Commissioners?

21 [No response]

22 WITNESS: Thank you.

23 CHAIRMAN RANDALL: Thank you, very much.

24 Appreciate you being here.

25 [WHEREUPON, the witness was excused.]

1 MR. BOCKMAN: After Woody Timmons, we have
2 Buquilla Cannon and Sarah Mellen. Sarah Mellen.

3 [Witness affirmed]

4 THEREUPON came,

5 W O O D Y T I M M O N S ,
6 who, having been first duly affirmed, testified as follows:

7 WITNESS: Woody Timmons. I live in the Town
8 of Timmonsville.

9 I'm a representative of an organization that's
10 not organized. It's called homeowners, and I'm not
11 an HOA member. I own a home, but I'm not an HOA
12 member.

13 But real briefly, homeowners do a lot to try
14 and save energy, to try and help the green path
15 that we hope to follow. I recently spent -- and I'm
16 not going to say how much, but tens of thousands of
17 dollars to follow that path by going to solar
18 energy at my home, in cooperation with Duke. And I
19 thank them for that. They worked well with me, and
20 it's paying off. However, I don't have anybody to
21 address my issue to, other than a board like this,
22 when a cost comes down on me. I just have to pay
23 it. I can't even read my meter -- and I have called
24 them and asked them how to read it, but they tell
25 me it's up to the person that put the meter up

1 there, the subcontractor.

2 And, anyway, we buy light bulbs, the LED type;
3 we put new insulation in; we put this, this, that
4 and on and on and on, to your home to reduce the
5 amount of energy that we're using, and our bill
6 continues to go in the other direction
7 [indicating].

8 So I'm not too sure how this all works. When
9 I drive down the road, I see, used to be, on top of
10 somebody's house, but now you pass by tens of acres
11 of solar panels. Who are they feeding? They're
12 not feeding people's homes. So ask yourself, who
13 are those solar farms feeding? Then ask yourself,
14 who pays to put them in? And then ask yourself, if
15 they're reducing the cost of the production of
16 electricity, where's that gap being felt? It's not
17 being felt at my house.

18 I rest my case. Questions?

19 **CHAIRMAN RANDALL:** Thank you, Mr. Timmons.

20 Questions from the parties?

21 [No response]

22 **VICE CHAIRMAN WILLIAMS:** Mr. Chairman, I have
23 one questions.

24 **CHAIRMAN RANDALL:** Commission Williams.

25 <

EXAMINATION

BY VICE CHAIRMAN WILLIAMS:

Q Mr. Timmons, did I understand you correctly, in that you installed, recently installed, solar panels -

A Yes.

Q - at your home?

A Yes.

Q And am I understanding you correctly in that you are opposed to the rate increase in -

A Yes.

Q - the basic facility charge?

A Yes.

Q Okay. Would you make the same decision to install solar panels, if you knew this rate increase was coming?

A Yes.

Q You still would?

A Yes.

Q You still think it's a good investment?

A Yeah, it lowered my bill.

Q Okay.

A It's a good investment.

Q Okay.

A I don't think this is a good investment [indicating].

[Laughter]

VICE CHAIRMAN WILLIAMS: Thank you, sir.

1 CHAIRMAN RANDALL: Any other questions?

2 COMMISSIONER BELSER: Mr. Chairman?

3 CHAIRMAN RANDALL: [Indicating.]

4 EXAMINATION

5 BY COMMISSIONER BELSER:

6 Q You contacted Duke Energy and asked them to advise you
7 on how to read your new meter, after you put the solar
8 panels up?

9 A Yes, ma'am.

10 Q And they could not provide you any information on how to
11 read your meter?

12 A No, ma'am.

13 COMMISSIONER BELSER: Thank you, very much.

14 CHAIRMAN RANDALL: Commissioners, any other
15 questions? Commissioner Hamilton.

16 EXAMINATION

17 BY COMMISSIONER HAMILTON:

18 Q Mr. Timmons —

19 A Yes.

20 Q — it might be smart if you would talk to the Duke
21 representative at the back, and he might can tell you
22 about the solar farm, where it goes.

23 A Thank you.

24 COMMISSIONER HAMILTON: Yes, sir.

25 CHAIRMAN RANDALL: Other questions —

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS: Anything else?

CHAIRMAN RANDALL: — from Commissioners?

[No response]

Thank you, Mr. Timmons.

WITNESS: Thank you, Mr. Chairman.

[WHEREUPON, the witness was excused.]

MR. BOCKMAN: Thank you. We have Buquilla
Cannon, Sarah Mellen, and John Monroe. John
Monroe, if you'll take a place behind the podium,
please.

[Witness affirmed]

THEREUPON came,

B U Q U I L L A C A N N O N ,

who, having been first duly affirmed, testified as follows:

WITNESS: Buquilla Cannon, Laurens County. My
name is Buquilla Cannon. I'm representing the
residential, small business, and just people in
general in the Pee Dee area.

We are concerned about the fact that we are
even having this hearing, because we don't
understand why there is a request for a rate
increase, a rate increase when you're talking about
one of the most wealthiest companies in the United
States: Duke Energy. Why are we trying to — and it
is so many people throughout the Pee Dee area that

1 has to make a decision every month about whether
2 they pay their light bill or they pay their
3 medication, or they get their medication or they
4 see their doctor. What is important to these
5 people? Whether they should live? Or whether they
6 should live a life of being sick because they
7 cannot afford the medication, they cannot afford to
8 see their doctor, because they have to have their
9 lights on?

10 These are questions that I – that I got
11 several calls on, in my office. I'm the Office of
12 Minority Health. And these people, my clients and
13 my patients, are dying. They're dying in great
14 numbers because they cannot afford healthcare.
15 They cannot afford healthcare. And the reason that
16 they can't afford healthcare is because they are on
17 a fixed income, and the income will not allow them
18 to be able to afford healthcare.

19 So, where they're left at? They're left with
20 big decisions every month. And they come to my
21 office, and we sit down and we try to do a budget
22 for them, we try to talk to them, to assure them
23 that somebody cares about them. But then they're
24 hearing on the TV, and it may not even sound – you
25 know, be as bad as it sounds. But when you're

1 talking about elderly folks on a fixed income and
2 you're talking about a rate increase on their
3 utility bill, you're talking about some angry
4 people. They're angry. And they're angry because
5 they have a right to be angry, because of the fact
6 that you have even the small businesses that just
7 can barely keep themselves above water – like my
8 business – and you're paying these astronomical
9 bills from December all the way through till April.
10 It's just unreal, even at my residence and not even
11 talking about the business.

12 So you have to cut costs and cut services, and
13 you're just faced with so many hard decisions –
14 hard decisions – that human beings in one of the
15 wealthiest countries in the world should not have
16 to make. You should not have to make –

17 [3-minute signal]

18 – a decision about whether you want to die or
19 whether you want lights. Thank you.

20 [Applause]

21 CHAIRMAN RANDALL: Thank you, Ms. Cannon.
22 Hang on.

23 Commissioners, any questions?

24 [No response]

25 Thank you, Ms. Cannon, very much for your

1 testimony.

2 WITNESS: You're welcome

3 [WHEREUPON, the witness was excused.]

4 MR. BOCKMAN: Thank you. We now have Sarah
5 Mellen, John Monroe, and Patrick Cobb, you're on
6 deck.

7 [Witness affirmed]

8 THEREUPON came,

9 S A R A H A . M E L L E N ,

10 who, having been first duly affirmed, testified as follows:

11 WITNESS: Sarah Mellen, City of Florence. I'm
12 a residential customer. On the charts they send
13 around every month, my house is well below the
14 energy-efficient house, for its size. So when I
15 saw they were going to basically triple the base
16 cost, that would've made a substantial difference
17 in my electric bill.

18 I'm all in favor of solar energy, but I know
19 there are people who care about how much they're
20 spending on energy because they can't afford to
21 spend more. And I'm glad that they've changed
22 their request in that respect; that was the issue I
23 was particularly interested in addressing.

24 Thank you.

25 CHAIRMAN RANDALL: Thank you, Ms. Mellen.

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8
4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 Any questions from the parties?
2 [No response]
3 Commissioners?
4 [No response]
5 Thank you, ma'am. Thank you for being here.
6 [WHEREUPON, the witness was excused.]
7 MR. BOCKMAN: We have John Monroe. Patrick
8 Cobb? Is Patrick Cobb in attendance?
9 [No response]
10 If not, we'd like Richard Ervin to step up to
11 the podium, please. Richard Ervin.
12 [Witness affirmed]
13 THEREUPON came,
14 J O H N M O N R O E ,
15 who, having been first duly affirmed, testified as follows:
16 WITNESS: John Monroe. I live here in
17 Florence. I'm just a residence.
18 I think my biggest thing is, being on a fixed
19 income as a senior, these rate increases by, I'll
20 say, a monopoly company that says, "We're going to
21 do this. And, you know, yes, we're going to hold
22 hearings," but I don't see the justification on how
23 this can happen and what our fight is. Yes, we can
24 take an evening, come here and plead our case, and
25 I just feel my hands are tied.

1 You know, on my choice, it's — you know, our
2 average bill is about \$450 a month for our electric
3 power. You know, our thermostat is set at 68.
4 We've got two blankets. And as we watch TV, you
5 throw a blanket over as you get cold. You know,
6 and I'll say, myself, I'm a young senior; you know,
7 I'm 62, and I can get up and do things. Five years
8 from now, or the older folks here, you know, they
9 don't have the ability a lot of times to stand up
10 and fight.

11 And I think — you know, I think the comment
12 was, "Where does it stop? What can we do?" You
13 know, everybody has already talked about
14 insulating, trying to do all this stuff, turn their
15 lights out. You know, and it is — we go from one
16 room to another and turn a light out. A lot of
17 times, I mean — when I showered to come here, I
18 didn't turn the light on. I know what I'm doing in
19 the shower.

20 [Laughter]

21 It's that thinking of where can you save,
22 because electric bills are very expensive. And
23 when you're on Social Security, \$450 a month is a
24 lot of money.

25 Thank you.

1 CHAIRMAN RANDALL: Thank you, sir.

2 Any questions from the parties?

3 MS. EDWARDS: No. Thank you for your
4 testimony.

5 CHAIRMAN RANDALL: Commissioners?

6 [No response]

7 Thank you. Thank you, sir. Thank you for
8 being here.

9 [WHEREUPON, the witness was excused.]

10 MR. BOCKMAN: Thank you. We have Richard
11 Ervin. Up next, we have DuPree Atkinson, followed
12 by Ruthie Tarlton. That's DuPree Atkinson,
13 followed by Ruthie Tarlton.

14 [Witness affirmed]

15 THEREUPON came,

16 R I C H A R D E R V I N ,

17 who, having been first duly affirmed, testified as follows:

18 WITNESS: Richard Ervin, Florence, South
19 Carolina.

20 We have two accounts with Duke Energy, first
21 at home -- and I must say something congratulatory
22 to Duke, because their linemen, their technology
23 concerning letting us know when we're out of power,
24 is fantastic. My problem is with the service side.

25 On our home account, we have a surge

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 protector. We got notification two days ago that
2 the price went from \$7 a month to \$8 a month. I
3 submit to you, there was no increase in fixed cost.
4 The increase in variable cost is electrons, i.e.
5 it's pure profit. And I would ask the Commission,
6 on all these discussions, think about what they
7 want to do, what is the fixed cost they need, and
8 what variable cost are they going to charge.

9 The second part of my comments is I am a small
10 farmer, and by that I mean I have a very small
11 piece of property, I have a couple of rows of
12 blueberries, and I have a well there. Our average
13 bill is \$20, \$10 a month.

14 In November, we got a call from a service
15 representative that they'd drafted \$9700 out of our
16 checking account by mistake. They were unable to
17 refund it directly, because they have an antique,
18 obsolete billing system. I will make a few
19 comments — I have a seven-page document, along with
20 a CD of this, that I would like to give to the
21 consumer representatives.

22 My wife and I both have MBAs, so they did this
23 to the wrong family. There appears to be serious
24 ethical and substantial financial issues nearing
25 \$10,000 per incident at stake here — not only for

1 us, but for how many other customers? This is a
2 level where root-cause analysis is mandatory to
3 prevent similar occurrences. It's unlikely that it
4 was a simple electron burp that caused this,
5 because that would've been so much more than on our
6 regular charge, but this was an extraneous bill.
7 It was listed as "miscellaneous," and it was
8 entered automatically by the billing system. So
9 there was a serious programming problem that
10 existed last fall. If it was entered manually,
11 then an employee performance failure has occurred
12 to correct that situation immediately, and
13 administration needed to address that. This would
14 also not be expected to be a simple error in
15 billing practices.

16 We also noted that, in retrospect, there were
17 problems with a delay and timing of the September
18 and October bills. That, to me, is the billing
19 system went rogue last fall.

20 [3-minute signal]

21 Regardless of how it happened, it's
22 astonishing that the billing system does not have
23 billing algorithms that have -- where transactions
24 or multiple unusual costs are automatically
25 referred to a human being to evaluate. The system

1 is antiquated if it cannot reverse charges once it
2 takes money out of your account.

3 So, we put all this together and I then
4 contacted the Duke Energy Office of Corporate
5 Compliance and Ethics. I'm a retired
6 administrative executive from McClellan Health over
7 15 years. I'm well used to what corporate
8 compliance and ethics should do. I e-mailed that
9 office. There was no automatic reply. You do
10 service with other e-mail programs; you get back,
11 "Thank you for your thing. Our service
12 representative..." I got nothing. My e-mail
13 program requested an immediate response that it was
14 received. I got nothing. I then received
15 absolutely nothing from that office. Okay?

16 CHAIRMAN RANDALL: Mr. Ervin, we're going to --
17 I'm going to need for you to wrap it up, so
18 everybody else can have a chance.

19 COMMISSIONER ERVIN: I have a question, Mr.
20 Chairman, if I could.

21 CHAIRMAN RANDALL: Well, I'm going to get to
22 the Commissioners in just a second.

23 COMMISSIONER ERVIN: All right.

24 CHAIRMAN RANDALL: Parties first.

25 MS. EDWARDS: Yes, sir.

CROSS EXAMINATION

BY MS. EDWARDS:

Q Thank you, sir. I'm sure Duke would be interested in hearing – they have representatives here. But on behalf of the Office of Regulatory Staff, would you –

A [Indicating.]

Q [Indicating.] Oh, okay. Well, thank you, sir.

A Because I was about ready to send it to you, because their external corporate compliance program is also a farce. I received a secondary note saying, "Thank you for your questions. We have referred the appropriate party how to refund your check."

Q I would like to take this information. If it's a systemic billing issue, our office will, frankly, investigate. And I've got staff there. And I don't want you to give this on the record, but I would like to get your phone number so that we can reach you, but not put it on the record. Do you have just a moment that I could ask you another question?

A Absolutely.

Q One of the other areas of dispute – and you mentioned that you and your wife both hold MBAs. One of the other areas of dispute that we have with the company in this case is, basically, what we do as ORS is we will look through and do an audit or examination and then we will

1 pull out items that we think should not be paid for by
2 customers. We call them non-allowables, is what we call
3 them. Non-allowables. And for us, a non-allowable
4 would be coffee, lunches, wine, social outings, Omaha
5 steaks. Would you agree with me, as a customer of a
6 regulated monopoly, that that should not be in rates?
7 It's not being used to provide electric service. Would
8 you agree with me on that score?

9 A I think normal business operations require meals of a
10 reasonable amount of money –

11 Q Okay.

12 A – and a reasonable location. I don't think you can hold
13 a business without them.

14 Q Okay. But could that be paid for by shareholders, as
15 opposed to customers?

16 A I think that is normally considered, in the overall
17 scheme of business costs, and how it comes out
18 afterwards – below the line, or whatever – is, I guess,
19 debatable.

20 Q Debatable. And would you – well, do you think there
21 should be an overall cap, I mean, given the limited
22 funds that some residential customers have, for them to
23 have no ceiling or cap on what those expenditures might
24 be that could be passed through to customers?

25 A Well, I do part-time work with DHEC, and DHEC has a

1 governmental line item. If you go away, you can't go
2 over a certain amount for a hotel. If you have a meal,
3 you can't go over a certain amount. And I would expect
4 Duke to do the same thing. I don't think it's
5 unreasonable, because that's just normal business
6 practice.

7 Q All right. One other item. If North Carolina were to
8 impose a law that would require coal ash disposal costs
9 that are higher than what either the federal law or
10 South Carolina law would allow, would you agree with me
11 that, certainly, North Carolina customers who got to
12 vote on that law could pay those customers_[sic], but South
13 Carolina customers should not?

14 A I think you stated it earlier. No representation
15 without taxation, or —

16 Q No taxation without —

17 A — no taxation without representation.

18 MS. EDWARDS: Thank you, sir.

19 CHAIRMAN RANDALL: Commissioner Ervin.

20 EXAMINATION

21 BY COMMISSIONER ERVIN:

22 Q Richard, how long did it take you to get your money back
23 credited to your account?

24 A My wife immediately said, "Transfer the money back."
25 And they said, "We can't do that." My wife said, "Wait

1 a second, you're a modern utility, you're a modern
2 business. Why can't you do it?" They can't do it. So,
3 then, they were going to send a check back. They did
4 send a check back. We had to make personal appearance –
5 or, we had to use some personal contacts at the bank, to
6 make sure a \$10,000 check was not held, which would mean
7 that Duke then had two weeks of my float on the check,
8 rather than just a few days. And that is what really
9 got to us, in that they can suck that money out of your
10 account like that, and yet the billing account is so
11 antiquated, it can't simply put it back? That's unheard
12 of in today's Internet environment.

13 Q Did you ever hear from Duke Energy about how they
14 planned, you know, to handle this going forward, or get
15 an explanation?

16 A That's the reason I'm here tonight. Directly talking
17 with the – directly communicating with their corporate
18 compliance officer, that page on their website, got me
19 nothing. I then communicated with their external
20 corporate compliance program, which most big programs
21 have, because it's like an independent thing. They
22 said, "Thank you for sending this information." And
23 last week, after six weeks, the notice was, "We have
24 sent the issue to the appropriate party on refunding
25 your – on getting your refund."

1 We had no explanation, whatsoever, from middle-
2 management that other people were not going to have the
3 same thing happen to them.

4 Q Thanks for coming tonight.

5 A Thank you.

6 CHAIRMAN RANDALL: Thank you. Any other
7 questions from —

8 VICE CHAIRMAN WILLIAMS: Mr. Chairman, very
9 quickly.

10 EXAMINATION

11 BY VICE CHAIRMAN WILLIAMS:

12 Q Sir, I just really want to know, very simply, how long
13 did it take between the time, or from the time the money
14 was drafted out of your account until you received a
15 refund?

16 A Well, since it was automatic, we didn't know at that
17 point in time but have since had e-mail notification
18 immediately when the money is taken out. So it was
19 about five or six days after the money was taken out
20 that we were called. Then we looked up online and said,
21 "Oh, my goodness," what had happened? Fortunately, it
22 was the end of the year. Taxes, presents, donations.
23 We had enough money to cover that. Otherwise, our
24 credit rating would have been ruined because there
25 wasn't enough money for it to be taken out.

1 Q And so you got that money back in five days?

2 A Yeah.

3 VICE CHAIRMAN WILLIAMS: Thank you, sir.

4 CHAIRMAN RANDALL: Thank you.

5 Commissioners, any other questions?

6 Commissioner Hamilton.

7 EXAMINATION

8 BY COMMISSIONER HAMILTON:

9 Q Mr. Ervin --

10 A Yes, sir.

11 Q -- did you intend for the information you gave Ms.

12 Edwards to be an exhibit in this case?

13 A Yes, sir.

14 CHAIRMAN RANDALL: Okay. We'll enter that as
15 Exhibit No. 2.

16 [WHEREUPON, the witness was excused.]

17 MR. BOCKMAN: At this point, we have DuPree
18 Atkinson, followed by Ruthie Tarlton. DuPree
19 Atkinson, followed by Ruthie Tarlton.

20 CHAIRMAN RANDALL: Okay. After these next two
21 witnesses, we're going to have to take a short break.

22 [Witness affirmed]

23 THEREUPON came,

24 D u P R E E A T K I N S O N ,

25 who, having been first duly affirmed, testified as follows:

1 WITNESS: Yes, my name is DuPree Atkinson.
2 I'm an agribusinessman, and I stress the word –

3 VOICE: Can't hear you.

4 WITNESS: Can you hear me now?

5 VOICE: No.

6 WITNESS: How about now? I gotta hold this
7 down [indicating]? How about now?

8 My name is DuPree Atkinson. I'm an
9 agribusinessman from Mullins, South Carolina. I
10 run a diversified farm of peanuts, row crops,
11 cattle, strawberries, and hemp. And I'm speaking
12 in opposition to this rate increase today.

13 I'm a valued CP&L – a long time ago – Progress
14 and Duke member. And I say that because I pay my
15 bills on time. I've been paying my bill for 40
16 years, and I appreciate having power and having it
17 at my use and need. But this increase is way out
18 of line.

19 I brought the copies of two meter bills from
20 two seasonal accounts that we have, and they're
21 water meters for cattle waterers. And the bills
22 only range from \$15-\$20 a month, and now they want
23 to double it, going to \$40 a month, which is just
24 absolutely absurd.

25 Utility charges should be and are like sales

1 tax; you use what – you pay for what you use. A
2 base rate increase is nothing but greed, and this
3 is a perfect example of greed. And we can't afford
4 it. We're charged for something that we are not
5 getting.

6 This bill will cost me about \$1800 a year
7 more, because I've got seven meters. And I just
8 disagree with it.

9 I would talk a little bit about my problems
10 with Duke and what I had before. I think Anthony
11 got into it a little bit. But one thing that
12 really made me angry with Duke Progress was that,
13 after all – they finally paid me after a year for
14 the loss of those tobacco barns, but they made me
15 sign a statement saying that they weren't at fault.
16 They weren't at fault. And the first thing out of
17 the guy's mouth who came to investigate was, "Why
18 didn't you have an alarm system set up that told
19 you your barns were out of electricity?" It was my
20 fault. I told that guy he was really a very good
21 Duke employee, because he was doing a good job.

22 [Laughter]

23 Thank you for your time and hearing my
24 testimony today.

25 CHAIRMAN RANDALL: Thank you Mr. Atkinson.

1 Any questions?

2 MS. SMITH: I've got one.

3 CHAIRMAN RANDALL: Ms. Smith.

4 CROSS EXAMINATION

5 BY MS. SMITH:

6 Q Sir, are you an MGS customer?

7 A Yes.

8 MS. SMITH: Thank you.

9 CHAIRMAN RANDALL: Ms. Edwards?

10 MS. EDWARDS: No questions.

11 CHAIRMAN RANDALL: Commissioners?

12 Commissioner Belser.

13 EXAMINATION

14 BY COMMISSIONER BELSER:

15 Q Good evening, Mr. Atkinson. Could you briefly give us
16 the facts of what happened with your tobacco barn? I
17 know someone else testified to it, but I want it from
18 you, if you don't mind.

19 A We had two different meter bases, and we added some more
20 barns, so they had to upgrade the meter. So we asked
21 them to come in, and they replaced the transformer to
22 the meter but they forgot to upgrade the line going to
23 the meter base and it wasn't up to - it was a smaller
24 wire than what it needed to be, and it burned in two, in
25 the middle of the night. Therefore, I lost the fans on

1 my barns and I had no electric – no fan circulation, so
2 the tobacco all pretty much rotted.

3 Q And when did that happen, can you tell me that?

4 A That was probably –

5 VOICE: August 13th.

6 WITNESS: August 13th of – August 13th of, not
7 this past year, the year before.

8 COMMISSIONER BELSER: Okay. Thank you, very
9 much.

10 WITNESS: Thank you.

11 CHAIRMAN RANDALL: Thank you. Commissioners,
12 any other questions?

13 COMMISSIONER WHITFIELD: Mr. Chairman.

14 CHAIRMAN RANDALL: Commissioner Whitfield.

15 EXAMINATION

16 BY COMMISSIONER WHITFIELD:

17 Q I've got one quick question for you, Mr. Atkinson. The
18 amount you said your bill would go up, roughly an \$1800
19 increase on everything you've got, is that for if the
20 full proposed increase –

21 A That's correct, yes, sir. The full proposed \$20 a
22 meter, yes, sir.

23 COMMISSIONER WHITFIELD: That's all I have,
24 Mr. Chairman.

25 CHAIRMAN RANDALL: Thank you.

1 Any other Commissioner questions?

2 VICE CHAIRMAN WILLIAMS: Mr. Chairman, very
3 briefly.

4 CHAIRMAN RANDALL: Commissioner Williams.

5 EXAMINATION

6 BY VICE CHAIRMAN WILLIAMS:

7 Q Sir, I'm just very interested in what actually happened
8 by way of Duke's response to your barn situation. So I
9 just want to make sure I understand correctly. So,
10 August 13th, the incident occurred.

11 A At night.

12 Q At night.

13 A Yes.

14 Q The result of the incident was that your tobacco rotted?

15 A They didn't have any air circulation in the barns and,
16 therefore, they stayed without air for basically about
17 six hours, and the tobacco rotted.

18 Q I understand. What was the value of that crop, or
19 whatever was in your barn?

20 A I think was right around fifty-some, sixty thousand
21 dollars, total.

22 Q Fifty thousand [\$50,000] to sixty thousand dollars
23 [\$60,000]. And so your testimony is you didn't get
24 compensation for that until 12 months later?

25 A Oh, no. It was — it was not a year. It was, what,

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 about six or eight months later, after complete haggling
2 every week.

3 Q Did you get the full amount?

4 A Yeah, finally. I got the full amount. But they didn't
5 offer me that to start off with.

6 Q Initially?

7 A Ini- —

8 Q Did you have to hire a lawyer?

9 A I threatened them with that, and they finally came to
10 the table.

11 [Laughter]

12 Q What difficulty did that cause you in your farm
13 operation?

14 A Well, it caused a — I mean, any time you lose that
15 amount of money that you're expecting to get at a
16 certain time, and in agriculture we have a certain pool
17 of money that we have available to us, and then you lose
18 that money for six months, it takes — you have to move
19 your money around, like Hugh was talking about a little
20 while ago.

21 Q And you explained all that to the company?

22 A I did.

23 Q Thank you, sir.

24 A Thank you for hearing my testimony.

25 CHAIRMAN RANDALL: Any other questions,

1 Commissioners?

2 [No response]

3 Thank you, Mr. Atkinson. Appreciate your
4 testimony. Okay. Is that – do you want to put
5 these bills, Mr. Atkinson, in as evidence?

6 WITNESS: Yes.

7 CHAIRMAN RANDALL: Okay. We'll enter those as
8 Hearing Exhibit No. 3.

9 [WHEREUPON, Hearing Exhibit No. 3 was
10 marked and received in evidence.]

11 [WHEREUPON, the witness was excused.]

12 [Witness affirmed]

13 THEREUPON came,

14 R U T H I E T A R L T O N ,

15 who, having been first duly affirmed, testified as follows:

16 WITNESS: Ruthie Tarleton, 101 Saddlebrook
17 Road, Cheraw, South Carolina.

18 I'm here this afternoon to address the
19 Commissioners and anyone else involved. I am a
20 retired educator and a retired farmer. We ask that
21 you please do not grant this request for a rate
22 increase. And I do have signed petitions here, for
23 whomever I need to give them to.

24 In 1969, Carolina Power & Light, which is now
25 Duke Energy Progress, we had an ice storm. They

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8
4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 told us that our bills would increase from \$15 to
2 \$35, because they were doubling the rates because
3 they were going to put the lines underground.
4 Well, along came 1970, 1980, 1990. Each year, we
5 got a rate increase.

6 Now, I don't understand what's going on, but
7 we don't get that kind of money. And we need your
8 help. Whenever we look at these rate increases –
9 and by 1990, we were already up in the \$200s. And
10 now our light bills are from \$300 to over \$500 –
11 mine being one over \$500, and that's why I'm here
12 today.

13 We cannot afford this. So, please, gentlemen
14 and ladies, please be kind to us and talk to these
15 people. When a person can get a \$200,000-\$300,000
16 salary, a year, they might be able to pay these
17 bills, but we cannot do it. Please help us.

18 Thank you for your attention. Do you need
19 these petitions? I need to give them to somebody.

20 CHAIRMAN RANDALL: We'll take – you can give
21 them to Mr. Richardson.

22 WITNESS: [Indicating.]

23 MR. RICHARDSON: [Indicating.]

24 CHAIRMAN RANDALL: Let me get any questions
25 from the parties.

1 [No response]

2 WITNESS: Thank you so much for your time.

3 CHAIRMAN RANDALL: Thank you. Hang on one
4 second, let me see if any Commissioners have any
5 questions, Ms. Tarlton.

6 Any Commissioner questions?

7 COMMISSIONER WHITFIELD: Mr. Chairman.

8 CHAIRMAN RANDALL: Yes, sir, Commissioner
9 Whitfield.

10 EXAMINATION

11 BY COMMISSIONER WHITFIELD:

12 Q Ms. Tarleton, that bill you quoted as \$500, is that just
13 on your residential use? Because you said you were a
14 farmer, too.

15 A Yeah, but that's just on my residence.

16 Q That's just on your residence.

17 A Just on my residence. And I almost fainted, because -

18 [Laughter]

19 - I'm disabled, and I only get a fixed income. And
20 I'm saying, "Wait a minute." And this happened back in
21 December. Now, if you guys give them another rate
22 increase, what am I going to do? I can't eat now.

23 Please help us, okay? Thank you. Thank you for
24 your time?

25 [Applause]

1 **CHAIRMAN RANDALL:** Thank you, ma'am. We're
2 going to enter – we're going to put those sheets as
3 Exhibit No. 4.

4 [WHEREUPON, Exhibit No. 4 was marked and
5 received in evidence.]

6 [WHEREUPON, the witness was excused.]

7 Okay. We're going to take about a 10-minute
8 break. Thank you. And we'll reconvene in 10
9 minutes.

10 [WHEREUPON, a recess was taken from 7:34
11 to 7:43 p.m.]

12 **CHAIRMAN RANDALL:** Okay. If we can ask
13 everybody please to sit down. And Ms. Edwards, I
14 know we've got a couple of preliminary matters
15 before we get started again.

16 **MS. EDWARDS:** Yes, thank you, Mr. Chairman. I
17 apologize –

18 **CHAIRMAN RANDALL:** If we can please have
19 everybody please be quiet?

20 **MS. EDWARDS:** I apologize. When this – at the
21 very beginning, normally we ask to move into the
22 record the sign-in sheets, and I apologize I forgot
23 to do so at that time. So, if I may ask now that
24 the sign-in sheets from tonight be the next hearing
25 exhibit?

1 **CHAIRMAN RANDALL:** I had a question to ask you
2 that, so we will enter the sign-in sheets as
3 Hearing Exhibit No. 5.

4 **MS. EDWARDS:** Thank you, sir.

5 **CHAIRMAN RANDALL:** We had one other thing we
6 needed to get into the record, also. Mr. Bowen?

7 **MR. BOWEN:** Mr. Chairman, there was a letter
8 from Ms. Smith to the Commission. And it was put
9 in the docket file, but I don't think it was made
10 an exhibit, and we'd like to have it made an
11 exhibit. It's a letter from her to Ms. Boyd, dated
12 March 26th – and I'll hand up a copy – March 26,
13 2019. I've shown it to Josh.

14 And it talks about the meter amount being
15 reduced. The only thing I would like to point out,
16 with respect to this letter – and she pointed it
17 out, as well – that I think there was a –
18 "misunderstanding" may not be the right word. But
19 there was a thought that the farmers who we were
20 talking about were primarily under the small
21 general service, but you've heard the testimony
22 today that they're also under the medium general
23 service. And the medium general service was not
24 given the reduction as the small general service
25 does, according to this [indicating].

1 **CHAIRMAN RANDALL:** All right. So we will
2 enter that letter as Hearing Exhibit No. 6. Thank
3 you.

4 [WHEREUPON, Hearing Exhibit No. 6 was
5 marked and received in evidence.]

6 Okay. Mr. Bockman, let's call our next
7 witness, please.

8 **MR. BOCKMAN:** Absolutely.

9 Thank y'all. Our next three witnesses, so
10 please do move toward the podium, are Lillian
11 Walker, Gill Rogers, and Rutha Frieson. Lillian
12 Walker, Gill Rogers, and Rutha Frieson.

13 [Witness affirmed]

14 THEREUPON came,

15 **L I L L I A N L . W A L K E R ,**

16 who, having been first duly affirmed, testified as follows:

17 **WITNESS:** I'm Lillian Walker, Laurens County.
18 And I'm here representing Pee Dee Community Action
19 Agency Partnership, and thank you, Commissioners,
20 for listening to us today.

21 Basically, there's 1000 community action
22 agencies from across the country, including Pee
23 Dee. These communities, that means that we fall
24 under current federal poverty guidelines, which is
25 \$27,750 for a family of four. Working poor. It's

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 on our behalf that we speak today -- it's on behalf
2 of the community that we speak today.

3 Many of those families cannot afford their
4 utilities and are on some type of deferred payment
5 plan, but those programs only go so far. We work
6 with these families to try to get their finances
7 under control, to stabilize them in a home, and to
8 get them educated and ready for a living-wage job.
9 These families are literally barely surviving from
10 paycheck to paycheck. Any increase in utility
11 costs will push them into further poverty.

12 Any increase could lead to a practice, some
13 which have deadly consequences: unsafe heating
14 practices, using a space heater or a gas stove to
15 heat the home; carbon monoxide poisoning and fires,
16 deadly or leading to homelessness; having utilities
17 turned off for lack of payment; a landlord aborting
18 a lease as a result of no utilities; entering
19 unsafe temperatures during the winter and summer
20 months; poor health outcomes, including death;
21 death, illness due to exposure to the elements;
22 becoming a victim of crimes due to having no safe
23 place to sleep; increased number of children in DSS
24 custody; increased number of children in --
25 increased number of elderly in DSS custody.

1 Pee Dee Community Action spends about \$1.5
2 million per year in federal funds, LIHEAP, which is
3 the Low-Income Home Energy Assistance Program,
4 federal program, that provides assistance for
5 families to pay their heating and cooling bills.
6 Nationally, four out of five households that
7 receive this funding either have a senior citizen
8 in the home, a disability person in the home, or a
9 child under the age of 18.

10 However, this money is not an entitlement.
11 Funding is limited, and we do run out. Families
12 are eligible for a one-time assistance per year,
13 and twice under several – under special
14 circumstances. On an average, we list about 125
15 new clients in LIHEAP every month. Toward the end
16 of the year, we have to turn away, conservatively,
17 20 percent of the families that apply for
18 assistance.

19 We would like to thank Duke for providing
20 community resources through the Share the Warmth,
21 as well as options for people to sign up for
22 prepayment plan; however, the programs only go so
23 far. Where those programs fall short under LIHEAP
24 steps –

25 [3-minute signal]

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 But the only question today as a personal
2 customer of Duke Energy: Is this really a
3 regulated monopoly or is this monopolist
4 enslavement? Thank you.

5 CHAIRMAN RANDALL: Thank you, Ms. Walker.
6 Questions from the parties?

7 CROSS EXAMINATION

8 BY MS. EDWARDS:

9 Q Thank you for coming out today. Could you clarify for
10 me, so, do you work for a community action —

11 A I'm an employee of Headstart.

12 Q Okay. And you're here tonight to describe what you
13 would see as the impact to —

14 A What we see and what we serve.

15 Q Okay. And —

16 A And whom we serve. Excuse me.

17 Q And who you serve? I mean, there's never a good time
18 for a rate increase, you would agree, right?

19 A Uh-huh. It's never a good time, and only because when
20 you talk about these people only have one choice of a
21 provider, that's why we say it's a regulated monopoly,
22 but I don't have a choice, or most customers don't have
23 a choice as a provider because Duke Energy is our only
24 provider.

25 MS. EDWARDS: Thank you for your testimony.

1 CHAIRMAN RANDALL: Thank you, Ms. Edwards.
2 Commissioners, any questions? Commissioner
3 Howard.

4 EXAMINATION

5 BY COMMISSIONER HOWARD:

6 Q Thank you for your testimony. Ms. Walker, how much
7 money do you distribute monthly for people, helping to
8 pay their utility bills, their electric bills?

9 A I didn't bring a number with you; I just brought the
10 yearly number that came from our office.

11 Q Just give me a rough guess. Can you give me - I don't
12 have any idea.

13 VOICE: Two hundred.

14 WITNESS: About \$200,000 a month.

15 BY COMMISSIONER HOWARD:

16 Q Two hundred thousand [\$200,000] a month? About how many
17 clients does that encompass?

18 VOICE: A hundred and fifty to a hundred and
19 seventy-five clients, because the bill is so high.

20 WITNESS: She said 150 to about 200 clients.

21 COMMISSIONER HOWARD: Okay. Thank you.

22 CHAIRMAN RANDALL: Thank you. Commissioner
23 Hamilton.

24 <

25 <

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

EXAMINATION

BY COMMISSIONER HAMILTON:

Q Do you represent a county or a region?

A Florence County, Marion County, and Dillon County.

Q Florence and Dillon?

A Florence, Marion, and Dillon.

COMMISSIONER HAMILTON: Thank you.

CHAIRMAN RANDALL: Commissioners, any other questions?

[No response]

Thank you, Ms. Walker, so much.

[WHEREUPON, the witness was excused.]

MR. BOCKMAN: Up next we have Gill Rogers, Rutha Frieson, and Terry James. Gill Rogers, Rutha Frieson, and Terry James.

[Witness affirmed]

THEREUPON came,

G I L L R O G E R S ,

who, having been first duly affirmed, testified as follows:

WITNESS: I'm Gill Rogers. I live in Hartsville, South Carolina. I farm in two counties with my two sons.

We have 42 power bills: Thirty of them belong to Duke, two belong to other co-ops. We have a good bit of irrigation systems. We started

1 irrigating earlier than most people. We have 30-
2 something irrigation systems. We also have two
3 grain facilities and a peanut-drying facility.

4 We use a lot of power. We don't have a
5 choice. The subject came up early about using
6 diesel. We started off with diesels and the size
7 of our operation and the low amount of manpower we
8 have, we found diesels to be inefficient and unable
9 to control.

10 We are against any rate increase of any type.

11 When I first started farming, I walked into a
12 store and I heard somebody say, "Nobody farms
13 anymore but fools and old people." Well, it's run
14 by a different set of old people and a different
15 set of fools, now, but it's the largest industry in
16 the State. In '87, half the farmers in our County
17 went out of business.

18 We are facing, now, out of the last five
19 years, three years of loss, two years of terrible
20 floods, and two hurricanes. And my banker is
21 looking at me and wondering, "What are you
22 thinking?" So we're at the point of no return for
23 a lot of people. I have people calling me all the
24 time, wanting to rent land to me, because either
25 older people have quit or younger people have quit

1 and retired. We don't need another rate increase.

2 CHAIRMAN RANDALL: Thank you, Mr. Rogers.

3 Parties, questions.

4 CROSS EXAMINATION

5 BY MS. SMITH:

6 Q I have one question, sir. Are you on the MGS rate?

7 A I have a list of bills and I'm on different rates for
8 different ones.

9 MS. SMITH: Okay. Thank you.

10 CHAIRMAN RANDALL: Ms. Edwards?

11 CROSS EXAMINATION

12 BY MS. EDWARDS:

13 Q Thank you for your testimony tonight. Would you say
14 that the farming community is – with this increase –
15 would be on the verge of several farmers going out of
16 business?

17 A Most farmers right now are wrestling with the losses of
18 2018, dealing with bankers and crop insurance, so a lot
19 of them will not be refinanced. This will just be
20 another brick on the load.

21 MS. EDWARDS: Thank you, sir.

22 CHAIRMAN RANDALL: Commissioners.

23 VICE CHAIRMAN WILLIAMS: Mr. Chairman?

24 CHAIRMAN RANDALL: Commissioner Williams.

25 <

EXAMINATION

BY VICE CHAIRMAN WILLIAMS:

Q Sir, thank you for being here and thank you for your testimony. Considering that you have so many meters, I'm curious about level of customer service that you receive in running your operation. Could you tell me a little bit about your customer-service experience over the years with Duke?

A This is my fiftieth year. We started off with Carolina Power & Light Company and Progress Energy, and now Duke. I almost hate to say this, but if I didn't let some of these people hunt, I wouldn't know who to call when we have power outages. We have a lot of electrical storms and things, and nobody to call that you'll get any response. These people that I know don't respond, but they call the person that can help me get things back running. The service has declined over the years, particularly since Duke took over.

Q I just want to make sure I understand your testimony correctly. Are you saying that, when you have a power outage, you reach out to some folks who you let hunt on your property?

A When I have a power outage, I call the 1-800 number, and they go to Raleigh. If I don't get any response over a period of time and I get desperate to get things back

1 running – it could be anything; it could be grain bins.
2 Mostly due to electrical storms. And we're spread out
3 over 45 miles; you're going to get electrical storms and
4 you'll get outages. But if we can't get – if I can't
5 get anybody else to respond – and that's pretty
6 frequent – I know who to call, and they know who to
7 call.

8 VICE CHAIRMAN WILLIAMS: I gotcha. All right.
9 Thank you.

10 CHAIRMAN RANDALL: Commissioners.

11 [No response]

12 Other questions?

13 [No response]

14 Mr. Rogers, thank you very much for your
15 testimony.

16 WITNESS: Thank you.

17 [WHEREUPON, the witness was excused.]

18 MR. BOCKMAN: We now have Rutha Frieson,
19 followed by Terry James and William Kelley, you're
20 on deck. Rutha Frieson? Terry James and William
21 Kelley, you're on deck.

22 [Witness affirmed]

23 THEREUPON came,

24 R U T H A F R I E S O N ,
25 who, having been first duly affirmed, testified as follows:

1 **WITNESS:** Rutha Frieson, Lake City, South
2 Carolina, Florence County.

3 I came as a voice for everyone like me. I'm a
4 residential customer with Duke, and for the many
5 widows and single parents, well, I'm a widow, and I
6 started working since high school and have been
7 retired now for two years. So I want to be able to
8 enjoy my retirement, so, you know, when I heard
9 about the increase – and so I signed up to speak
10 tonight, because I can't grumble about something if
11 I don't say anything. So, I – you know, I've heard
12 from the many farmers and what they've said, and we
13 do know that as farming decrease, then food prices
14 will increase, and they are increasing anyway.

15 So I don't get – because I'm a widow – my
16 husband worked for CSX, so they didn't pay in
17 Social Security. And so, because I'm a widow, you
18 know, whenever I put my monthly income and, you
19 know, my check is higher than Social Security, I
20 can't get any public assistance, so, I have a
21 mortgage, I just bought a new car, and a student
22 loan. I'm a senior citizen but I'm still paying a
23 student loan, because I was a late bloomer, going
24 to college. And so, you know, people look at
25 whatever you're getting in gross, but they aren't

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8
4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 looking at what you're having to pay, your bills.

2 So I just came tonight, just as a voice for
3 the many different ones who are like me, on fixed
4 income. I'm on the school board in Florence School
5 District 3 and so there are so many parents who are
6 struggling, and there are so many children, you
7 know, and we're trying to help feed them, you know,
8 whenever school is out. So I just want to say
9 that, you know, we - Duke needs to look at a
10 different solution. I'm debating whether I want
11 solar panels. I heard somebody say that they were
12 working for him, for them. So I just want to make
13 a plea to you all to try to find another solution.

14 Thank you, so much.

15 **CHAIRMAN RANDALL:** Thank you, Ms. Frieson.

16 Parties, questions?

17 [No response]

18 Commissioners?

19 [No response]

20 Thank you, ma'am. Appreciate you being here.

21 [WHEREUPON, the witness was excused.]

22 **MR. BOCKMAN:** We've got Terry James up next,
23 followed by Don Atkinson and Dora Truett. That's
24 Terry James, followed by Don Atkinson and Dora
25 Truett.

1 [Witness affirmed]

2 THEREUPON came,

3 T E R R Y J A M E S ,

4 who, having been first duly affirmed, testified as follows:

5 WITNESS: My name is Terry James. I am a
6 resident of Florence County, lower Florence County.
7 I've been in Florence all my life, and most times
8 I'm advocating for things that need to be
9 advocated.

10 I'm here a little bit different. I grew up on
11 a farm, still live on that same farm. But I'm not
12 farming, because black farmers went out long many
13 years ago. The reason I'm here is I'm speaking for
14 the elderly, those who are on fixed incomes, and
15 mainly for the African-American communities.

16 On average, on the average, the African-
17 American community don't have the income that other
18 communities have. Even from some of the storms
19 that came through, they were unable to even fix
20 their roofs, so you can see a lot of – if you ride
21 through the community, you see a lot of blue tarps
22 on houses. So that's telling you these people are
23 struggling. Who wants a leaky house, if they can
24 afford to pay for it?

25 So I don't know what all this stuff is that

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 Duke's trying to increase, but I do know the pain
2 that these communities feel. They're struggling,
3 communities struggling, elderly people, black and
4 white, they can't afford to have another debt on
5 top of them. Just like the gentleman said earlier,
6 they tried to raise taxes on \$198,000, and the
7 voters voted it down, because they can't afford it.
8 You know, yeah, we got some folks that live well in
9 Florence but also, on the other end of that, you've
10 got some folks that are really struggling, trying
11 to make ends meet. One said earlier, trying to
12 figure out, "What do I do? Do I buy my medication?
13 My children need shoes." You know, what do you do?

14 I have three children. Two are in college.
15 You know, so we've got to pay tuition. We're in
16 that place where we don't get any assistance; we've
17 got to pay tuition, and it's tough. And then if we
18 get another increase – you know, we're trying to
19 better ourselves. If we get another increase, what
20 will that do for a family like myself and other
21 people who are in my position, who, actually, some
22 of them are 10 times worse than myself?

23 You know, I attend a small church and
24 sometimes people come and ask for help to pay the
25 utilities. And I talk with other members of other

1 churches who are larger churches, and they have
2 even more people coming asking for assistance. You
3 know, if you don't have to – because we're in the
4 Pee Dee area. This ain't no bowl of wealth here.
5 If you're in Greenville or Columbia area, you know,
6 at the beach or down in the lowcountry, you know,
7 they're making – they're living a lot better than
8 what we are in the Pee Dee. We're struggling here
9 in the Pee Dee. These storms – some people are
10 still having some – haven't recuperated from the
11 storms we've had here. So now to hit them on top
12 of the head, they feel like "What the heck? You
13 know, why even live," you know, because it's tough.
14 It's not like, you know, we can afford it and we're
15 playing games with you. It's real. People are
16 struggling for real. They're having issues with
17 economics for real, you know,

18 [3-minute signal]

19 And I won't take any more of your time.
20 You've got other folks. But, you know, I just
21 thank you for listening to me, and hopefully,
22 preferably, you know, for us who are struggling
23 making ends meet and trying to improve our quality
24 of life, if it's not necessary, you know, because
25 we don't make the big money here. Some of us do,

NIGHT HEARING/FLORENCE - VOLUME 1 OF 8

4/1/19

PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

1 but I'm not one of them.

2 CHAIRMAN RANDALL: Thank you, Mr. James.

3 Appreciate it. Hang on one second.

4 Any questions from the parties?

5 [No response]

6 Commissioners, any questions?

7 [No response]

8 Thank you, sir, appreciate you being here.

9 [WHEREUPON, the witness was excused.]

10 MR. BOCKMAN: We have Don Atkinson, Dora
11 Truett, and Vera Cribb. Don Atkinson, Dora Truett,
12 and Vera Cribb.

13 [Witness affirmed]

14 THEREUPON came,

15 DON ATKINSON,

16 who, having been first duly affirmed, testified as follows:

17 WITNESS: Don Atkinson, Hartsville, South
18 Carolina.

19 I just want to go to the very top, to start
20 with. I understand that the Public Service
21 Commission does not set the administrative rates
22 for Duke. I understand that quite well. But,
23 let's - starting at the top, because I'm a little
24 confused, unless the *Florence Morning News* and *The*
25 *State Newspaper* is incorrect, the CEO of Duke went

1 (Witnesses affirmed)

2 THEREUPON came,

3 KODWO GHARTEY-TAGOE,

4 LAURA A. BATEMAN,

5 called as witnesses, who, having been first duly
6 affirmed, were examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. SMITH:

9 Q Mr. Gharthey-Tagoe, please state your full name and
10 business address.

11 A (GHARTEY-TAGOE) Kodwo Gharthey-Tagoe. Business
12 address is 40 West Broad Street, Greenville, South
13 Carolina 29601.

14 Q And by whom are you employed and in what capacity?

15 A (GHARTEY-TAGOE) I'm employed as president of Duke
16 Energy South Carolina, which also means I'm
17 president of Duke Energy Progress and Duke
18 Carolinas.

19 Q And, Mr. Gharthey-Tagoe, did you cause to be
20 prefiled in this docket direct testimony consisting
21 of 38 pages?

22 A (GHARTEY-TAGOE) I did.

23 Q Do you have any changes or corrections to your
24 direct testimony?

25 A (GHARTEY-TAGOE) Yes. I would note that on Page 7,

1 Line 15, I make reference to a Joseph A. Miller,
2 Jr., filing testimony in this case. He's been
3 replaced by Julie Turner, and so later on in Line
4 18, as well as Line 20, "Witness Miller" should
5 also read "Witness Turner."

6 Q With those corrections, if I asked you the same
7 questions today, would your answers be the same?

8 A (GHARTEY-TAGOE) Yes. They would.

9 MS. SMITH: Mr. Chairman, at this time, I move
10 that the prefiled direct testimony of Mr.
11 Gharthey-Tagoe be copied into the record as if
12 given orally from the stand.

13 CHAIRMAN RANDALL: Mr. Gharthey-Tagoe's
14 prefiled direct testimony, as corrected, will
15 be entered into the record as though given
16 orally from the stand.

17 Q And, Mr. Gharthey-Tagoe, did you cause to be
18 prefiled in this docket on March 18th, 2019,
19 rebuttal testimony consisting of 18 pages?

20 A (GHARTEY-TAGOE) I did.

21 Q And then, on April 1st, 2019, did you also cause to
22 be prefiled in this docket revised rebuttal
23 testimony consisting of 16 pages?

24 A (GHARTEY-TAGOE) I did.

25 Q Does your revised rebuttal testimony replace your

1 rebuttal testimony?

2 A (GHARTEY-TAGOE) It does.

3 Q Okay. And, if I asked you the same questions
4 today, would your answers be the same?

5 A (GHARTEY-TAGOE) Yes. They would.

6 Q Okay.

7 MS. SMITH: Mr. Chairman, at this time, I move
8 that the prefiled revised rebuttal testimony
9 filed April 1st by Mr. Gharthey-Tagoe be copied
10 into the record as if given orally from the
11 stand.

12 CHAIRMAN RANDALL: Mr. Gharthey-Tagoe's revised
13 rebuttal testimony prefiled on April the 1st
14 will be entered into the record as though
15 given orally from the stand.

16 MS. SMITH: Thank you.

17 Q Ms. Bateman.

18 A (BATEMAN) Yes?

19 Q Please state your full name and business address.

20 A (BATEMAN) My name is Laura A. Bateman, and my
21 business address is 411 Fayetteville Street,
22 Raleigh, North Carolina.

23 Q And by whom are you employed and in what capacity?

24 A (BATEMAN) I'm employed by Duke Energy Carolinas as
25 a director of Rates and Regulatory Planning.

1 Q And, on November 8th, 2018, did you cause to be
2 prefiled in this docket direct testimony consisting
3 of 42 pages and Bateman Exhibits 1 through 4
4 consisting of a total of 36 pages?

5 A (BATEMAN) Yes.

6 Q Do you have any changes or corrections to that
7 direct testimony?

8 A (BATEMAN) No. I do not.

9 Q If I asked you the same questions today, would your
10 answers be the same?

11 A (BATEMAN) Yes.

12 Q Okay.

13 MS. SMITH: Mr. Chairman, at this time, I move
14 that the prefiled direct testimony and Bateman
15 Exhibits 1 through 4 be copied into the record
16 as if given orally from the stand.

17 CHAIRMAN RANDALL: Ms. Bateman's prefiled
18 direct testimony will be entered into the
19 record as though given orally from the stand.
20 Her exhibits 1 through 4 will be entered as
21 Hearing Exhibit Number 14.

22 (WHEREUPON, Hearing Exhibit 14 was
23 marked and received in evidence.)

24 Q Ms. Bateman, did you also cause to be prefiled in
25 this docket on January 18th, 2019, supplemental

1 direct testimony consisting of eight pages?

2 A (BATEMAN) Yes. I did.

3 Q And then, did you cause to be prefiled in this
4 docket on January 22nd your supplemental direct
5 testimony consisting of eight pages to also include
6 Bateman Supplemental Exhibit 1 consisting of one
7 page and Updated Bateman Exhibit 3 consisting of
8 eight pages?

9 A (BATEMAN) Yes. I did.

10 Q Do you have any changes or corrections to that
11 supplemental direct testimony or exhibits?

12 A (BATEMAN) No. I do not.

13 Q If I asked you the same questions today, would your
14 answers be the same?

15 A (BATEMAN) Yes.

16 MS. SMITH: Mr. Chairman, at this time, I move
17 that the prefiled supplemental direct
18 testimony and Bateman Supplemental Exhibit 1
19 and Updated Bateman Exhibit 3 be copied into
20 the record as if given orally from the stand.

21 CHAIRMAN RANDALL: Okay. Ms. Bateman's
22 supplemental direct testimony will be entered
23 into the record as though given orally from
24 the stand, and her Supplemental Exhibit 1 --
25 Supplemental Exhibit 1 and Updated Exhibit 3

1 -- Supplemental Exhibit 1 and Updated Exhibit
2 3 will be entered as Exhibit Number 15.

3 (WHEREUPON, Hearing Exhibit 15 was
4 marked and received in evidence.)

5 Q Ms. Bateman, did you also cause to be prefiled on
6 this docket second supplement direct testimony
7 consisting of four pages, Bateman Second
8 Supplemental Exhibit 3 consisting of four pages,
9 and Bateman Revised Second Supplemental Exhibit 3
10 consisting of four pages?

11 A (BATEMAN) Yes. I did.

12 Q Do you have any changes or corrections to your
13 second supplemental direct testimony or exhibits?

14 A (BATEMAN) No. I do not.

15 Q If I asked you the same questions today, would your
16 answers be the same?

17 A (BATEMAN) Yes.

18 Q Okay.

19 MS. SMITH: Mr. Chairman, I also move that the
20 prefiled second supplemental direct testimony
21 of Ms. Bateman and Bateman Revised Second
22 Supplemental Exhibit 3 be copied into the
23 record as if given orally from the stand.

24 CHAIRMAN RANDALL: Ms. Bateman's prefiled
25 second supplemental direct testimony will be

1 entered into the record as though given orally
2 from the stand, and her Second Supplemental
3 Exhibit 3 Revised will be entered as Exhibit
4 Number 16.

5 (WHEREUPON, Hearing Exhibit 16 was
6 marked and received in evidence.)

7 Q And, Ms. Bateman, on March 18th, did you cause to
8 be prefiled in this docket rebuttal testimony
9 consisting of 33 pages and Bateman Rebuttal
10 Exhibits 1 and 3 consisting of a total of three
11 pages?

12 A (BATEMAN) Yes. I did.

13 Q And then, on April 1st, did you cause to be
14 prefiled in this docket revised rebuttal testimony
15 consisting of 26 pages?

16 A (BATEMAN) Yes.

17 Q Does your revised rebuttal testimony filed April
18 1st replace your rebuttal testimony?

19 A (BATEMAN) Yes.

20 Q And do your Bateman Rebuttal Exhibits 1 and 3
21 remain the same?

22 A (BATEMAN) Yes.

23 Q Okay.

24 MS. SMITH: Mr. Chairman, at this time, I move
25 that the prefiled revised rebuttal testimony

1 of Ms. Bateman and Bateman Rebuttal Exhibits 1
2 and 3 be copied into the record as if given
3 orally from the stand.

4 CHAIRMAN RANDALL: Ms. Bateman's revised
5 rebuttal testimony will be entered into the
6 record as though given orally from the stand,
7 and her Revised Rebuttal Exhibits 1 through 3
8 will be entered as Hearing Exhibit Number 17.

9 MS. SMITH: Thank you.

10 (WHEREUPON, Hearing Exhibit 17 was
11 marked and received in evidence.)

12 Q At this time, we'll move to summaries. Mr.
13 Gharthey-Tagoe, do you have a --

14 CHAIRMAN RANDALL: Hang on one second. I
15 think Commissioner Belser has a quick
16 question.

17 COMMISSIONER BELSER: I apologize, Ms. Smith,
18 but -- this is crazy for me to say, okay?
19 But, with regard to Ms. Bateman's revised
20 rebuttal testimony that was filed on April
21 1st, were there exhibits attached to that
22 revised testimony?

23 MS. SMITH: No, ma'am. There were not. So
24 she revised her rebuttal testimony, but her
25 original rebuttal exhibits, 1 and 3, remain

1 the same.

2 COMMISSIONER BELSER: Okay. Thank you very
3 much. Everything that you've put in, do any
4 of the -- the latter-filed exhibits just
5 totally replace the earlier filed ones? Do we
6 need all reiterations of the exhibits in -- in
7 the record?

8 MS. SMITH: I think they go to different
9 positions that the Company has had during the
10 timeframe of the case, and to be honest, I
11 tried to find a way to avoid it and couldn't.

12 COMMISSIONER BELSER: Well, I'm kind of
13 getting lost in hers, and I'm trying to
14 simplify things.

15 MS. SMITH: Yes.

16 COMMISSIONER BELSER: Thank you very much.

17 CHAIRMAN RANDALL: Thank you. Continue.

18 THE EXAMINATION BY MS. SMITH CONTINUES.

19 Q Mr. Gharthey-Tagoe, do you have the summary of your
20 testimony in this case?

21 A (GHARTEY-TAGOE) I do. Good morning, Mr. Chairman
22 and Commissioners. We're here today seeking a
23 change in rates to reflect our continued investment
24 in the state of South Carolina and the cost to
25 provide safe, reliable, cost-effective, and

1 increasingly clean electricity to our customers.

2 As I described in my direct testimony, Duke
3 Energy Progress has continued to invest in our
4 facilities, equipment, and operation to better
5 serve our customers. For example, the Company
6 placed into service two new combustion turbines at
7 the Sutton Combined Cycle plant, providing an
8 additional 78 megawatts of capacity to the
9 Company's fleet. These units and their increased
10 capacity are critical to the ability to restart the
11 generation system in the event of a catastrophic
12 storm and provide off-site power to Brunswick
13 Nuclear Station. The Company's total investment at
14 the Sutton Combined Cycle plant totaled \$101
15 million. Investments like this provide benefits to
16 our customers for decades to come.

17 The Company has also started the process to
18 comply with state and federal regulations requiring
19 the Company to address coal ash basin closures at
20 plants which have served or are continuing to serve
21 customers in South Carolina. Duke Energy recycled
22 more than 78 percent of coal combustion byproducts
23 in 2017, and that includes Duke Energy Progress
24 recycling or beneficially reusing the ash that is
25 produced at our coal-fired plants. We have worked

1 hard to reduce our impact on the environment by
2 retiring older, less efficient coal plants across
3 the Carolinas and have retired all of our coal
4 plants in South Carolina. And now we are closing
5 all ash basins as part of new, sweeping state and
6 federal regulations, as part of Duke Energy's
7 commitment to provide increasingly reliable,
8 cleaner power to customers at reasonable rates.
9 Like any waste, we must ensure that coal ash is
10 managed responsibly.

11 Additionally, we are planning for the future
12 by developing and installing a new customer
13 information system to ensure the best customer
14 service possible by beginning a full rollout of AMI
15 smart meter technology within the Duke Energy
16 Progress territory, and based on customer feedback,
17 we request to offer fee-free payment programs for
18 residential customers for all methods of payment.

19 We believe it is necessary to make these
20 investments to better serve our customers. We know
21 that these smart investments in technology,
22 infrastructure, and environmental protection will
23 help connect millions of our customers to the
24 energy future they expect.

25 In my rebuttal testimony, I address major

1 concerns that were raised at the time by the Office
2 of Regulatory Staff and other intervenors. The
3 first issue that I addressed is ORS' suggestion
4 that South Carolina customers should not have to
5 pay for costs which the Company incurred to comply
6 with North Carolina's Coal Ash Management Act, also
7 known as "CAMA." Historically, the Company's
8 generation, fuel, and associated costs are
9 allocated between South Carolina and North
10 Carolina, and we believe it is appropriate for the
11 CAMA compliance costs to be allocated between the
12 two states, much like our cost for addressing ash
13 basins in South Carolina.

14 The second issue concerns some fundamental
15 disagreements on the Company's proposed return on
16 equity and deferred costs. The ORS has taken a
17 contradictory position to effectively disallow
18 costs the Company has incurred to finance deferred
19 costs. ORS claims that it will allow the Company
20 the full cost of recovery over an extended period
21 of time, but also suggests lowering the allowed
22 return on equity based on such deferrals. The ORS'
23 and other parties' suggested lower return on equity
24 will put the Company at a disadvantage in the
25 capital markets and would be a disservice to

1 customers.

2 I am also concerned with the ORS'
3 recommendation to disallow expenses related to
4 employee compensation and employee recognition and
5 engagement. The Company has an obligation to be
6 responsive to the market for talent and assure the
7 competitiveness of the total compensation package
8 it offers its employees. We need to keep employees
9 engaged and well-trained. Businesses with more
10 engaged employees have lower levels of turnover and
11 higher levels of productivity and customer
12 satisfaction. Experienced, engaged employees that
13 are incentivized to remain with the Company, to
14 work in a safe manner, and to provide high service
15 levels benefit our customers.

16 The ORS also recommends the disallowance of
17 costs to participate in local organizations in the
18 communities that we serve. Organizations like
19 Chambers of Commerce, economic development
20 associations, and tourism organizations all exist
21 to support existing businesses and to bring more
22 industry and residents to their regions. Duke
23 Energy pays dues to be a part of those
24 organizations, because we believe it is important
25 to participate in the communities we serve and to

1 be engaged at a local level to ensure our -- we
2 understand our customers' needs. For example, our
3 participation in such organizations gets us to the
4 table early for economic development opportunities,
5 which benefits our customers and this state. Our
6 contributions to these organizations have a direct
7 link to winning projects for the state of South
8 Carolina.

9 I also address the reactions to the Company's
10 proposal of a cost-based basic facilities charge,
11 which is charged to each customer. We believe that
12 an increase in the basic facilities charge will
13 ensure that low-usage customers are not subsidized
14 by other customers and that the increase will
15 reduce volumetric billing spikes that typically
16 occur in summer and winter months.

17 I note we do not contest the basic facilities
18 charge figures proposed in ORS witness Seaman-
19 Huynh's surrebuttal testimony of an \$11.78 basic
20 facilities charge for residential customers, \$12.34
21 for small general service customers, and \$11.31 for
22 small general service constant load customers and
23 to put the remaining revenue requirement ultimately
24 determined by the Commission in the variable
25 component of such rates. With this change to the

1 basic facilities charge, residential customers will
2 pay less than 40 cents per day to have electricity
3 available for when they need it.

4 The Company realizes that regardless of how
5 justified a rate case may be, there is no good time
6 to raise customer rates. In ongoing conversations
7 with customers, in listening to testimony at public
8 hearings, and after reading relevant testimony and
9 comments filed by intervenors and customers, we
10 continue to hear the concerns of our customers.

11 The Company wants to help customers understand
12 their energy use, empower them to save money on
13 their electric bill, and provide programs for every
14 type of energy user and budget, and continue to
15 power the lives of our customers in South Carolina.

16 This concludes the summary of my direct and
17 rebuttal testimony.

18 Q Thank you, Mr. Gharthey-Tagoe.

19

20

21

22 (PURSUANT TO PREVIOUS INSTRUCTION,
23 THE PREFILED DIRECT TESTIMONY,
24 INCLUDING CORRECTION/AMENDMENT,
25 OF KODWO GHARTEY-TAGOE FOLLOWS.)

[Please note: Corrections noted herein reflect the testimony
of the witness during the hearing in this matter.]

298-1

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2018-318-E

In the Matter of:

Application of Duke Energy Progress, LLC
for Adjustments in Electric Rate Schedules
and Tariffs

)
)
)
)
)

**DIRECT TESTIMONY OF
KODWO GHARTEY-TAGOE
FOR DUKE ENERGY
PROGRESS, LLC**

ELECTRONICALLY FILED - 2018 November 8 10:16 AM - SCPSC - Docket # 2018-318-E - Page 1 of 38

I. INTRODUCTION

1 Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION
2 WITH DUKE ENERGY CORPORATION.

3 A. My name is Kodwo Gharthey-Tagoe, and my business address is 40 West
4 Broad Street, Greenville, South Carolina 29601. I am State President – South
5 Carolina for Duke Energy Progress, LLC (“DE Progress” or “Company”) and
6 Duke Energy Carolinas, LLC (“DE Carolinas”), both of which are wholly
7 owned subsidiaries of Duke Energy Corporation (“Duke Energy”).

8 Q. BRIEFLY SUMMARIZE YOUR EDUCATIONAL BACKGROUND
9 AND PROFESSIONAL AFFILIATIONS.

10 A. I earned my Juris Doctor degree from Duke University and a Bachelor of Arts
11 degree, with joint honors in economics and finance, from McGill University
12 in Montreal, Quebec. I also completed the Advanced Management Program at
13 the Wharton School of Business. I am admitted to the North Carolina Bar. I
14 serve on the Board of Directors of the United Way of Greenville County and
15 the Palmetto Conservation Foundation, and on the board of visitors of Duke
16 University Law School. I am also on the advisory board of Progress in
17 Education, Inc., a charitable and educational organization I helped found in
18 2000 to assist schools in Ghana to improve their quality of instruction, and to
19 promote cross-cultural understanding between students in Ghana and students
20 in America.

1 Q. PLEASE DESCRIBE YOUR BUSINESS BACKGROUND AND
2 EXPERIENCE.

3 A. I have been in my current position since January 2017. Prior to that I served as
4 senior vice president of state and federal regulatory legal support for Duke
5 Energy. I joined the Company in 2002 as chief regulatory counsel for Duke
6 Power. I have served as vice president, legal, for Duke Energy's Commercial
7 Businesses organization, and was responsible for providing legal advice to the
8 Company's commercial businesses, including Duke Energy International,
9 Duke Energy Renewables, Midwest Commercial Generation and Commercial
10 Transmission. I also served as Duke Energy's general counsel for litigation,
11 as well as vice president, legal – state regulation for Duke Energy's
12 Franchised Electric and Gas business. Before joining the Company, I was a
13 partner with McGuire Woods LLP in Richmond, Virginia.

14 Q. WHAT ARE YOUR RESPONSIBILITIES IN YOUR CURRENT
15 POSITION?

16 A. I lead Duke Energy's regulated electric utility businesses in South Carolina,
17 which include serving approximately 170,000 DE Progress electric customers
18 in South Carolina. I am responsible for the financial performance of the
19 Company's electric utility in South Carolina and managing state and local
20 regulatory and governmental relations, and community affairs. I also have
21 responsibility for advancing the Company's legislative and regulatory
22 initiatives related to its electric operations.

1 Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE
2 COMMISSION?

3 A. Yes. On July 23 2018, I testified before the Commission on behalf of DE
4 Progress and DE Carolinas in an allowable exparte proceeding in Docket No.
5 ND-2018-19-E on the management of Duke Energy hydroelectric projects.

6 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

7 A. The purpose of my testimony is to provide an overview of DE Progress'
8 requested rate increase in support of the Company's Application in this case.
9 In my testimony, I explain the primary cost drivers making up this requested
10 rate increase, as well as the steps we have taken to minimize DE Progress'
11 cost to provide safe, reliable, cost-effective and increasingly clean electricity
12 to our customers, including work related to environmental requirements. I
13 explain how we are improving our grid in a manner to better our customers'
14 lives and the economy of our State. Finally, I describe how the requested rate
15 increase will allow the Company to remain a financially strong utility that is
16 well positioned in financial markets to the benefit of our customers.

17 Q. WHO ARE THE OTHER WITNESSES PRESENTING TESTIMONY IN
18 SUPPORT OF THE COMPANY'S APPLICATION IN THIS
19 PROCEEDING?

20 A. The Company's other witnesses filing direct testimony in support of this case
21 are:

22 1. Laura A. Bateman, Director of Rates & Regulatory Planning, who
23 describes the results of DE Progress' operations under present rates on

1 the basis of an adjusted historical Test Period (twelve months ending
2 December 31, 2017). Witness Bateman details the calculation of the
3 additional revenue required as a result of the investments and general
4 cost increases since the last DE Progress Rate Case and discusses
5 several pro forma adjustments to the test year operating expenses and
6 to the end of year actual rate base. Witness Bateman also explains the
7 calculations for various accounting order requests the Company makes
8 in its Application. Further, Witness Bateman provides the capital
9 structure and embedded cost of debt used by the Company in
10 calculating its proposed increase. Finally, Witness Bateman explains
11 the proposal the Company is making regarding an excess deferred
12 income taxes ("EDIT") rider and cost recovery related to grid
13 investments.

14 2. **Kelvin Henderson**, Senior Vice President of Nuclear Operations for
15 Duke Energy, who provides an update on capital additions in recent
16 years, as well as key drivers impacting nuclear operations and
17 maintenance ("O&M") costs. Witness Henderson also discusses the
18 operational performance of DE Progress' nuclear generation fleet
19 during the January 1, 2017 through December 31, 2017 Test Period.

20 3. **John Sullivan**, Director of Corporate Finance and Assistant Treasurer,
21 who addresses the Company's financial objectives, proposed capital
22 structure and cost of capital. Witness Sullivan also discusses the
23 current credit ratings and forecasted capital needs of the Company and

1 the importance of DE Progress' continued ability to meet its financial
2 objectives.

3 4. **David L. Doss Jr.**, Director of Electric Utilities and Infrastructure
4 Accounting, who describes the financial position of DE Progress at
5 December 31, 2017, and the actual results of the Company's
6 operations for the Test Period. He also addresses depreciation
7 expense, adjustments to the depreciation rates based on the recently
8 approved depreciation study, and nuclear decommissioning costs.

9 5. **Janice Hager**, President of Janice Hager Consulting. Witness Hager
10 supports the allocation of Company electric operating revenues and
11 expenses, and original cost rate base assigned to the South Carolina
12 retail jurisdiction and to each customer class.

13 6. **Robert B. Hevert**, Partner of ScottMadden, Inc., who presents his
14 independent analysis of the Company's cost of equity. Witness Hevert
15 discusses the Company's requested capital structure and makes a
16 recommendation for an allowed return on equity ("ROE") to allow the
17 Company to both attract capital on reasonable terms and maintain
18 financial strength.

19 7. **John Panizza**, Director of Tax Operations, who addresses federal tax
20 reform legislation, the Tax Cuts and Jobs Act (the "Tax Act"), which
21 became law on December 22, 2017.

22 8. **Retha Hunsicker**, Vice President of Customer Connect-Solutions for
23 Duke Energy. Witness Hunsicker discusses the Company's Customer

1 Information Systems ("CIS") and explains why it is necessary to
 2 convert that CIS into a modern customer service platform, known as
 3 Customer Connect.

4 9. **Jon F. Kerin**, Vice President, Coal Combustion Products Operations,
 5 Maintenance and Governance, who describes DE Progress' ash basin
 6 closure and compliance costs and plans, and the activities underlying
 7 the costs sought for recovery in this case.

8 10. **Dr. Julius (Chip) Wright, Ph.D.**, Managing Partner, J. A. Wright &
 9 Associates, LLC, will testify to ratemaking policy and regulatory
 10 approaches to the recovery of prudently incurred environmental
 11 compliance costs.

12 11. **Kendra Ward**, Rates & Regulatory Strategy Manager with Duke
 13 Energy, who supports the base fuel factor for base rates for all
 14 customer classes for DE Progress.

15 12. ~~Joseph A. Miller, Jr., Vice President of Customer Services,~~ Julie K. Turner
 16 an update on the Company's fossil, hydroelectric and solar
 17 (collectively, "Fossil/Hydro/Solar") facilities included for recovery in
 18 this case. Witness ~~Miller~~ Turner describes capital additions made in recent
 19 years and capital investments planned for the upcoming years and key
 20 drivers impacting O&M costs. Witness ~~Miller~~ Turner also discusses the
 21 operational performance of the Company's Fossil/Hydro/Solar fleet
 22 during the Test Period.

1 13. **Jay W. Oliver**, General Manager, Grid Solutions Engineering and
 2 Technology, who discusses the Company's transmission and
 3 distribution ("T&D") system, the operation and performance of the
 4 T&D system and the costs necessary to operate, maintain and improve
 5 upon it, including providing detail on major grid investment initiatives,
 6 and the underlying investments to be recovered through the
 7 Company's Grid Improvement Plan.

8 14. **Steven B. Wheeler**, Pricing & Regulatory Solutions Director, who will
 9 demonstrate that the rates DE Progress proposes reflect appropriate
 10 ratemaking principles, and result in an equitable basis for recovery of
 11 the Company's revenue requirement across and within its various rate
 12 schedules. Witness Wheeler also describes proposed changes to the
 13 Company's retail electric schedules and quantifies the effect of these
 14 changes to retail customers.

15 15. **Donald L. Schneider, Jr.**, General Manager, Advanced Metering
 16 Infrastructure ("AMI") Program Management, who describes the
 17 Company's progress in deploying AMI technology across its South
 18 Carolina service territory.

19 II. SUMMARY OF REQUEST

20 **Q. WHY IS DE PROGRESS PROPOSING A BASE RATE ADJUSTMENT?**

21 A. Recent work to modernize the electric system, generate cleaner power,
 22 responsibly manage and close our coal ash basins, and continually improve
 23 service to customers have made it necessary for DE Progress to request a net

1 increase in its retail revenues of approximately \$59 million on June 1, 2019,
2 which represents an approximate overall 10.3 percent increase in annual
3 revenues. The Company is also presenting a three-year plan known as the
4 South Carolina Grid Improvement Plan, which I believe will effectively serve
5 customers now and in the years ahead. The Company's Application requests
6 that the Commission approve the Grid Improvement Plan and expenditures for
7 the next three years as detailed in Exhibit 9 to Witness Oliver's testimony. If
8 approved, additional rate changes related to the Grid Improvement Plan would
9 result in cost recovery of approximately \$5.1 million beginning June 1, 2020
10 and \$5.8 million beginning June 1, 2021.

11 Major investments in generating plant additions and plant-related
12 expenses, investments in the grid and metering systems, changes in
13 depreciation rates as well as a new billing system, account for a significant
14 portion of this case. Additionally, since its last rate case, DE Progress has
15 invested heavily in state-of-the-art technology and environmental equipment
16 to reduce emissions. The Company's request also contains compliance costs
17 associated with state and federal environmental compliance requirements
18 related to Coal Combustion Residuals ("CCR"). The requested increase
19 includes the benefits of the federal Tax Act, and our filing today details our plans
20 to continue to pass on related tax benefits to our customers such that it will
21 continue to help apply downward rate pressure for the benefit of our customers.

22 This increase is necessary to pay for investments to build a cleaner, more
23 reliable and smarter energy future in South Carolina. Our investments include

1 the roll out of new meters that align with a new customer information system to
2 give customers more information and service options; including the new Prepaid
3 Advantage Pilot program to allow DE Progress customers to avail themselves of
4 a prepayment plan that can eliminate the need for deposits. Additional customer
5 focused changes include eliminating the need for our residential customers to
6 pay a fee every time they use a credit or a debit card to make a payment, by
7 including the amount of the fees in our cost of service and collecting them in
8 rates.

9 Further, this case includes grid investments being made by the Company
10 to improve and modernize our operations for the benefit of customers. The
11 unique nature of these investments is why DE Progress is proposing the Grid
12 Improvement Plan, and is why we are seeking corresponding rate changes to
13 recover the cost of the three-year plan, as discussed by Witnesses Bateman,
14 Oliver and Wheeler.

15 These smart investments in technology, infrastructure, environmental
16 protection and customer service will help connect customers to a cleaner, more
17 reliable, smarter energy future. At Duke Energy, we know how vital electricity
18 is to our customers and their families, as well as our state. Customers expect the
19 Company to deliver electricity that is safe, reliable, affordable and increasingly
20 clean, while also making smart investments that help communities and local
21 economies thrive, create jobs and opportunities, and that provide more value
22 every day.

1 We are providing customers with increasingly clean energy from state-
2 of-the-art carbon-free nuclear plants and new, highly-efficient natural gas and
3 utility-scale solar energy projects. In fact, nearly half of the electricity we
4 generated in the Carolinas last year came from carbon-free resources,
5 including hydro-electric facilities. Powering the lives of South Carolina's
6 hard-working families and communities is the most important job we have.
7 Our more than 4,000 dedicated Duke Energy employees who live and work
8 every day in communities across our state— in good weather and bad – and the
9 thousands more out of state employees who support our service in South
10 Carolina, take this responsibility seriously. Smart investments in technology,
11 infrastructure and environmental protection will help connect millions of our
12 customers to a better energy future.

13 **Q. IF APPROVED, WHAT WOULD BE THE IMPACT OF THE**
14 **COMPANY'S REQUESTED INCREASE TO THE TYPICAL**
15 **RESIDENTIAL CUSTOMER CONSUMING 1000 KWHS PER**
16 **MONTH?**

17 A. The requested revenue increase of \$59 million on June 1, 2019, followed by
18 incremental increases to reflect additional grid investments in 2020 and 2021,
19 would result in the following increases by DE Progress' rate classes: (1) a
20 typical residential customer using 1,000 kWh will see an increase of
21 approximately \$17.91 per month beginning with the rate effective date in this
22 case, requested to be June 1, 2019, and then an increase of \$1.60 per month
23 beginning June 1, 2020 and an additional \$1.81 per month beginning June 1,

1 2021; (2) small general customers, on average, will see a 14.5 percent increase
2 on June 1, 2019, and then an increase of 1.5 percent per month beginning June
3 1, 2020 and an additional 1.7 percent increase per month beginning June 1,
4 2021; (3) medium general service customers, on average, will see a 6.7
5 percent increase on June 1, 2019, and then an increase of 0.5 percent increase
6 per month beginning June 1, 2020 and an additional 0.6 percent increase per
7 month beginning June 1, 2021; (4) large general service customers, on
8 average, will see an 9.6 percent increase on June 1, 2019, and then an
9 increase of 0.4 percent per month beginning June 1, 2020 and an additional
10 0.4 percent increase per month beginning June 1, 2021; and (5) lighting
11 customers, on average, will see a 6.3 percent increase on June 1, 2019, then an
12 increase of 1.0 percent per month beginning June 1, 2020 and an additional
13 1.2 percent increase per month beginning June 1, 2021. More details can be
14 found in the testimony of Witness Wheeler.

15 DE Progress is also proposing, supported by costs to serve, an increase
16 in the Residential Basic Facilities Charge from \$9.06 to \$29.00 per month
17 effective June 1, 2019. This means that customers would be paying
18 approximately \$0.95 cents per day for facilities in place to serve them,
19 regardless of how much electricity is used. The increase in the Residential
20 Customer Charge is not additive to the rate increase requested in this case.
21 Rather, the proposed change is a more accurate reflection of how the
22 Company collects its costs. The Company proposes to collect fixed cost
23 through the fixed monthly charge based on the cost to serve instead of

1 continuing to collect it through the variable, volumetric energy rate. We took
2 this approach because current rates significantly understate the current cost of
3 service related to the customer component of cost. In addition, the Company's
4 requested fixed monthly charge is comparable to the fixed monthly charge
5 established by many other electricity providers in the State. Witnesses
6 Wheeler and Hager explain this in further detail in their testimony.

7 **III. BASE RATE REQUEST**

8 **Q. PLEASE PROVIDE MORE DETAIL ABOUT THE INVESTMENTS**
9 **DRIVING THE COMPANY'S REQUESTED 10.3 PERCENT**
10 **OVERALL ADJUSTMENT TO ANNUAL REVENUES.**

11 **A.** Since DE Progress' last rate case filed and concluded in 2016 ("2016 Rate
12 Case"), we have continued to invest in our facilities, equipment and
13 operations to better serve our customers. For example, since the conclusion of
14 the 2016 Rate Case, DE Progress has made significant investments in
15 numerous nuclear, fossil, hydro and solar projects, helping to provide
16 customers with energy that is more reliable, efficient and cleaner than ever.

17 In July 2017, the Company placed into service the two new
18 combustion turbines ("CT") for the Sutton Combined Cycle generation. The
19 Sutton CT project provides an additional 78 MWs of capacity to the
20 Company's fleet. The Company's investment in this project totaled \$101
21 million. These units are critical components of the ability to restart the
22 generation system in the event of a catastrophic storm or event and provide
23 offsite power to Brunswick Nuclear Station. In addition, DE Progress also

1 made capital additions at Roxboro Station to convert to a dry bottom ash
 2 system to comply with federal requirements related to CCR. The Company's
 3 investment in this project totaled \$100 million. These investments will
 4 provide benefits to DE Progress' customers for decades to come, as discussed
 5 by Witness Miller.

6 DE Progress also seeks to recover costs incurred and deferred since
 7 July 1, 2016 through December 31, 2018 to comply with federal and state
 8 requirements related to CCRs. To mitigate rate impacts to customers, we
 9 request to recover these previously incurred expenses over a five year period
 10 resulting in a revenue requirement of approximately \$13 million.¹ This case
 11 also includes the amortization of regulatory assets over time related to smart
 12 meters;² the new Customer Connect system;³ grid investments;⁴ rate changes
 13 from the most recent depreciation study;⁵ the Harris Combined Operating
 14 License Application;⁶ compliance with NRC requirements in response to
 15 cybersecurity requirements and events at the Fukushima Daiichi Nuclear
 16 Power Station in Japan⁷; and the deferred costs associated with the filing of
 17 notices of application and withdrawal, along with other utilities in the state, to
 18 form a Regional Transmission Organization.⁸ Witness Bateman provides
 19 detail regarding these deferral balances and the requested amortization.

¹ This case excludes any fines or penalties incurred by DE Progress related to ash basin closure or management.

² Docket 2018-205-E, Order No. 2018-553 (August 9, 2018).

³ *Id.*

⁴ Docket 2018-206-E, Order No. 2018-519 (October 3, 2018).

⁵ Docket 2018-205-E, Order No. 2018-553 (August 9, 2018).

⁶ Docket No. 2013-472-E, Order No. 2016-36 (January 20, 2016).

⁷ *Id.*

⁸ Docket 2001-139-E.

1 Q. HAS THE IMPACT OF THE TAX ACT BEEN INCORPORATED INTO
2 THE COMPANY'S REQUEST?

3 A. Yes. The proposed rates include a reduction from the corporate income tax
4 rate from 35 percent to 21 percent. The Company also includes a proposal to
5 flow back to customers, through a rider, excess deferred income taxes
6 ("EDIT") and deferred revenue resulting from the Tax Act on utility
7 operations. The Company's plan ensures that as customers benefit from the
8 Tax Act, the Company is able to maintain the same financial strength it had
9 prior to the Tax Act's passage. Finally, the Tax Act balances applied in this
10 case include an offset to the balance accrued for Distributed Energy Program
11 ("DERP") costs that have yet to be recovered. The balances have grown to
12 \$13 million as of September 30, 2018, as provided by Witness Bateman.
13 Given the benefits from the Tax Act, we thought it was reasonable to go ahead
14 and eliminate those balances as the State explores additional options for
15 rooftop solar. Otherwise it could be 15 years by the time we resolve those
16 balances through existing channels.

17 The Company is also proposing rates be set on a return on equity
18 ("ROE") of 10.50 percent. As described in Witness Sullivan's testimony,
19 while the Company fully supports Witness Hevert's testimony and analysis
20 that yielded a recommended ROE of 10.75 as filed in this case, the Company
21 is proposing rates which include a 10.50 percent ROE as a rate mitigation
22 measure. We have also proposed rates on a regulated capital structure that
23 includes a 53 percent equity component as supported by Witness Sullivan.

1 Q. PLEASE DESCRIBE THE NEED TO ADDRESS COAL ASH BASINS.

2 A. For decades, along with other electric utilities across the country, DE
3 Progress followed industry practices managing and storing coal ash consistent
4 with regulations that evolved throughout that time. DE Progress has become
5 subject to both federal and state regulations that require it to take additional
6 significant actions to manage and permanently and safely close its ash basins
7 in ways that protect human health and the environment. In April 2015, the
8 Environmental Protection Agency promulgated new rules regarding the
9 management and closure of ash basins. All of DE Progress's ash basins must
10 be closed under these rules. Like other utilities around the country similarly
11 affected by such regulation, the Company has begun the process of closing, or
12 submitting plans to close, our ash basins in accordance with these regulations.
13 Additionally, the Company is adding dry ash and Flue Gas Desulfurization
14 blowdown handling systems to our coal-fired plants that are not already so
15 equipped. DE Progress is also modifying all of active and decommissioned
16 coal-fired plants in the Carolinas to divert storm water and low volume waste
17 water away from the basins. These activities went through an initial review in
18 the 2016 Rate Case.

19 As explained by Witness Bateman, the Company is requesting
20 recovery of ash compliance costs in the amount of approximately \$50 million
21 over five years. These costs were incurred after the cutoff date in the last rate
22 case, June 30, 2016, through the cut-off in this case, December 31, 2018, with
23 the October 1, 2018 – December 31, 2018 period still based on a projection as

1 of the time of the filing. The Company is seeking recovery of these costs over
2 a five-year period in order to mitigate customer rate impacts associated with
3 these significant compliance expenses. The Company expects to continue to
4 invest significant amounts related to coal ash compliance after the December
5 2018 cut-off in this case. However, instead of requesting recovery of an
6 ongoing level of these costs in this case, the Company is requesting the
7 Commission approve a continuation of the deferral for costs incurred beyond
8 this case.

9 Witness Kerin provides significant detail on the prudence of the
10 Company's actions regarding ash basin creation, management and closure,
11 and he is the Company's subject matter expert in this area. Witness Wright
12 further speaks to the Company's actions related to coal ash and the regulatory
13 policy surrounding cost recovery. However, it's worth mentioning that for
14 decades, the Company has worked to provide electricity that is reliable, is
15 delivered using the best practices and latest technologies at the time, and is
16 available at reasonable rates. And for decades, reliable, affordable electricity
17 was made possible—nationwide—by coal. In its day, coal was king. It fueled
18 both a growing economy and population, along with demands for electricity
19 across South Carolina, meeting the energy needs of communities from the
20 mountains to the coast. It was the most advanced technology of its time.

21 With coal came coal ash – the byproduct of decades of generating
22 electricity from this resource. In the early days, the best practice in the
23 industry was to let coal ash simply go out the top of the smokestack. Later,

1 changing regulations and industry best practices led to the use of emissions
2 control equipment and ash basins to dispose of coal ash, often in a pond-like
3 environment. Today, instead of being handled wet and stored in ponds, coal
4 ash is increasingly being handled dry and disposed of in lined landfills, or
5 beneficially recycled for use in construction products or as fill material in
6 place of dirt. In fact, Duke Energy recycled 78 percent of coal combustion
7 byproducts in 2107, and that includes DE Progress recycling or beneficially
8 re-using the ash that is produced at our coal-fired plants. We have retired all
9 of the coal-fired plants owned by Duke Energy in South Carolina. And now,
10 we are closing all ash basins across the state as part of new, sweeping state
11 and federal regulations, and as part of Duke Energy's commitment to provide
12 increasingly reliable, clean power to our customers at reasonable rates. Like
13 any waste, we must ensure that coal ash is responsibly managed, just as we
14 have done with spent nuclear fuel.

15 As we transition to a cleaner energy future by leveraging new
16 technology and cleaner power sources, we must remember the many benefits
17 coal energy provided over the last several decades. Because our customers
18 have benefited from coal-produced electricity, the cost of responsibly
19 managing waste from consuming coal for electricity must also be borne by our
20 customers. This is an investment to help close out the coal era and push
21 forward to a new, cleaner energy future.

1 Q. PLEASE DESCRIBE THE COMPANY'S GRID IMPROVEMENT
2 PLAN.

3 A. From routine, day-to-day activities to powering high-tech manufacturing, the
4 electric power grid is the backbone of South Carolina's digital economy; – not
5 just today, but also 5, 10, 20 years in the future. As recent events have
6 reinforced, the Company must be ready for severe weather before it strikes,
7 and reduce the impact of storms that are worsening in frequency and intensity.
8 DE Progress must be vigilant and prepare now for the very real threat of cyber
9 and physical attacks. DE Progress also needs to provide more options for
10 customers to allow more control over the way they use electricity. And as
11 renewable energy technologies like solar energy, battery storage, micro-grids
12 and electric vehicles become more affordable and accessible; the Company
13 needs to take steps now to ready the grid to support the growth of these
14 technologies that are important to South Carolina's energy future.

15 The Company's Grid Improvement Plan addresses all of these needs,
16 while also managing costs. This Grid Improvement Plan was built using
17 advanced data analytics that helped identify strategic opportunities for
18 improvement. It also incorporates extensive input from customers, customer
19 and environmental advocacy groups and others who helped to refine this plan
20 to better serve their energy needs and the needs of our state. The Grid
21 Improvement Plan includes investments designed to strengthen the grid and
22 mitigate the impact of major storm events, as well as to harden and defend the
23 grid against critical physical and cybersecurity risks. Examples of the

1 Company's multi-layered improvements designed to protect the grid include:
2 updating grid technology including monitoring and communication
3 equipment; installing protective devices to limit access to critical systems and
4 minimize outages from physical or cyber-attack; and relocating, raising or
5 reinforcing equipment in flood-prone areas.

6 As discussed in the testimony of Witness Oliver, components of Duke
7 Energy's Grid Improvement Plan operationally fall into one of three
8 categories: (1) compliance-driven programs that protect the grid; (2) programs
9 that leverage advanced technologies to modernize the grid; and (3) projects
10 and programs that work to optimize customers' experience. We constructed
11 the Grid Improvement Plan, with stakeholder feedback, to address the risks
12 and opportunities that the analysis revealed. The Plan seeks to balance the
13 pace, scope, location, and timing of our work to address a diverse set of
14 customer and stakeholder needs. As we built the Grid Improvement Plan
15 proposed in this case, the Company has also kept the needs of our rural and
16 low-income customers in mind and sought to develop a strategy that
17 maximizes benefits to customers and the state, while keeping costs as low as
18 possible. The Company has sought out customer and stakeholder
19 perspectives, including multiple stakeholder workshops, as part of the process
20 before proposing this plan to the Commission.

1 Q. PLEASE DESCRIBE THE INVESTMENT IN THE CUSTOMER
2 INFORMATION SYSTEM ("CIS")?

3 A. At 30 years old, the Company's current CIS system is no longer supported or
4 upgradeable, and is unable to continue to be fully integrated into Duke
5 Energy's other systems. The new system will be complementary to future
6 technology, and includes the ability to interface with new smart meters to
7 enable customers to more easily start and stop service, ask questions about
8 their bills, view their usage, and allow the Company to identify the optimal
9 rate plan for each customer when asked. Customers expect greater access to
10 information about their account and energy use, and greater control over that
11 information. Through the consolidation of the older information systems into
12 a new information system, the Company will be able to deliver a customer
13 experience that will simplify, strengthen and advance our ability to serve our
14 customers in this digital age.

15 As explained by Witness Hunsicker, continued investment in an
16 antiquated technology platform is neither practical nor sustainable, and would
17 cost considerably more in the long run than replacing the system in its
18 entirety. Customer information systems, just like any other software solution,
19 periodically require replacement to deliver on capabilities required by
20 business operations, and more importantly, customers.

21 Q. PLEASE DESCRIBE THE CONTINUED INVESTMENT IN AMI.

22 A. To bring customers additional choices and insight on their usage, we have
23 begun a full roll-out of AMI technology, including smart meters, in the service

1 territory in South Carolina. As explained by Witness Schneider, these smart
2 meters will work in tandem with many of our grid investments. Moreover,
3 modern meters will also provide crucial information to our CIS system,
4 providing customers greater control, convenience and choice over their energy
5 usage, while also giving customers the opportunity to budget, save time and
6 save money. DE Progress has approximately 38,000 smart meters currently
7 installed, and the next phases of deployment will replace approximately
8 128,000 older technology meters with smart meters by the end of 2020. These
9 meters for South Carolinians are being manufactured by South Carolinians
10 employed by Itron Inc. in Oconee County, South Carolina. The AMI
11 technology will pave the way for programs that will allow customers to stay
12 better informed during outages, control their due dates, avoid deposits, to be
13 reconnected faster, and to better understand and take control of their energy
14 usage, and ultimately, their bills.

15 **Q. PLEASE EXPLAIN THE COMPANY'S PROPOSAL FOR A FEE-FREE**
16 **CREDIT/DEBIT CARD PROGRAM.**

17 A. Currently, customer payments made by check, cash, free pay stations, and
18 Automated Clearing House, using bank drafts or paperless billing, are free of
19 charge. The costs for the Company to offer these methods are paid for by all
20 customers and not recovered exclusively by those specific customers that use
21 that method of payment. Residential customers using a credit or debit card
22 through any payment channel or a one-time ACH payment via phone or on the
23 Company's website are subject to a \$1.50 convenience fee. The convenience

1 fee is collected by the Company's third-party vendor, SpeedPay. The
2 Company receives no portion of this fee.

3 As customer expectations change and more payments are done
4 electronically, utility companies are beginning to offer fee-free payment
5 programs for their residential customers for all methods of payment. As
6 supported by the National Association of State Utility Consumer Advocates
7 (NASUCA) in Resolution 2012-07, "Urging Utilities to Eliminate
8 'Convenience Fees' for Paying Utility Bills with Debit and Credit Cards and
9 Urging Appropriate State Regulatory Oversight,"⁹ and as further explained
10 below, the Company believes it is reasonable to offer a fee-free payment
11 program for all payment methods to its residential customers, and recover the
12 costs associated with such a program from all customers through rates. The
13 requirement to pay a convenience fee when making a payment is one of the
14 largest frustrations customers experience. Customers have grown accustomed
15 to paying for other products and services with a credit card or debit card
16 without a separate, additional fee. Duke Energy Corporation has seen 10
17 percent average year over year growth in credit/debit card transactions over
18 the past several years, and with this change we expect the growth rate to
19 double – so 20 percent more transactions in 2019 than in 2018. Eliminating
20 these fees for the Company's residential customers would provide additional
21 options for residential customers to pay their bills. As discussed in the

⁹ <https://nasuca.org/2012-07-urging-utilities-to-eliminate-convenience-fees-for-paying-utility-bills-with-debit-and-credit-cards-and-urging-appropriate-state-regulatory-oversight/>

1 NASUCA Resolution 2012-07, additional fees for paying utility bills can be
2 burdensome to customers.

3 We also know that our customers want this option. The Company's
4 Customer Service department routinely receives inquiries about no-cost
5 electronic payment options. In the Company's 2018 Monthly Residential
6 Transaction Surveys, residential customers noted some of the following when
7 asked what they liked least about Duke Energy:

8 *"Not charge a fee for using a credit card."*

9 *"The fact that you can't pay online without being charged. Everybody*
10 *else has a free service to pay online."*

11
12 *"Take away the service charge. I just don't understand why you want*
13 *to charge somebody \$1.50."*

14
15 *"The only thing that I can say is I think they want to penalize you. If*
16 *you want to pay a certain way, they charge you extra."*
17

18 We think our customers will appreciate being able to use credit cards with the
19 Company the same way they can with other companies.

20 **Q. IS THE COMPANY PROPOSING A FEE-FREE CREDIT/DEBIT**
21 **CARD PROGRAM FOR ITS COMMERCIAL AND INDUSTRIAL**
22 **CUSTOMERS AT THIS TIME?**

23 **A.** Not at this time. Because commercial and industrial customers generally have
24 more methods in which to pay, and their average payment amount is
25 significantly higher than residential (which leads to higher processing costs),
26 at this time the Company is not proposing a fee-free program for commercial
27 and industrial customers.

1 V. CUSTOMER LANDSCAPE

2 Q. CAN YOU PUT DE PROGRESS' RATES INTO PERSPECTIVE?

3 A. Yes. First, we believe that electricity in South Carolina remains an excellent
4 value, even with the proposed adjustment.

5 Over the past year, gas prices, a basic consumer good is up 3.5 percent.
6 However, the cost of electricity in the Southeast has dropped 2.6 percent from
7 September 2017 to September 2018. Electricity provides fundamental value
8 to our daily life by powering appliances, heating and cooling homes, cooking
9 food, and allows us to use our televisions, computers, charging devices such
10 as tablets and smartphones and other devices that are now a common part of
11 our everyday lives. Even with the rate adjustment, our customers will
12 continue to pay competitive rates.

13 Q. IS THE COMPANY PROACTIVELY EDUCATING CUSTOMERS
14 ABOUT ITS PROPOSALS IN THIS CASE?

15 A. Yes. DE Progress is committed to being transparent and keeping customers
16 informed about the costs included in their bills and proposals to adjust rates.
17 The Company has engaged in Grid Workshops to describe and help shape our
18 Grid Improvement Plan, and we regularly publicly communicate about our
19 environmental compliance work. We have also been very transparent about
20 our investments to build a smarter energy future for our customers powered by
21 cleaner, more efficient energy sources such as highly efficient natural gas,
22 carbon-free nuclear energy, renewable resources like hydroelectric generation
23 and solar energy.

1 Now that the Company's request has been filed, DE Progress will
2 utilize a section of the Duke Energy website to include videos, fact sheets and
3 direct information about the components of this case. In addition to the
4 website, the Company has and will continue to inform and educate our
5 customer as well as those community facing employees who interact with our
6 customers about this request.

7 **Q. HAS THE COMPANY CONTINUED ITS ONGOING EFFORTS TO**
8 **MITIGATE CUSTOMER RATE IMPACTS?**

9 A. Yes. The Company relies on a variety of fuel sources to generate power and
10 has prudently managed its operating costs. This fuel diversity allows DE
11 Progress to choose how to generate electricity – day by day, hour by hour –
12 based on the cost of the fuel needed to run its different plants. DE Progress
13 has managed its costs through continuous improvement to its operations
14 (thereby benefitting customers through efficiency-derived controlled costs) as
15 well as through significant cost containment policies and activities.

16 The Company is also committed to performance excellence, and has
17 been recognized for it and the cost savings it brings. For example, in 2017, the
18 DE Progress' nuclear fleet achieved the second highest output in history,
19 falling just below the record established in 2014. The Harris station
20 established a new generation record during 2017, and Brunswick completed
21 its longest dual-unit continuous run. Also, as explained by Witness Henderson,
22 I'm proud that Duke Energy has been recognized by the Nuclear Energy
23 Institute ("NEI") with three Top Industry Practice ("TIP") awards in 2017;

1 Utilization of FLEX Equipment, Core Shroud Inspections, and Procurement
2 Engineering Prioritization. The FLEX Equipment award recognizes the
3 Company for innovative use of FLEX equipment to improve safety and
4 reduce outage durations. The Core Shroud Inspection award recognizes
5 innovation in inspection methods that are expected to save \$1.8M through
6 2020, and the award related to Procurement Engineering Prioritization
7 recognizes the Company's development of a computer application that
8 enhances work schedule achievement and ensures materials are available
9 when needed.

10 **Q. WHAT OTHER INITIATIVES HAS THE COMPANY IMPLEMENTED**
11 **TO HELP ITS CUSTOMERS REDUCE THEIR ELECTRICITY**
12 **BILLS?**

13 A. Duke Energy wants to help customers understand their energy use,
14 empowering them to save money on their electric bill. DE Progress is
15 continuing to expand and enhance its portfolio of demand-side management
16 ("DSM") and energy efficiency ("EE") programs because these programs
17 have proven to be one of the most effective means to reduce energy costs,
18 offset the need for new power plants, and protect the environment. DE
19 Progress' robust portfolio of EE programs is designed to provide offerings that
20 engage and educate customers around their energy usage and efficiency, as
21 well as empower customers by providing them with financial incentives to
22 invest in efficiency improvements. Duke Energy offers customers more than a
23 dozen energy-saving programs for every type of energy user and budget. The

1 Company's EE programs currently save its customers in the Carolinas over
2 1.7 billion kWh annually or over \$170 million, which is about four percent of
3 total retail kWh sales. Combined, its DSM and EE programs offset capacity
4 requirements by the equivalent of over four power plants. The Company's
5 growing portfolio of DSM programs further offers customers opportunities to
6 lower their bills by providing them with financial incentives in exchange for
7 shifting the timing of their electricity use from peak to nonpeak periods,
8 thereby helping the Company to reduce fuel costs during the periods when
9 energy costs the most to produce.

10 The Neighborhood Energy Saver Program is a residential EE program
11 targeted at low-income customers that includes the direct installation of a
12 number of EE measures. DE Progress has implemented the program utilizing
13 a neighborhood engagement, door-to-door strategy. Through the program, a
14 comprehensive package of EE measures is installed at no direct cost to the
15 customer. Since its inception, we've helped more than 8,700 DE Progress
16 customers in South Carolina save nearly 319,000 kWh each year. This means
17 the average household could save more than \$45 per year on energy costs.
18 Equally important, each participating household is given information and
19 education along with EE tips and information about other programs that can
20 help them reduce their bills.

1 Q. ARE THERE PROGRAMS IN PLACE TO OFFER FINANCIAL
2 ASSISTANCE TO YOUR CUSTOMERS?

3 A. Yes. We know that for many customers, any savings on their power bill can
4 make a big difference in their monthly budget. The Energy Neighbor Fund is
5 an assistance program for DE Progress customers in need, helping low-
6 income individuals and families cover home energy bills. Eligibility is
7 determined by the county Department of Social Service (DSS) agencies. The
8 Energy Neighbor Fund program is funded by contributions from customers,
9 employees, and the Duke Energy Foundation. DE Progress customers are
10 able to add a one-time or recurring contribution to their bills. Over the life of
11 the Energy Neighbor Fund program it has provided approximately \$3.2
12 million to DE Progress' South Carolina customers. We have also made it
13 easier for assistance agencies to make commitments to help financially
14 challenged customers with their bills through use of our agency portal.

15 The Company also offers optional bill management programs designed
16 to assist eligible customers in either managing fluctuations in their monthly
17 bill or who are having difficulty paying their entire bill by the due date.

18 Q. WHAT OTHER COMPANY EFFORTS ARE UNDERWAY TO ASSIST
19 CUSTOMERS WITH THEIR ABILITY TO PAY?

20 A. Duke Energy is committed to helping all customers keep their accounts and
21 their service in good standing. Often, simply spreading energy costs equally
22 over time can help customers manage their costs and pay their bills. Payment
23 plans are important not only to low-income customers, but to other residential

1 customers who may have had to adjust their household budgets. DE Progress'
2 Equal Payment Plan allows customers to spread out the impacts of seasonal
3 fluctuations into twelve equal monthly payments. The Company also offers
4 payment arrangements in South Carolina to customers unable to pay their bill
5 by the past due date. Payment arrangements can help customers avoid
6 interruption of service and help them re-establish control over their payments
7 and their bill. We continue to look for additional ways to help customers
8 manage their payments.

9 The Company has also developed and implemented programs other
10 programs including a free customized home energy report to inform and assist
11 with lowering customers' consumption through energy efficiency. Home
12 Energy House Call is a free in-home energy assessment, valued at \$180 that
13 provides customers living in single family homes with information about their
14 unique energy use and steps they can implement to become more energy
15 efficient. DE Progress's Residential Multi-family Energy Efficiency Program
16 ensures that customers living in multi-family residences also have
17 opportunities to save by providing multi-family residents with electric water
18 heaters. These EE measures are provided at no direct cost to the customer and
19 are installed by the Company. Also, the Home Energy Improvement Program
20 helps customers offset the high upfront cost of making energy-efficiency
21 upgrades to their homes, with incentives for a variety of energy-saving
22 investments.

1 In addition, the High Bill Alerts program was implemented for DE
2 Progress customers in South Carolina. The program proactively notifies
3 customers via email when their forecasted electricity consumption cost for
4 their next bill is 30 percent or \$30 higher than their previous month's bill.
5 Finally, the Company offers a Lower My Bill Toolkit, which in five easy steps
6 helps the customer track their energy usage and reduce energy costs.

7 **Q. HOW HAS THE COMPANY FOCUSED ON DELIVERING**
8 **EXCELLENT CUSTOMER SERVICE?**

9 A. We are working every day to explore new ways to enhance the customer
10 experience. Customer satisfaction ("CSAT") is a key focus area for DE
11 Progress. The Company operates a robust CSAT program, which includes
12 both national benchmarking studies and proprietary transaction and
13 relationship CSAT studies. Results from these studies are analyzed in vigorous
14 quarterly data review sessions, with findings driving improvements to
15 processes, technology and behaviors – all in an effort to continuously improve
16 CSAT. The 2018 J.D. Power's Electric Utility Residential Study ranked DE
17 Progress in the top quartile for performance in all categories (Power Quality
18 and Reliability, Price, Billing and Payment, Corporate Citizenship,
19 Communications, and Customer Service).

20 DE Progress measures overall customer satisfaction and perceptions
21 about the Company in our proprietary relationship study, the "Customer
22 Perceptions Tracker." Feedback is requested from residential and
23 small/medium business customers, and all large business electric customers,

1 to better understand their customer experience with Duke Energy and overall
2 perceptions of the Company. Duke Energy SC Residential satisfaction scores
3 peaked in 2016 to 86 percent highly satisfied customers.

4 In addition to our relationship study, DE Progress utilizes Fastrack, the
5 Company's proprietary transaction study, to measure overall customer
6 satisfaction with our operational performance (i.e. responding to and resolving
7 customer service requests.) Each year, thousands of interviews are conducted
8 with our customers by a third-party research supplier upon the completion of
9 the customer's service request. The survey questions cover the entire
10 experience, from the time the customer picks up the phone to contact the
11 Company, until the issue is resolved and the truck drives away from the
12 customer's property. Analysis of these ratings helps to identify specific
13 service strengths and opportunities that drive overall satisfaction and to
14 provide guidance for the implementation of process and performance
15 improvement efforts. Through mid-2018, roughly 87 percent of DE Progress
16 residential customers expressed high levels of satisfaction with the following
17 service interactions: Start/Transfer Service (89 percent), Outage/Restoration
18 (89 percent), and Street Light Repair (83 percent).

19 Also, in 2017, 'Customer Satisfaction' continued as one of a select
20 number of goals included in the annual incentive compensation plans for DE
21 Progress employees. By connecting customer satisfaction directly to
22 compensation, each employee is "invested" in improving and maintaining
23 high customer satisfaction for all Duke Energy utilities, including DE

1 Progress. Results are monitored at the enterprise level, state level, and by
2 customer segment, so problems can be identified and corrected. This also
3 allows the Company to identify and apply best practices across all of our
4 jurisdictions.

5 We also continue to enhance our customer service practices to address
6 language, cultural and disability barriers. Among other accommodations, the
7 Company's customer service center offers customer service and
8 correspondence in Spanish, handles calls from TTY devices (text telephones),
9 offers bills in Braille, and accepts pledges to pay from social service agencies.

10 **V. ECONOMIC DEVELOPMENT AND EDUCATION EFFORTS**

11 **Q. DOES DE PROGRESS VIEW ECONOMIC DEVELOPMENT AS A**
12 **VITAL PART OF ITS BUSINESS?**

13 **A.** Yes. Making smart investments in energy infrastructure can help to attract
14 business and industry, bring good jobs to the state, and promote smart growth
15 and economic prosperity across South Carolina. It takes investment to
16 provide the reliability our customers expect – investment in power plants,
17 poles and wires, substations and meters. But all of that investment provides
18 critical infrastructure that supports businesses and jobs, schools and
19 universities, stores and the products consumers purchase, and a foundation to
20 ensure the future remains bright for communities across the State. Over the
21 last century, Duke Energy has invested millions of dollars into local
22 economies across the state. When a new power plant is built or transmission
23 line constructed, it creates jobs and results in money spent at the local level

1 while creating a tax base that supports local infrastructure and services.
2 Economic development efforts are critical to retaining and growing the
3 industrial base and manufacturing load so that the state can experience
4 continued job growth and economic success. This helps keep electric rates
5 competitive and mitigates rate increases by enabling costs to be spread across
6 a larger customer base.

7 **Q. PLEASE DESCRIBE THE COMPANY'S ECONOMIC**
8 **DEVELOPMENT EFFORTS IN SOUTH CAROLINA.**

9 A. DE Progress has an Economic Development team responsible for retaining
10 and supporting expansion opportunities for existing customers while also
11 targeting potential new customers and supporting efforts to recruit them to the
12 service area. In addition to coordinating with, or participating in, statewide or
13 community task forces or initiatives, the team works with businesses on site
14 selection and expansion opportunities. Since 2013, 17 sites in DE Progress'
15 South Carolina service territory, totaling over 5,257 acres, participated in
16 Duke Energy's Site Readiness Program, which is intended to identify, assess,
17 improve and increase awareness of industrial sites in the Carolinas, and can
18 result in matching grants from the Company of up to \$10,000 to implement
19 improvements to viable sites. Currently there is one major project constructed
20 on a site that went through the program, resulting in over 60 jobs and over \$57
21 million in capital investment.

22 The Company's ongoing Carolinas Investment Fund also provides
23 support for projects in the Carolinas service area aimed at recruiting new

1 industry, retaining existing jobs, and expanding existing customer operations,
2 by partnering with state or local economic development organizations to
3 provide appropriate incentives. These projects typically include site or
4 building development and related infrastructure or other site preparation
5 requirements. The grants from the Carolinas Investment Fund serve as
6 important discretionary supplements to incentives offered by the state or local
7 entities. To qualify for the grants the recipient must create certain numbers of
8 new jobs or make capital investments, subject to minimum dollar amounts.
9 Since 2013, DE Progress has contributed to the creation of more than 1,416
10 jobs in South Carolina and \$789.7 million in capital investments.

11 Much of this effort has been aimed at encouraging new industrial
12 investments. We believe a healthy industrial base is good for all of our
13 customers. As new manufacturing businesses are established and existing
14 manufacturing businesses expand, they typically create a significant multiplier
15 effect that directly and indirectly produces additional jobs and investments.
16 However, our efforts for economic development are not focused solely on
17 industrial customers.

18 Training and recruiting a highly skilled workforce is also essential to
19 maintaining the competitiveness of our region. Over the last three years Duke
20 Energy has invested almost \$500,000 to support the development, promotion,
21 and delivery of workforce training programs through South Carolina's
22 Technical and Community Colleges. We are confident that our sustained
23 economic development efforts will continue to provide positive results here in

1 South Carolina and benefit customers by keeping rates competitive over the
2 long term through an increased customer base served by our plant investment.

3 **VI. POWERING THE FUTURE**

4 **Q. DO THE FUTURE PLANS OF THE COMPANY SUPPORT THE**
5 **ECONOMIC DEVELOPMENT PROSPECTS IN SOUTH CAROLINA?**

6 A. Yes. Our infrastructure and CIS investments will help power the future in
7 South Carolina, not only for the economy as a whole, but the manner in
8 which our customers will consume, monitor and manage their electricity
9 consumption. While we have come a long way in modernizing our generation
10 systems, we now need to focus similarly on our grid, metering and
11 information technology systems. These investments are important for us to
12 continue reliably serving customers. I discuss these investments below. While
13 all of these investments are not included in this case, it's important to share
14 our vision of a smarter energy future.

15 **Q. PLEASE DESCRIBE HOW THE COMPANY WILL BUILD A**
16 **SMARTER ENERGY FUTURE.**

17 A. The grid is the backbone of the new digital economy. South Carolina is served
18 through a multi-state electric system that 6,300 miles of transmission lines,
19 more than 25,000 miles of underground distribution lines, and approximately
20 500 substations. For the DE Progress' distribution system, approximately
21 1,200 distribution line miles and 8,398 transformers were added over the last
22 two years. As one of the fastest growing states in the nation, South Carolina's

1 population now tops 5 million and we are projecting over 400,000 more, or a
2 9 percent increase by the year 2030. That's creating real demands on our grid.

3 The Grid Improvement Plan proposed in this case is a long-term
4 initiative, and the Company has provided its multi-year plan built upon
5 strategic, data-driven investments to improve reliability to avoid outages and
6 speed restoration; harden the grid to protect against cyber and physical threats;
7 expand solar and other innovative technologies across a two-way, smart-
8 thinking grid; and give customers more options and control over their energy
9 use and tools to save money. The Company proposes additional rate changes
10 in 2020 and 2021 to reflect the remaining years of the multi-year plan, with
11 costs captured in a regulatory asset for recovery between rate changes.

12 Not only does Duke Energy employ thousands of workers in the State,
13 it also supports an extensive local supply chain that extends to virtually every
14 county in South Carolina. In addition, the Grid Improvement Plan that Duke
15 Energy has recently committed to in South Carolina will not only add to the
16 economy of South Carolina, it will help to avert economic losses that result
17 from unplanned outages. We commissioned economic research prepared by
18 Joseph C Von Nessen, Ph.D. "The Economic Impact of Duke Energy: A
19 Statewide and Regional Analysis"¹⁰ that indicates the following: (1) The
20 annual economic impact of Duke Energy on the state of South Carolina totals
21 approximately \$6.6 billion. This figure reflects the dollar value representing
22 all final goods and services produced in South Carolina that can be attributed
23 (either directly or indirectly) to Duke Energy. This impact corresponds to

¹⁰ http://www.resh.com/Von_Nessen_Duke_SC_EIS_Nov2018_FD.pdf

1 15,189 jobs and \$969.4 million in labor income that would not exist
2 otherwise. (2) This \$6.6 billion impact extends to every county in South
3 Carolina, with the highest impacts occurring in the counties of York (\$1.1
4 billion), Oconee (\$1.1 billion), Greenville (\$838.3 million), Darlington
5 (\$756.8 million), and Spartanburg (\$686.4 million). The magnitude of the
6 Grid Improvement Plan on South Carolina's economy is roughly equivalent to
7 a new major automotive manufacturing plant locating in the State.

8 **VII. CONCLUSION**

9 **Q. WHAT IS THE KEY OBJECTIVE OF THE COMPANY'S**
10 **REQUESTED GENERAL RATE ADJUSTMENT?**

11 A. The Company's most important objective is to continue providing safe,
12 reliable, affordable, and increasingly clean electricity to our customers with
13 high quality customer service, both today and in the future. Our request for a
14 rate increase is made to support investments that benefit our customers while
15 preserving the Company's financial position. We strive to ensure that those
16 investments are made in a cost-effective manner that retains the level of
17 service and competitive rates for our customers.

18 **Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

19 A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 (PURSUANT TO PREVIOUS INSTRUCTION,
24 THE PREFILED REVISED REBUTTAL
25 TESTIMONY OF KODWO GHARTEY-TAGOE FOLLOWS.)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2018-318-E

In the Matter of	)	REVISED REBUTTAL
	)	TESTIMONY OF KODWO
Application of Duke Energy Progress, LLC for	)	G HARTEY-TAGOE FOR DUKE
Adjustments in Electronic Rate Schedules and	)	ENERGY PROGRESS, LLC
Tariffs	)	

1 I. INTRODUCTION AND PURPOSE

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

4 A. My name is Kodwo Gharthey-Tagoe, and my business address is 40 West
5 Broad Street, Greenville, South Carolina 29601. I am State President –
6 South Carolina for Duke Energy Progress, LLC (“DE Progress” or
7 “Company”) and Duke Energy Carolinas, LLC (“DE Carolinas”), both of
8 which are wholly owned subsidiaries of Duke Energy Corporation (“Duke
9 Energy”).

10 Q. DID YOU PREVIOUSLY FILE DIRECT TESTIMONY AND
11 EXHIBITS IN THIS PROCEEDING?

12 A. Yes.

13 II. PURPOSE AND SCOPE

14 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

15 A. The purpose of my rebuttal testimony is to provide an overview of the
16 Company’s rebuttal case.

17 Q. WHO ARE THE OTHER WITNESSES PROVIDING REBUTTAL
18 TESTIMONY?

19 A. The Company’s other witnesses filing rebuttal testimony in this case are:

20 1. Laura A. Bateman, Director of Rates & Regulatory Planning,
21 responds to accounting adjustments, ratemaking adjustments, and
22 deferred costs proposed by the Office of Regulatory Staff (“ORS”).

- 1 2. **Kelvin Henderson**, Senior Vice President of Nuclear Operations,
2 discusses the ORS's recommendation to remove the Company's
3 request to adjust depreciation and amortization expenses to
4 establish a reserve for end of life nuclear costs not captured in
5 decommissioning studies. Witness Henderson also responds to the
6 recommendation to exclude nuclear inventory from the rate base.
- 7 3. **John Sullivan**, Director of Corporate Finance and Assistant
8 Treasurer, responds to ORS's recommendation for the cost of log-
9 term debt and the recommendation to lower the Return on Equity
10 ("ROE") requested by the Company.
- 11 4. **Janice Hager**, President of Janice Hager Consulting, addresses
12 intervenor concerns about the use of the minimum system concept
13 for allocation of costs in the cost of service study, as well as meter
14 costs and uncollectible costs being classified as customer related
15 costs.
- 16 5. **Robert B. Hevert**, Partner of ScottMadden, Inc., responds to the
17 ORS's recommendation to reduce the Company's ROE and the
18 recommendation to eliminate the return on certain accounting
19 deferrals.
- 20 7. **Retha Hunsicker**, Vice President of Customer Connect-Solutions,
21 addresses ORS Witness Payne's recommendation to disallow the
22 projected two year average operating and maintenance ("O&M")
23 expenses for the Customer Connect Program.

300-4

- 1 8. **Jon F. Kerin**, Vice President Coal Combustion Products
2 Operations, Maintenance and Governance, addresses issues related
3 to the Company's request to recover its compliance expenses for
4 managing coal combustion residuals ("CCR").
- 5 9. **Dr. Julius (Chip) Wright, Ph.D.**, Managing Partner, J.A. Wright
6 & Associates, LLC, also addresses issues related to the Company's
7 request to recover its compliance expenses for managing CCR and
8 regulatory policy regarding cost recovery, including deferred costs.
- 9 10. **Steven B. Wheeler**, Pricing and Regulatory Solutions Director,
10 details the Company's proposed increase of the Basic Facilities
11 Charge, Rate Design Proposal and rate structures, AMI-enabled
12 rate designs, Excess Deferred Income Tax Rider ("EDIT"), and the
13 Company's Real Time Pricing rates.
- 14 11. **Donald L. Schneider, Jr.**, General Manager, Advanced Metering
15 Infrastructure ("AMI"), responds to ORS's recommendation to
16 deny the Company's proposal to implement a Prepaid Advantage
17 Pilot program ("Prepaid Advantage" or the "Pilot").
- 18 12. **Barbara A. Coppola**, Manager of Grid Solutions and Strategy,
19 addresses issues raised by ORS regarding litigation and other costs
20 specific to a contract that the Company executed with
21 CertainTEED Gypsum, NC, Inc ("CertainTEED").
- 22 13. **Renee Metzler**, Managing Director for Retirement and Health and
23 Welfare, responds to ORS proposed disallowances related to

1 compensation and employee engagement related expenses.

2 Metzler explains that the ORS proposed adjustment and
3 disallowance of expenses and incentive compensation should be
4 rejected by the Commission. Witness Metzler also describes the
5 importance of such incentives for the Company's workforce.

6 14. **Lesley Quick**, Vice President, Revenue Services, discusses the
7 need to include the Company's growth projections in the
8 Company's proposed adjustment for credit, debit, and Automated
9 Clearing House ("ACH") payment expenses. Witness Quick also
10 responds to the request for the Company to publicly file with the
11 commission monthly data regarding general residential and low-
12 income customer account information.

13 16. **Julie K. Turner**, Vice President of Carolinas Natural Gas
14 Generation, responds to the Sierra Club's proposal to disallow
15 recovery of the Company's investment in Dry Bottom Ash
16 Systems and the proposal that the commission direct the Company
17 to perform certain economic analyses.

18 **III. REBUTTAL TESTIMONY**

19 **Q. PLEASE PROVIDE AN OVERVIEW OF THE COMPANY'S**
20 **REBUTTAL CASE.**

21 **A.** When I consider the positions taken by the ORS, I'm concerned about the
22 effect of those positions on the Company's financial condition, which
23 directly affects our ability to provide safe, clean, reliable electricity to our

1 customers. There are many contradictions in the ORS case which concern
2 me. I explain some of those contradictions in my rebuttal and other
3 Company witnesses address them as well in their rebuttal. For example,
4 ORS Witness Dan Witliff departs from the historic practice of allocating
5 costs between South Carolina and North Carolina given our dual state
6 structure. Historically, all of the Company's generation costs have been
7 allocated between the two states, as well as fuel costs and associated costs.
8 Now, the ORS proposes to disallow certain environmental compliance costs
9 due to the ORS's view of a North Carolina law. This is a concerning
10 position, and could result in more costs being allocated to South Carolina,
11 as explained by Company Witness Dr. Wright. North Carolina generally
12 pays 70 percent of the Company's costs – if North Carolina took the same
13 view as South Carolina, there could be a monumental cost shift to customers
14 in this State.

15 I also see a contradiction in the ORS position that attempts to
16 devalue and effectively disallow costs the Company has incurred to finance
17 deferred costs. The ORS takes this position but yet argues that it is allowing
18 the Company full cost recovery, which is not the case as explained by
19 Company Witness Bateman and others in this case. This view is even more
20 contradictory in that ORS Witness Parcell suggests lowering the allowed
21 return on equity in this case based on such deferrals, but then the ORS
22 argues to reduce such deferrals. That is not logically consistent. As to the
23 ROE proposed by the ORS, I'm concerned with their proposal to set such a

300-7

1 low ROE, and that in doing so they are ignoring the ROEs of similarly
2 situated utilities as explained by Witnesses Hevert and Sullivan.

3 I am also concerned about ORS' recommendation to disallow
4 expenses related to community organizations, employee compensation and
5 employee recognition and engagement expenses. No one has challenged our
6 overall salary levels, rather the ORS proposes to disallow compensation
7 based on how we pay, versus what we pay. Only looking at one piece of
8 employee compensation, as the ORS has done, ignores the Company's
9 obligation to be responsive to the market for talent and assure the
10 competitiveness of the total compensation package, consisting of base
11 salary, cash based incentives, long-term incentive compensation, retirement
12 and other benefits. Additionally, we need to keep employees engaged and
13 trained. Our employee programs enhance and reinforce employee
14 engagement and/or reduce overall costs. Businesses with more engaged
15 employees have lower levels of turnover and absenteeism and higher levels
16 of productivity and customer satisfaction. Using employee engagement
17 programs as a means of retaining critical skills benefits customers through
18 higher service levels and lower turnover costs. Experienced, engaged
19 employees that are incentivized to remain with the Company and work in a
20 safe manner while emphasizing high service levels benefit our customers.
21 Company Witness Metzler addresses these topics in more detail.

22 I was pleased to see that no party contested our proposal to eliminate
23 credit card fees, but I was disappointed that our adjustment to recover the

1 expected uptick in customer subscription was opposed by ORS. Company
2 Witness Quick addresses this in more detail, but the use of credit and debit
3 cards for no additional fee is a constant wish of our customers that we are
4 ready and willing to meet, but we should not be harmed by meeting that
5 need.

6 Another issue of great concern to me, is the apparent
7 misunderstanding regarding the Company's Basic Facilities Charge. We
8 have proposed a cost based charge—that would allocate to each customer
9 the costs to have the infrastructure available to serve them. Any costs that
10 are in the Basic Facilities Charge are not included in the variable rate
11 component of the rate schedule. Parties seem to assume the change in the
12 Basic Facilities Charge is additive—it is not. Moreover, this charge ensures
13 that other customers are not subsidizing low usage customers, such as
14 customers with vacation or second homes. Recovery of all customer related
15 costs through the Basic Facilities Charge reduces bills from what they
16 would otherwise be in very hot summer months and very cold winter
17 months. Nonetheless, as Company Witness Wheeler explains, if the change
18 is considered too much at one time, we have proposed an alternate approach
19 with a more gradual increase to the Basic Facilities Charge and to reinstate
20 the remaining costs back into the variable component as proposed by
21 Company Witness Pirro.

1 Q. DOES YOUR SUMMARY OR TESTIMONY ADDRESS ALL
2 ISSUES IN THIS CASE?

3 A. No, my testimony is designed to provide an overview of our rebuttal case,
4 but I have not attempted to capture all subjects in my testimony. Our
5 witnesses address additional topics on a case by case basis.

6 Q. PLEASE ADDRESS THE COMPANY'S RESPONSE TO
7 PROPOSED DISALLOWANCES FOR ENVIRONMENTAL
8 COMPLIANCE COSTS.

9 A. In its testimony, the ORS dangerously suggests that the Commission should
10 not approve any costs that the Company incurred to comply with the North
11 Carolina Coal Ash Management Act ("CAMA") under the apparent theory
12 that South Carolina customers should only receive the benefits of sharing
13 power generation assets with North Carolina but pay none of the costs that
14 the Company has to incur to comply with North Carolina laws and policies.
15 In direct contradiction to its own position, however, ORS suggests that
16 North Carolina customers should absolutely pay for the costs that the
17 Company has to incur to comply with the laws and policies of South
18 Carolina. The inequity of ORS's position is apparent.

19 Additionally, the ORS is factually incorrect when it suggests that
20 CAMA has imposed additional expenses on South Carolina customers. To
21 the contrary, the coal ash beneficiation requirements in CAMA will actually
22 provide South Carolina customers millions of dollars in net savings, all of
23 which would have to be refunded to North Carolina customers if the ORS's

1 ill-conceived proposal to reject CAMA is accepted. Moreover, if ORS's
2 position is taken to its logical conclusion, it would call into question the
3 continued wisdom of sharing assets and economies of scale across
4 jurisdictional boundaries, a result that would harm all customers with higher
5 prices and the costs of uneconomic duplication of assets. These dire
6 consequences are discussed in more detail by Company Witnesses Kerin
7 and Wright.

8 Witnesses Kerin and Wright also address the unsubstantiated claim
9 by SCEUC Witness O'Donnell to disallow 75 percent of these costs. This
10 proposal is so reckless and unsubstantiated that it should be summarily
11 rejected by the Commission.

12 **Q. PLEASE ADDRESS THE COMPANY'S RESPONSE TO ORS'S**
13 **PROPOSED DISALLOWANCES RELATED TO DEFERRED**
14 **BALANCES.**

15 **A.** The ORS does not raise any prudence allegations regarding the Company's
16 actions relative to expenses included in deferred balance. ORS simply,
17 ignores that the timeliness of cost recovery matters and that the Company
18 must finance the deferred balances. The ORS proposes stretching out
19 certain deferred costs over extended periods of time without recognizing the
20 time value of money, the costs to finance the expenditures, or the underlying
21 necessity of the costs that were incurred. While we are generally not in
22 dispute over the underlying actions which resulted in the deferred balances,
23 ORS takes a drastic position on the return on those balances during the

300-11

1 deferral period and amortization periods to seemingly suggest that the
2 Company is profiting from delayed recovery of costs. This is not the case.
3 The Company's request includes the recovery of its carrying costs or the
4 time value of money based upon our financing structure. The Company's
5 financing is made up of both debt and equity, and to ignore the way the
6 Company finances its costs will cause grave concern to investors as
7 articulated by Company Witness Hevert. It would also depart from good
8 regulatory practice as explained by Company Witnesses Wright and
9 Bateman. I also see a contradiction in ORS's position, because at the same
10 time the ORS proposes to effectively disallow deferred costs (without any
11 allegation of imprudence), the ORS cost of equity witness relies upon the
12 deferrals to arbitrarily attempt to lower the Company's cost of capital. It is
13 a contradiction to rely upon those deferrals in one witness's
14 recommendation, but then cut them in another.

15 **Q. PLEASE ADDRESS THE COMPANY'S REACTION TO THE**
16 **PROPOSED ROE RECOMMENDED BY ORS WITNESS**
17 **PARCELL.**

18 **A.** We are also concerned about the cost of equity capital proposed by ORS.
19 We agree on capital structure, but we have one correction to the actual
20 12/31/2018 debt rate as explained by Company Witnesses Sullivan and
21 Bateman in their rebuttal testimonies. As to the return on equity proposed
22 by ORS, both Company Witnesses Hevert and Sullivan explain that the
23 Company competes for capital with other vertically integrated electric

1 utilities, its ROE proposal is generally in line with authorized ROEs
2 determined by other regulatory commissions, and that the ORS proposal is
3 significantly lower than those authorized ROEs. This is particularly true
4 with respect to other vertically integrated electric utilities in the
5 Southeastern United States, as Witness Sullivan notes. To put the Company
6 at a disadvantage vis-à-vis its competitors would be a disservice to
7 customers, and will only cause the cost of capital, particularly equity capital,
8 to rise in the future as rating agencies and equity analysts reconsider
9 whether to continue recognizing South Carolina as a jurisdiction with
10 constructive and credit supportive regulation.

11 **Q. DOES THE COMPANY DISAGREE WITH OTHER**
12 **DISALLOWANCE RECOMMENDATIONS MADE BY ORS?**

13 **A.** Yes. Another ORS proposal that the Company would like to address is the
14 ORS's disallowance of the costs to participate in local organizations in the
15 communities that we serve. Organizations like chambers of commerce,
16 economic development associations, and tourism organizations all exist to
17 bring more industry and residents to their region. Duke Energy pays dues
18 to be a part of these organizations because we believe it is important to
19 participate in the communities we serve, and to be engaged at a local level
20 to ensure we understand our customers' needs. This is important in
21 everyday business, but also in storm restoration and economic development
22 efforts.

1 For example, our participation in such organizations gets us to the
2 table early for economic development opportunities which benefits our
3 customers and the State. This helps with capacity and reliability
4 discussions, method-of-service decisions, incentive considerations, and
5 more. These discussions and decisions are all important aspects of
6 recruiting prospects, securing deals, and announcing wins for our state. Our
7 contributions to these organizations have a direct link to winning projects
8 for the state of South Carolina. Some notable wins over the past few years
9 include: the Schaeffler Group USA expansion and Nestle Bottled Water in
10 Chesterfield County, the Invista expansion in Kershaw County, and the
11 Continental Tire expansion in Sumter County. I don't understand why the
12 ORS believes it is inappropriate for the Company to be a good, involved
13 corporate citizen in the communities we serve.

14 **Q. PLEASE DESCRIBE THE COMPANY'S OVERARCHING**
15 **CONCERNS ON EMPLOYEE-RELATED COST**
16 **DISALLOWANCES PROPOSED BY THE ORS.**

17 **A.** I am also concerned about the ORS disallowing compensation costs and
18 normal company costs to reward and engage employees. Our customers are
19 direct beneficiaries of the good work of our employees. No one has argued
20 that our overall salary levels are at issue, rather the ORS proposes to
21 disallow compensation based on how we pay, versus what we pay. We need
22 to keep employees engaged and trained. As explained by Company Witness
23 Metzler, the purpose of carving out a portion of employees' total

1 compensation and delivering it through variable incentive pay is to
2 encourage employees to accomplish objectives intended to ensure safe,
3 reliable, and economical utility service to our customers. This variable
4 incentive pay also ensures that the employees' business units and Duke
5 Energy's overall objectives are met. This not only allows Duke Energy to
6 be competitive in the market, but helps retain the level of talent that the
7 energy industry demands, in order to best serve customers safely and
8 efficiently.

9 **Q. PLEASE PROVIDE THE COMPANY'S REACTION TO THE ORS'S**
10 **AND OTHERS' RECOMMENDATIONS REGARDING THE BASIC**
11 **FACILITIES CHARGE.**

12 **A.** Another area of concern is the various positions from ORS and intervenors
13 on the Basic Facilities Charge. We recognize this is a major issue for many
14 customers and we care very much about our customers. However, this is
15 also an essential element of cost recovery. For every dollar that is not
16 recovered through the Basic Facilities Charge, it has to be recovered
17 through volumetric rates, and that can create cost shifts as well as cause
18 "spikier" bills in hot summers or cold winters. For example, not having an
19 appropriate Basic Facilities Charge means that other customers are
20 subsidizing low usage customers, such as people with vacation homes or
21 people with second homes elsewhere in the state of South Carolina.
22 Moreover, the Intervenors have not recognized the benefits of the Basic
23 Facilities Charge increase - that it will also reduce volumetric swings,

1 making bills in the summer and winter more tolerable. In other words, the
2 increase in the Basic Facilities Charge also has a smoothing effect on rates
3 that benefits customers. Notwithstanding this benefit of our proposal, we
4 appreciate the concerns of other parties. As noted in Witness Wheeler's
5 rebuttal testimony, the Company's cost of service studies, which were
6 accepted by the ORS, indicates that these costs are Customer-related costs
7 and therefore the Basic Facilities Charge should recover them. If the
8 Commission believes that our proposed increase to the Basic Facilities
9 Charge is too drastic a change at this time, I would point the Commission
10 and parties to Witness Wheeler's alternative suggestion of setting the Basic
11 Facilities Charge rate to 50 percent of the difference between the current
12 rate and the cost basis, reducing the proposed Basic Facilities Charge to
13 \$19.03 while shifting the other revenue requirement to the variable
14 component in a manner consistent with that proposed by ORS.

15 **Q. PLEASE EXPLAIN WHY THE COMPANY'S WITNESSES ARE**
16 **NOT ADDRESSING THE GRID IMPROVEMENT PLAN IN THEIR**
17 **REBUTTAL TESTIMONIES.**

18 **A.** The Company has reached an agreement with the ORS to establish a new
19 and separate docket to review and examine the Grid Improvement Plan for
20 both: Duke Energy Progress and Duke Energy Carolinas, and no party has
21 objected to that agreement. We are withdrawing the Grid Improvement
22 Plan and the treatment of costs incurred from January 1, 2019 from this

300-16

- 1 docket pursuant to the Commission's March 13, 2019 Directive in this
2 Docket.
3 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**
4 **A. Yes.**

1 THE EXAMINATION BY MS. SMITH CONTINUES.

2 Q Did you also attend the public hearings the
3 Commission held in this case in Florence and Sumter
4 April 1st and 2nd respectively?

5 A (GHARTEY-TAGOE) I did.

6 Q Okay. What is your reaction to customers at the
7 public hearings who questioned whether the
8 Company's rate request is justified?

9 A (GHARTEY-TAGOE) I want to make clear that we have
10 been transparent in this case. It is important
11 that our customers, this Commission, the ORS, and
12 all intervenors understand our request. We have
13 provided direct, supplemental, and rebuttal
14 testimony of 19 witnesses including myself. We
15 have provided filings with approximately 2,600
16 pages of exhibits and testimony. We have sent bill
17 inserts, made information available on our website,
18 dispatched alternative phone calls to our
19 customers, and placed newspaper advertisements
20 about this case and the public hearings. We have
21 engaged in active discovery, providing responses to
22 over 1,600 data requests, including subparts, which
23 contained thousands of files in this case, almost
24 4,000 invoices, and we produced supporting
25 documentation requested in discovery of thousands

1 of pages and spreadsheets. And, of course, we're
2 here today to answer the questions of case
3 participants and the Commission. I realize that
4 all that activity may not be top of mind for those
5 who attended the public hearings, but I think it is
6 important for that to be heard in this venue where
7 I have an opportunity to speak.

8 Q Mr. Gharthey-Tagoe, what is your reaction to
9 customers at the public hearings who express
10 concern about the Company's presence, activities,
11 and customer relations in the Pee Dee area?

12 A (GHARTEY-TAGOE) I want to stress that the Company
13 and its employees make great efforts to be partners
14 in the communities in which we live and work. That
15 is part of our corporate purpose, which is to power
16 the lives of our customers and the vitality of our
17 communities. In addition to the investments that
18 Duke Energy Foundation makes in the state,
19 including the Pee Dee, our employees are encouraged
20 and willingly share their time and talents with the
21 communities by volunteering for local non-profits
22 and by making charitable contributions to many
23 organizations in South Carolina. In fact, in the
24 test year for this case, South Carolina employees
25 volunteered 13,853 hours and donated \$337,740 to

1 non-profits to support education, human services,
2 arts and humanities, community vitality, and
3 health. I continue to be impressed by the selfless
4 giving of our employees, and our company has
5 dedicated funds to assist employees' efforts to
6 support local organizations. This assistance comes
7 in the form of two signature programs. We have a
8 program called "Dollars for Good," which will match
9 an employee's \$100 minimum donation to eligible
10 organizations, and "Hours for Good," where
11 employees can volunteer a minimum of ten hours with
12 an eligible organization and earn that organization
13 \$100, up to \$2,000 per calendar year. These
14 programs and volunteer opportunities are extended
15 to Duke Energy's retirees who continue to represent
16 the Company in the community long after they hang
17 up their hard hats.

18 We also have district managers who work in
19 this area, and, while we no longer have local
20 offices, we do have employees and work and live --
21 we do have employees who work and live in this
22 area, and I am a frequent visitor myself to the Pee
23 Dee. I commit to strengthening our connection with
24 this community, including investigating more direct
25 points of contact for customer groups like our

1 farming customers.

2 Q Mr. Gharthey-Tagoe, what is your reaction to
3 customers at the public hearings who questioned
4 whether they could afford the increase that the
5 Company has requested?

6 A (GHARTEY-TAGOE) I do hear the concerns of our
7 customers who have difficulty paying their bills.
8 The Company's community impact continues through
9 our Energy Neighbor Fund and various energy-
10 efficiency programs that we offer to our customers.
11 The Energy Neighbor Fund is a financial assistance
12 program that has provided \$3.2 million to DEP South
13 Carolina customers since its inception. And the
14 energy-efficiency programs can and do help
15 customers manage their usage to lower their bills
16 from what they would otherwise be. All customers
17 are eligible to participate in programs like the
18 Lower My Bill Toolkit, Smart Saver, and Energy --
19 sorry -- Home Energy House Call. We also have
20 programs targeted to our lower-income customers,
21 like Share the Warmth, Shared Solar low-income
22 assistance, and Neighborhood Energy Saver, and we
23 provide links to state-level resources on our
24 company's website. Many of the programs mentioned
25 aim to teach our customers about energy efficiency

1 and how to better control their usage and bills.
2 Duke Energy has been a trusted provider of
3 electricity in South Carolina since 1904, and we
4 want to continue making meaningful contributions to
5 the well-being of this state. That is why I
6 continue to advance ideas like the Round-up program
7 that was suggested by Commissioner Ervin and
8 advanced by Commissioner Howard, through the
9 upcoming ex partes.

10 Q Mr. Gharthey-Tagoe, have you further investigated
11 the concerns raised by the agricultural community
12 present at the public hearings?

13 A (GHARTEY-TAGOE) Yes. I have. And, as to the
14 farming community so vital to South Carolina,
15 first, let me say, prior to the public hearings,
16 the Florence County and the Marion County Farm
17 Bureaus reached out to our company expressing
18 concerns about the proposed rate increase in the
19 basic facilities charge, in particular. After the
20 hearing, we also received an identical letter from
21 the Darlington County Farm Bureau. I responded in
22 writing to each letter and, among other things,
23 informed them we had heard them and would accept
24 the lower basic facilities charge of \$12.34 per
25 month for the SGS customers as proposed by ORS.

1 Schedule SGS is used for billing the majority of
2 farm accounts. At the hearing, I learned that
3 several farms also had accounts on Schedule MGS.

4 After the public hearing in Florence, I
5 promptly pulled the team together to look into how
6 we could help agricultural customers further. We
7 looked at rate structures to ensure customers we
8 were able to identify as agricultural accounts are
9 on the most beneficial rate structure. Upon
10 review, we found that a majority of the farmers
11 under Schedule MGS could actually lower their bill
12 under an alternative schedule, without even
13 changing their consumption. We, therefore, began
14 reaching out to each of these farmers to explain
15 the opportunity to save by changing rate schedules.
16 The remaining accounts have higher monthly bills
17 and shouldn't be adversely impacted by the basic
18 facilities charge.

19 Witness Wheeler can provide additional detail
20 regarding our efforts.

21 Q Mr. Gharthey-Tagoe, have you further investigated
22 the concerns raised by a customer at the Florence
23 public hearing, who had a substantial unauthorized
24 withdrawal from his banking account?

25 A (GHARTHEY-TAGOE) Yes. I have. There was a

1 customer who experienced an unintentional
2 withdrawal of \$9,619.13 from their bank account,
3 and I was very concerned about it, and I've learned
4 much more about the incidence.

5 First, let me say this was a confluence of the
6 perfect storm, in more ways than one, actually.
7 You may recall that last year our territory was
8 significantly impacted by Hurricanes Florence and
9 Michael. The aftermath of these storms also
10 created operational billing issues for Duke Energy
11 Progress that were significant enough that we
12 reached out to the ORS and also filed a letter
13 dated December 5th, 2018, with the Commission,
14 describing the issues and the backlog of issues
15 requiring manual action. Unfortunately, Mr.
16 Ervin's account was one of the few that were
17 adversely impacted in this way.

18 Simply, after a couple of months, when we were
19 unable to read the meter at Mr. Ervin's property,
20 our existing customer information management
21 system, or the CIM billing system, inadvertently
22 and erroneously calculated an extraordinarily high
23 usage for Mr. Ervin's property, and, before we
24 could manually intervene, the billing system
25 implemented the automatic electronic fund

1 draft from his bank account, that had previously
2 been scheduled. The failure of timely -- to timely
3 intervene was due to the extraordinary backlog that
4 had accumulated largely because of the storms.

5 Once the error was identified, we reached out
6 to Mr. Ervin and sent him a refund by overnight
7 mail. This was a rare circumstance, and I do not
8 expect that it would happen again, particularly
9 after our new proposed Customer Connect system is
10 fully implemented. In the meantime, to prevent
11 this from actually happening again, the DEP billing
12 team now uses an IT query to identify bank draft
13 customers with open work items. In addition, the
14 team is working with our technology group to
15 implement a change in the work routing system,
16 where work items for customers on bank draft -- on
17 the bank draft program are assigned to performance
18 as the highest priority.

19 Q Mr. Gharthey-Tagoe, did you further investigate the
20 claims regarding the tobacco barn which burned
21 down? And there were allegations that the Company
22 was at fault. Do you recall that?

23 A (GHARTEY-TAGOE) Well, actually, as I recall, it
24 wasn't -- the -- the barn did not burn down. I
25 think it was an issue of tobacco in the barn --

1 Q Thank you.

2 A (GHARTEY-TAGOE) -- not properly curing, so loss --
3 loss of goods there. As to -- and these were
4 raised by a customer, Dupree Atkinson, I believe.

5 I reached out to our claims and distribution
6 teams and learned that, upon Duke Energy's initial
7 response to an outage that was reported on August
8 13, 2016, a service technician noticed that the
9 lines were installed incorrectly and that
10 connection had failed. Unfortunately, the
11 connection was not retained as evidence at that
12 time. Because of a lack of evidence and subsequent
13 storm damage from Hurricane Matthew, the
14 subcontractor hired by Duke Energy to install the
15 original connection was not willing to accept total
16 liability, and this is important because I think
17 one of his concerns was that it took us a while to
18 get him his money to satisfy his claim. But, in
19 any event, after investigation, Duke Energy deemed
20 it necessary and our responsibility to pay a
21 settlement to Mr. Atkinson for his loss.

22 Our team has appropriately addressed the
23 issues of this case and has taken measures to
24 ensure that this does not happen to other
25 customers. We are training Duke Energy employees

1 and subcontractors so that installation mistakes
2 are avoided, and we are also educating our
3 customers on proper mitigation steps they can take
4 by installing a warning system for future outages.

5 Q Did you also look into the concerns raised at the
6 public hearings about the Company's vegetation
7 management practices?

8 A (GHARTEY-TAGOE) Yes. And, as to the concerns
9 raised about our vegetation management practices in
10 regards to our treatment and removal of danger
11 trees that can impact the Company's transmission
12 right-of-ways, our vegetation management team
13 continues to provide ample notice to customers
14 prior to trimming and removing of trees, by use of
15 door hangers, telephone calls, and mailers. We
16 will work with those customers, if they respond, on
17 things like timber issues, which is one of the
18 concerns that was raised. We will continue to
19 stress the importance of the vegetation management
20 team's role in communicating and educating
21 customers that are affected by right-of-way
22 management in order to reduce further customer
23 satisfaction -- or dissatisfaction.

24 Q Does this conversation that we're having today
25 fully convey the attention you've placed on the

1 issues that you heard at public hearings?

2 A (GHARTEY-TAGOE) No. And I want the Commission to
3 know that I continue to have my team look into each
4 and every concern raised at the public hearings.
5 We take each issue seriously and always look for
6 ways to improve. Some of those opportunities for
7 improvement are already underway, including our
8 implementation of a new Customer Connect system to
9 improve the customer experience for all. Other
10 opportunities need new workstreams, especially when
11 it comes to customer communication, but I have to
12 note that we have hundreds of thousands of
13 customers in this state and about 170,000 of them
14 in the Duke Energy Progress territory, and I am
15 proud of our service to our customers and think
16 it's important to put the quality of our service
17 into perspective. For example, over the past three
18 years of the JD Power's initial customer
19 satisfaction study, if Duke Energy Progress in
20 South Carolina was measured as a stand-alone
21 utility, we would rank at or near the top of large
22 utilities in the southern United States.

23 MR. BATEMAN: Mr. Chairman? Mr. Gharthey-
24 Tagoe, I hate to interrupt. ORS certainly has
25 no objection to Mr. Gharthey-Tagoe responding

1 to issues raised at the public night hearing.
2 I believe Ms. Smith asked -- asked Mr.
3 Gharthey-Tagoe about vegetation management. It
4 just seems like Mr. Gharthey-Tagoe's response
5 may be going a bit far afield here.

6 WITNESS GHARTEY-TAGOE: I think the last
7 question was, "Did you investigate claims
8 regarding" -- sorry -- the -- what are my
9 thoughts regarding other issues that were
10 raised at the public hearings.

11 MR. BATEMAN: I may have misheard. I
12 apologize. I'm sorry.

13 CHAIRMAN RANDALL: (To Witness Gharthey-Tagoe)
14 Continue.

15 A (GHARTEY-TAGOE) And the discussion of the JD Power
16 study is also in my direct testimony. But I just
17 want to emphasize that the JD Power study does not
18 single out Duke Energy Progress South Carolina. It
19 does it on a utility-wide basis, so their reports
20 reflect their results for Duke Energy Progress in
21 total, North and South. But we get enough data
22 that we can peel out the South Carolina responses.
23 And what I'm saying is: If you just evaluate the
24 South Carolina responses, we would be at or near
25 the top of large utilities in the southern United

1 States.

2 JD Power conducts national online surveys with
3 utility customers, asking them to rate their
4 utility across multiple measures. Approximately
5 100,000 surveys are completed nationwide on an
6 annual basis. Each utility's customer satisfaction
7 index is calculated based on the rating scores
8 customers give their utility on the aforementioned
9 measures. Therefore, a utility's ranking is a
10 direct result of the scores given by their
11 customers. Duke Energy Progress customer scores in
12 South Carolina have consistently surpassed national
13 top quartile performance thresholds on the overall
14 customer satisfaction index metric as well as
15 within all six measured component areas, including
16 power quality and reliability, price, billing and
17 payment, communications, corporate citizenship, and
18 customer service.

19 In regard to large business customer
20 satisfaction, according to the JD Power Electric
21 Utility Business Studies, Duke Energy South
22 Carolina would have finished in the top quartile
23 among large utilities nationally in 2016, 2017, and
24 2018, if we had been measured as a stand-alone
25 utility. Therefore, in evaluating the concerns

1 being raised, it is not only important for us to
2 investigate them, but also to put them in a
3 perspective with how we're doing overall.

4 Thank you.

5 Q Ms. Bateman?

6 A (BATEMAN) Yes.

7 Q Do you have a summary of the -- the testimony you
8 filed in this case?

9 A (BATEMAN) Yes. I do.

10 Q Would you provide it now?

11 A (BATEMAN) Yes. Good morning.

12 COMMISSIONER BELSER: Do we get a copy?

13 MS. SMITH: (To the court reporter) Did we
14 pass out copies of the summary?

15 THE COURT REPORTER: Yes. I've got it.

16 COMMISSIONER BELSER: Thank you.

17 A (BATEMAN) Good morning, Mr. Chairman, members of
18 the Commission. I filed direct, supplemental
19 direct, rebuttal, revised rebuttal, and second
20 supplemental direct testimonies in this case. My
21 direct testimony discusses the results of Duke
22 Energy Progress's operations under present rates on
23 the -- on the basis of an adjusted historical test
24 year, using the 12-month period ending December 31,
25 2017, and supports the pro forma adjustments to the

1 test period. My direct testimony also explains the
2 accounting requests the Company is making and the
3 Company's request for the approval of an excess
4 deferred income tax, or EDIT, rider.

5 In my supplemental direct testimony, I present
6 certain accounting and pro forma adjustments and
7 present additional adjustments to the Company's
8 cost of service. I also present updates to the
9 Company's proposed EDIT rider.

10 In my rebuttal testimony, I address several
11 accounting and ratemaking adjustments proposed by
12 the Office of Regulatory Staff with which the
13 Company disagrees. In particular, I oppose the ORS
14 recommendation that the Company be disallowed a
15 return on the incremental costs which the Company
16 has deferred in a regulatory asset on its books
17 during the deferral period. I also oppose the
18 disallowance proposed by the ORS which would deny
19 the Company its carrying costs during the
20 amortization period for the portion of the
21 regulatory assets that the ORS has identified as
22 related job operating expenses. If the Commission
23 accepts these proposals, DEP will not be able to
24 fully recover its prudently-incurred costs. The
25 Company incurred these costs in the past, and both

1 the ORS and the Company have proposed recovery of
2 the costs in the future. There is a real cost of
3 debt and a real cost of equity that the Company
4 incurs in financing the costs between this period
5 -- during this period, between when the costs are
6 incurred and when they are recovered. To disallow
7 recovery of these costs would be to disallow
8 prudently incurred costs, and no one suggests that
9 these weren't prudently incurred or that they were
10 not, in fact, incurred.

11 My rebuttal testimony also addresses the ORS
12 recommendation to disallow certain coal ash related
13 costs, which the Company vigorously opposes as
14 explained by Company witnesses Kerin and Wright in
15 their rebuttal testimonies. I also explain in my
16 rebuttal testimony that although the Company does
17 not oppose the ORS recommendation to use an eight-
18 year average expense level for storm restoration
19 costs, we do oppose the ORS removing the inflation
20 impact to storm costs. The Company's adjustment is
21 more reasonable as it adjusts each storm cost year
22 included in the average to be comparable to the
23 test year on an inflation-adjusted basis, which is
24 appropriate as costs associated with storm
25 restoration have significantly increased in the

1 last ten years.

2 The Company objects to ORS witness Kelvin
3 Major's exclusion of annualized test period O&M,
4 non-labor expenses. The requested adjustment is
5 very similar to the customer growth adjustment,
6 which the ORS has accepted. Both adjustments
7 annualize impacts from the test-year average to the
8 end of the test year, one for customer growth and
9 one for inflation, and both are appropriate to
10 include. Company witness Metzler also discusses
11 this, but I provide an overview that Duke Energy
12 Progress does not agree with ORS witness Major's
13 recommendation to remove 50 percent of DEP's long-
14 and short-term incentive program costs.

15 ORS witness Major further recommends to
16 disallow certain rate case expenses due to alleged
17 insufficient documentation to support the costs,
18 specifically legal services provided by outside
19 counsel and billed via an e-billing system. Duke
20 has utilized an e-billing system for several years,
21 as do many large companies, for administrative
22 efficiency, and hopes that use of such a system is
23 not a hindrance to cost recovery.

24 The Company also requested costs related to
25 its Customer Connect project. ORS witness Payne

1 recommended removing DEP's proposed increase to O&M
2 as not known and measurable. An alternative to the
3 Company's request would be for the Commission to
4 approve a continuation of the deferral of the
5 incremental operating expenses incurred related to
6 Customer Connect -- the -- the Customer Connect
7 project, including a carrying charge on the
8 deferred costs, until the Company's next general
9 rate case. The Company thinks this would be a
10 reasonable alternative to its proposed recovery.

11 In addition to these recommendations, I also
12 oppose ORS witness Major's recommendation to remove
13 certain expenses from O&M. Duke Energy Progress
14 disagrees with the removal of the lineman's rodeo
15 costs, employee incentives, service and safety
16 awards, and any costs to recognize and reward the
17 employees -- the Company's employees who serve our
18 customers. The Company further disagrees with the
19 removal of organization dues in support of business
20 economic development in the communities we serve.

21 I also oppose Witness Major's recommendation
22 to disallow invoice costs when the payment and the
23 service provided occur in different years and to
24 remove costs shared between North Carolina and
25 South Carolina through allocation, as opposed to

1 being direct-assigned by state.

2 Finally, my revised rebuttal testimony
3 withdraws certain portions of my rebuttal testimony
4 based on the stipulation between Nucor and the
5 Company and my second supplemental direct testimony
6 explains the changes to the proposed EDIT rider
7 based on the stipulation.

8 This concludes the summary of my prefiled
9 testimony.

10

11

12

13

14

15

16

17

18

19

20

21

22

23 (PURSUANT TO PREVIOUS INSTRUCTION,
24 THE PREFILED DIRECT TESTIMONY OF
25 LAURA A. BATEMAN FOLLOWS.)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2018-318-E

In the Matter of:	)	
	)	DIRECT TESTIMONY OF
Application of Duke Energy Progress, LLC	)	LAURA BATEMAN
For Adjustments in Electric Rate Schedules	)	FOR
and Tariffs	)	DUKE ENERGY PROGRESS, LLC

I. INTRODUCTION AND PURPOSE

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

3 A. My name is Laura A. Bateman and my business address is 411 Fayetteville Street,
4 Raleigh, North Carolina. I am a Director of Rates & Regulatory Planning,
5 employed by Duke Energy Carolinas, LLC, testifying on behalf of Duke Energy
6 Progress, LLC ("DE Progress" or the "Company").

7 **Q. WHAT ARE YOUR RESPONSIBILITIES IN THIS ROLE?**

8 A. I have responsibility for the development of cost of service studies and quarterly
9 financial reports for both DE Progress and Duke Energy Carolinas, LLC ("DE
10 Carolinas").

11 **Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATIONAL BACKGROUND**
12 **AND PROFESSIONAL EXPERIENCE.**

13 A. I obtained a Bachelor's degree from the University of Massachusetts at Amherst
14 in 1994 and a Master of Business Administration degree from the University of
15 North Carolina at Chapel Hill in 2003. Since 2003, I have worked for the
16 Company in a variety of roles in Risk Management, Treasury, and Regulatory. I
17 have been in the Rates & Regulatory Strategy group since 2007.

18 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

19 A. Yes. I have filed testimony before this Commission in several dockets, including
20 DE Progress' last rate case (Docket 2016-227-E), the proceeding to establish the
21 DSM/EE rider (Docket 2008-251-E), a net metering proceeding (Docket 2005-

1 385-E), and a proceeding related to the Energy Independence and Security Act of
2 2007 (Docket 2008-447-EG).

3 **Q. ARE YOU FAMILIAR WITH THE ACCOUNTING PROCEDURES AND**
4 **BOOKS OF ACCOUNT OF DUKE ENERGY PROGRESS?**

5 A. Yes. The books of account of DE Progress follow the Uniform System of
6 Accounts prescribed by the Federal Energy Regulatory Commission.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
8 **PROCEEDING?**

9 A. The purpose of my testimony is to discuss the results of DE Progress' operations
10 under present rates on the basis of an adjusted historical Test Period using the
11 twelve-month period ended December 31, 2017 (the "Test Period"). I discuss the
12 additional revenue required as a result of the cost of service based on the pro
13 forma costs in the Test Period. I discuss several pro forma adjustments to the
14 Company's Test Period operating expenses and rate base. I also provide the
15 capital structure used in developing the revenue requirements in this case. I also
16 explain the requests the Company is making regarding excess deferred income
17 taxes ("EDIT") rider, and cost recovery related to grid improvement investments
18 and storm cost.

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

20 A. Yes. I have included four exhibits. Bateman Exhibit 1 sets forth the operating
21 results under current and proposed rates. Bateman Exhibit 2 summarizes the cost
22 of service results and the proposed increases for the South Carolina retail
23 jurisdiction by customer class. Bateman Exhibit 3 shows the calculation of the

1 proposed EDIT rider to return certain tax change benefits to customers. Bateman
2 Exhibit 4 shows the Company's proposed Phase 1 and Phase 2 base rate step-ups
3 related to the Grid Improvement Plan.

4 **Q. WERE THESE EXHIBITS PREPARED BY YOU OR UNDER YOUR**
5 **DIRECTION AND SUPERVISION?**

6 **A.** Yes. These exhibits were prepared under my supervision.

7 **II. DETERMINING THE REVENUE REQUIREMENT**

8 **Q. WHAT IS THE REVENUE REQUIREMENT AND HOW DID DE**
9 **PROGRESS CALCULATE IT?**

10 **A.** The revenue requirement represents the annual revenues necessary for the
11 Company to recover its operating expenses (including depreciation and taxes) and
12 provide its investors with a fair rate of return on the investment in rate base. DE
13 Progress determined its operating costs by identifying depreciation and
14 amortization expense, operations and maintenance ("O&M") expense, fuel
15 expense, taxes, and other expenses charged to utility operations and recorded in
16 its accounting records for the Test Period. The amount of rate base is determined
17 by adding the year-end balances in the Company's accounting records of plant in
18 service, accumulated depreciation, materials and supplies (including fuel
19 inventory) and components of working capital, including certain regulatory assets
20 and liabilities, less deferred taxes and operating reserves. Next, a cost of service
21 study is prepared that allocates and assigns these actual Company operating costs
22 and rate base amounts to determine the per book cost for providing electric
23 service to the Company's South Carolina retail operations. DE Progress' Witness

1 Hager discusses in greater detail the allocation process and methodologies used to
2 develop these amounts.

3 Following the cost of service study, the actual Test Period expense and
4 rate base levels, as allocated to the South Carolina retail operations, were adjusted
5 for known and measurable changes, as described below and in the testimony of
6 Witnesses Ward and Wheeler. DE Progress made certain accounting and pro
7 forma adjustments to actual operating income and rate base for the Test Period to
8 reflect known and measurable changes in order to (i) normalize for abnormal
9 events; (ii) annualize part year recurring effects to a full year effect; and (iii) show
10 actual changes in costs, revenues or the cost of the Company's property used and
11 useful, or to be used and useful within a reasonable time after the Test Period, in
12 providing service.

13 After the determination of operating expenses and rate base for the
14 Company's South Carolina retail operations, rate base is split between the
15 Company's debt investors and equity investors using the Company's proposed
16 capital structure of 53 percent equity and 47 percent debt. Then, the annual cost
17 of debt is calculated. The income available for the Company's equity investors is
18 determined by subtracting the cost of debt from the operating income produced by
19 the current revenues received from South Carolina retail customers less operating
20 expenses. Finally, the required revenue increase necessary to produce the
21 requested equity return on the amount of the equity invested in rate base is
22 determined.

1 Bateman Exhibit 1 sets forth the rate base, operating revenues, operating
2 expenses and operating income the Company earned during the Test Period and
3 the adjusted amounts the Company supports for use in calculating its proposed
4 revenue requirement.

5 **III. RESULTS OF OPERATIONS UNDER EXISTING**
6 **AND PROPOSED RATES**

7 **Q. PLEASE DESCRIBE BATEMAN EXHIBIT 1 TO YOUR TESTIMONY.**

8 A. Bateman Exhibit 1 sets forth the operating results and data required by
9 Commission Reg. 103-823 regarding operating income, calculation of additional
10 revenue requirement, accounting adjustments, and rate base information. The
11 operating results are based on the Test Period noted above, using the twelve
12 months ending December 31, 2017, with appropriate adjustments. This
13 information is also shown on Pages 1 through 4d of Exhibit D of the Company's
14 Application.

15 **Q. PLEASE EXPLAIN WHAT IS PRESENTED ON PAGE 1 OF BATEMAN**
16 **EXHIBIT 1 ENTITLED "OPERATING INCOME FROM ELECTRIC**
17 **OPERATIONS."**

18 A. Page 1 summarizes the Company's operating income from electric operations for
19 the Test Period both for total Company operations and South Carolina retail
20 operations before the necessary accounting adjustments. It also shows the
21 Company's operating income from electric operations for South Carolina retail
22 operations after the necessary accounting adjustments and the rate of return on
23 South Carolina retail rate base the Company would earn in the Test Period after
24 reflecting those adjustments.

1 Column 1 and 2 set forth the actual operating revenues, expenses and rate
2 base from the per book cost of service study for the Company and for its South
3 Carolina retail jurisdiction, respectively.

4 Column 3 summarizes the accounting adjustments allocated to South
5 Carolina retail operations necessary to reflect a representative level of operating
6 income and rate base based on known changes in costs. These adjustments are
7 shown on Bateman Exhibit 1, page 3 and are explained later in my testimony and
8 in the testimony of Witnesses Ward and Wheeler.

9 Column 4 shows adjusted South Carolina retail operations.

10 Column 5, Line 1 shows the additional base rate revenue requested in this
11 proceeding of \$68,668,000. The Company is also proposing a rider to decrease
12 revenues by \$10,008,000 for certain tax benefits for a net increase of
13 \$58,660,000. This is the increase in revenues justified as necessary to cover the
14 Company's cost of service, including a rate of return on members' equity of 10.5
15 percent as discussed in the testimony of Witnesses Hevert and Sullivan. Column
16 5 also shows the effect of the revenue increase on general taxes, the Commission
17 regulatory fee, and income taxes.

18 Column 6, Line 13 shows adjusted operating income after the proposed
19 increase in revenues. Column 6, Line 14 shows the adjusted retail rate base.
20 Dividing operating income by rate base produces the 7.47 percent overall rate of
21 return that the Company is justifying in this case, as shown on Column 6, Line 15.

1 Q. PLEASE EXPLAIN WHAT IS PRESENTED ON PAGE 2 OF BATEMAN
2 EXHIBIT 1 ENTITLED "CALCULATION OF ADDITIONAL REVENUE
3 REQUIREMENT."

4 A. Page 2 sets forth the calculation of the additional revenue requirement necessary
5 to produce a 10.50 percent rate of return on members' equity using the format
6 required by Commission Reg. 103-823. To develop this figure, the South
7 Carolina retail rate base was allocated to its capital source components of long-
8 term debt and members' equity. This allocation was based on the capitalization
9 ratios of 47 percent long-term debt and 53 percent members' equity, which is the
10 Company's targeted capital structure that this Commission found just and
11 reasonable in its *Order Approving Increase in Rates and Charges and Settlement*
12 *Agreement*, Order No. 2016-871 issued in Docket No. 2016-227-E, in DE
13 Progress' last general rate case, and in its *Order Approving Increase in Rates and*
14 *Charges and Settlement Agreement*, Order No. 2013-661 issued in Docket No.
15 2013-59-E, in Duke Energy Carolinas' last general rate case. Witness Sullivan
16 also comments in his testimony that the 53 percent equity ratio will help enable
17 access to capital at reasonable rates.

18 The amount of operating income needed to cover interest applicable to
19 South Carolina retail rate base was computed using the embedded cost of long-
20 term debt rate. This amount is shown in Columns 4 and 7 on Line 1. Operating
21 income needed to cover long-term debt interest, shown in Columns 5 and 8 on
22 Line 1, was deducted from total operating income, shown in Column 5 on Line 3,

1 to derive operating income remaining for members' equity at present rates as
2 shown in Column 5 on Line 2.

3 Applying the 10.5 percent rate of return on members' equity to that
4 portion of the South Carolina retail rate base financed by members' equity, shown
5 in Column 6, Line 2 produces an operating income requirement for members'
6 equity as shown in Column 8, Line 2.

7 The total operating income requirement shown in Column 8, Line 3 is the
8 sum of the requirements for long-term debt and members' equity. Comparing the
9 operating income requirement to the operating income before the proposed
10 increase in Column 5, Line 3 results in the additional operating income
11 requirement shown in Column 8, Line 7 after considering the impact of customer
12 growth. To realize this additional operating income, the Company must collect in
13 revenues the increase in the license fee at a rate of 0.3 percent (\$3 for each \$1,000
14 of gross receipts), the public utility assessment fee at a rate of 0.14 percent, state
15 income taxes at a rate of 5 percent, and federal income taxes at a rate of 21
16 percent. The additional operating income requirement and the additional taxes
17 and fees produce an additional base rate revenue requirement of \$68,668,000.

18 **Q. HOW DO YOU PROPOSE TO ALLOCATE THE REVENUE INCREASE**
19 **AMONG THE CLASSES?**

20 A. Bateman Exhibit 2 shows how the additional revenue requirement is spread
21 among the classes and how the target revenue requirements for rate design are
22 established. The rate increase shown in the exhibit has been allocated to the rate
23 classes on the basis of rate base, and then combined with an additional increase or

1 decrease at the customer class level that results in a 25 percent reduction in each
2 class's variance from the overall average rate of return. This additional increase
3 or decrease at the customer class level nets to \$0 for the South Carolina retail
4 jurisdiction in total, but brings the customer classes closer to the average rate of
5 return, and is an appropriate way to gradually bring rate classes closer to rate
6 parity over time. This approach is consistent with the approaches in the last
7 general rate proceedings for both DE Carolinas and DE Progress. The proposed
8 revenue increases by rate class on Bateman Exhibit 2 were provided to Witness
9 Wheeler and were used in the development of the rate design used in this case.

10 **IV. ACCOUNTING AND PRO FORMA ADJUSTMENTS**

11 **Q. PLEASE EXPLAIN PAGE 3 OF BATEMAN EXHIBIT 1 CAPTIONED**
12 **"DETAIL OF ACCOUNTING ADJUSTMENTS-SOUTH CAROLINA**
13 **RETAIL."**

14 **A.** Page 3 sets forth the individual accounting and pro forma adjustments to
15 operating revenues and expenses, including the income tax effects for South
16 Carolina retail electric operations, that were shown in total on Page 1 of Bateman
17 Exhibit 1 in Column 3. The totals of the columns shown on Line 41 of Page 3 are
18 the amounts carried forward to Column 3 of Page 1 of Bateman Exhibit 1. The
19 impact of the accounting and pro forma adjustments on rate base are shown on
20 Pages 4 – 4d of Bateman Exhibit 1.

- 1 Q. PLEASE LIST THESE ACCOUNTING AND PRO FORMA
2 ADJUSTMENTS.
- 3 A. The accounting and pro forma adjustments that were made by the Company are as
4 follows (the chart below indicates which witness is sponsoring each adjustment):¹

ADJUSTMENTS TO OPERATING REVENUES AND EXPENSES (Page 3 of BATEMAN EXHIBIT 1)		
Line No.	Adjustment Title	Witness
1	Annualize retail revenues for current rates	Wheeler
2	Update fuel costs to approved rate and other fuel related adjustments	Ward
3	Adjust other revenue	Wheeler
4	OPEN	N/A
5	Eliminate unbilled revenues	Bateman
6	Adjust for costs recovered through non-fuel riders	Bateman
7	OPEN	N/A
8	Annualize depreciation on year end plant balances	Bateman
9	Annualize property taxes on year end plant balances	Bateman
10	Adjust for new depreciation rates	Bateman
11	Adjust for post test year additions to plant in service	Bateman
12	Remove NCEMPA Acquisition Adjustment	Bateman
13	Remove expiring amortization credits from test year	Bateman
14	OPEN	
15	Adjust reserve for end of life nuclear costs	Bateman
16	Adjust coal inventory	Bateman
17	Adjust for previously deferred amounts - Harris COLA, GridSouth, Fukushima/Cybersecurity, 2014 Storms	Bateman
18	Amortize deferred environmental costs	Bateman
19	Amortize deferred cost balance related to SC AMI	Bateman
20	Normalize for storm costs	Bateman
21	Annualize O&M non-labor expenses	Bateman
22	Normalize O&M labor expenses	Bateman
23	Update benefits costs	Bateman
24	Levelize nuclear refueling outage costs	Bateman

¹ DE Progress intentionally left certain pro forma adjustment line numbers in an "Open" status to keep similar pro forma adjustment line numbers the same between the Company and DE Carolinas' concurrent rate cases to allow for easy comparison.

ADJUSTMENTS TO OPERATING REVENUES AND EXPENSES		
(Page 3 of BATEMAN EXHIBIT 1)		
Line No.	Adjustment Title	Witness
25	Amortize rate case costs	Bateman
26	Adjust aviation expenses	Bateman
27	OPEN	N/A
28	Adjust for credit card fees	Bateman
29	Adjust O&M for executive compensation	Bateman
30	Adjust for Customer Connect additional expense and deferral	Bateman
31	Adjust vegetation management expenses	Bateman
32	Synchronize interest expense with end of period rate base	Bateman
33	Adjust 1/8 O&M for accounting and pro-forma adjustments	Bateman
34	Adjust for Federal tax rate change	Bateman
35	Adjust deferred cost balance related to SC Grid	Bateman

1 Q. IN CALCULATING THE TOTAL REVENUE REQUIREMENT IN THIS
2 PROCEEDING, DID YOU REVIEW EACH OF THE ACCOUNTING AND
3 PRO FORMA ADJUSTMENTS?

4 A. Yes, I did.

5 Q. IN YOUR OPINION, DO THESE ACCOUNTING AND PRO FORMA
6 ADJUSTMENTS REFLECT KNOWN AND MEASURABLE CHANGES
7 TO THE COMPANY'S TEST PERIOD OPERATING EXPENSES,
8 REVENUES, AND RATE BASE?

9 A. Yes. The adjustments set forth on page 3 of Bateman Exhibit 1, as more fully
10 supported below and in the testimony of Witnesses Ward and Wheeler, reflect
11 known and measurable changes to the Company's Test Period revenues,
12 expenses, and rate base. Adjustments that contain projections through December
13 31, 2018 may be updated with actual results prior to the hearing.

1 **Q. PLEASE DESCRIBE THE PRO FORMA ADJUSTMENTS.**

2 **A.** The following are descriptions of the pro forma adjustments:

3 **1. Annualize retail revenues for current rates**

4 This adjustment annualizes revenue based on the rates in effect at the time of the
5 application, excluding the Distributed Energy Resources Program ("DERP")
6 revenues recovered in the fuel rider, and removes revenues recovered through the
7 Demand Side Management/Energy Efficiency ("DSM/EE") rider. This
8 adjustment is discussed in more detail in the testimony of Witness Wheeler.

9 **2. Update fuel costs to approved rate and other fuel related adjustments**

10 This adjustment adjusts fuel clause expense during the Test Period to match the
11 fuel clause revenues included in Adjustment Line 1. By matching the expenses to
12 the revenue, the adjustment ensures that no increase is requested in this
13 proceeding related to fuel and fuel-related expenses that are recoverable through
14 the fuel clause. However, certain DERP expenses that are not readily identifiable
15 in the general ledger are eliminated by including an offsetting revenue adjustment
16 to keep the DERP incremental cost neutral in this case. This adjustment is
17 described in more detail in Witness Ward's testimony.

18 **3. Adjust other revenue**

19 This adjustment adjusts other revenue to reflect proposed changes to rates in the
20 Company's Service Regulations and Rider MROP. The proposed changes are
21 discussed further in Witness Wheeler's testimony.

22 **4. N/A**

1 **5. Eliminate unbilled revenues**

2 This adjustment eliminates unbilled revenue and related taxes recorded by the
3 Company in the Test Period.

4 **6. Eliminate costs recovered through non-fuel riders**

5 This adjustment removes expense and rate base items recovered through the
6 DSM/EE rider, including the costs of the Distribution System Demand Response
7 ("DSDR") program. The revenues, expenses and rate base items in this rider are
8 reviewed each year in annual proceeding and should not impact the increase
9 requested in this proceeding.

10 **7. N/A**

11 **8. Annualize depreciation on year end plant balances**

12 This adjustment reflects the annualization of depreciation expense using the
13 depreciation rates in effect at the end of the Test Period applied to the end of the
14 Test Period level of plant in service. During the Test Period, the Company
15 recorded depreciation for plant additions from the point in time when they went
16 into service. This adjustment annualizes depreciation expenses to reflect a full
17 year level of depreciation on plant in service as of the end of the Test Period using
18 the depreciation rates that were in effect during the Test Period.

19 **9. Annualize property taxes on year end plant balances**

20 This adjustment annualizes Test Period property taxes on plant in service at
21 December 31, 2017. Property taxes expensed in calendar year 2017 were
22 assessed based on property balances at the end of 2016. Likewise, property taxes
23 expensed in calendar year 2018 will be assessed based on property balances at the

1 end of 2017. This adjustment increases property tax expense in the Test Period to
2 reflect an annual level of expense for property taxes based on the end of the Test
3 Period level of plant investment.

4 **10. Adjust for new depreciation rates**

5 DE Progress filed a petition with the Commission in Docket 2018-204-E for
6 approval of new depreciation rates effective March 16, 2018. Witness Doss
7 discusses the study in more detail. The Company also filed a petition in Docket
8 2018-205-E requesting permission to defer, among other costs, the increases in
9 expense resulting from the new depreciation rates. The Commission approved
10 both requests on July 25, 2018. This adjustment adjusts the annualized
11 depreciation expense to reflect the new, approved depreciation rates and
12 amortizes the deferred balance over a 3-year period. The adjustment also
13 increases depreciation reserves by one year's worth of the depreciation and
14 amortization expense adjustment. The increase in depreciation expense is \$6.7
15 million, the amortization of the deferred costs is \$2.7 million. The two increases
16 are partially offset by the decrease in return on rate base of \$0.2 million, for a net
17 increase in revenue requirements of \$9.2 million.

18 Originally, the depreciation consultant, Gannett Fleming, had proposed
19 new depreciation rates that would fully depreciate the Asheville coal plant by its
20 expected retirement date in 2020. In order, to mitigate the impact on customers,
21 DE Progress asked the consultant to adjust the rates to reflect a recovery of the
22 remaining net book value of the Asheville coal plant over a ten-year period,
23 similar to the treatment of other coal plants that were retired early in DE Progress'

1 prior depreciation study. Since under this approach, the net book value of the
2 plant will not be fully recovered at the time of retirement, the Company is
3 requesting permission to establish and include in rate base a regulatory asset at the
4 time of the plant's retirement for the remaining net book value and the ability to
5 continue amortizing the costs over the remaining portion of the ten-year period at
6 that time. We also request permission to defer to this regulatory asset any costs
7 related to obsolete inventory, net of salvage, at the time of retirement.

8 **11. Adjust for post test year additions to plant in service**

9 This adjustment increases operating expenses and rate base for significant
10 production, transmission, distribution, general and intangible plant additions the
11 Company has incurred and will incur from the end of the Test Period through
12 December 2018. Witnesses Henderson, Miller, Oliver, Hunsicker and Schneider
13 discuss these plant additions in their testimonies.

14 **12. Remove NCEMPA Acquisition Adjustment**

15 In DE Progress's last general rate case, the Company agreed in settlement to
16 remove the cost of the acquisition adjustment resulting from the Company's
17 purchase of joint owner assets from North Carolina Electric Municipal Power
18 Agency ("NCEMPA"). This adjustment removes that acquisition adjustment
19 from the cost of service.

20 **13. Remove expiring amortization credits from test year**

21 This adjustment removes two expired amortizations from the Test Period. First,
22 in DEP's last general rate case, the commission order approved the reversal \$18.5
23 million of cost of removal for one year. This was recorded as a reduction to

1 depreciation and amortization expense during the Test Period. Because this
2 reversal is not ongoing, this adjustment removes it from the Test Period. The
3 impact of this adjustment is already reflected in current rates annualized due to
4 the rate increase implemented January 1, 2018. Second, in DEP's last general rate
5 case, DEP began amortizing over a two-year period the return of a deferred tax
6 liability, excess deferred income taxes ("EDIT"), resulting from the changes in
7 the North Carolina state income tax change. Because the amortization will not
8 continue after new rates are effective in this case, this adjustment removes the
9 amortization credit from the Test Period. This change results in an increase in
10 revenue requirements of \$12.4 million.

11 **14. N/A**

12 **15. Adjust reserve for end-of-life nuclear costs**

13 This adjustment adjusts depreciation and amortization expenses in order to
14 establish a reserve for end-of-life nuclear costs. There are some end-of-life costs
15 at a nuclear plant that are not captured in a decommissioning study. One example
16 of this is the expense to write off the materials and supplies in inventory at the
17 time of decommissioning that have little or no salvage value. The Company is
18 proposing to create a reserve to start accruing for these end-of-life expenses for
19 obsolete materials and supplies and, therefore, create a better matching of cost and
20 benefit for ratemaking purposes. The annual accrual amount will be determined
21 by dividing the projected inventory balance at the end of each unit's life by the
22 number of years remaining in the unit's life and summing this result for the
23 Company's three nuclear plants. In this proceeding, the Company is requesting

1 an annual accrual amount of approximately \$2.2 million as allocated to South
2 Carolina retail. The annual accrual amount can be reviewed and adjusted, if
3 needed, in each future general rate case before the end of the plant's life. The
4 reserve, once it is created, will be included as an offset to rate base in the cost of
5 service, and the pro forma decreases rate base to reflect one year's worth of the
6 accrual.

7 The Company is also proposing to create a reserve to start accruing for the
8 expense related to a portion of the last core of nuclear fuel in the reactor at the
9 end-of-life of its nuclear generating plants and, therefore, create a better matching
10 of cost and benefit for ratemaking purposes. The annual accrual amount will be
11 determined by dividing the projected remaining value of the last core of nuclear
12 fuel at the end of each unit's life by the number of years remaining in the unit's
13 life and summing this result for the Company's three nuclear plants. In this
14 proceeding, the Company is requesting an annual accrual amount of \$0.7 million
15 as allocated to South Carolina retail. The annual accrual amount can be reviewed
16 and adjusted, if needed, in each future general rate case before the end of the
17 plant's life. The reserve, once it is created, will be included as an offset to rate
18 base in the cost of service, and the pro forma decreases rate base to reflect one
19 year's worth of the accrual.

20 **16. Adjust coal inventory**

21 This adjustment reduces the Company's actual coal inventory at the end of the
22 Test Period to reflect a targeted 40-day full load burn for each of the coal

1 generating plants. This change in coal inventory for the South Carolina retail
2 jurisdiction is shown on Bateman Exhibit 1, Page 4c, Line 1, Column 3.

3 **17. Adjust for previously deferred amounts - Harris COLA,**
4 **Fukushima/Cybersecurity, 2014 storms, and GridSouth**

5 The deferral begins amortization for three different deferred balances and
6 addresses a fourth deferred balance all of which existed at the time of DEP's last
7 South Carolina general rate case, but of which the Company chose not to begin
8 amortization at that time in order to mitigate the customer rate impacts.

- 9 • Harris COLA – In Docket No. 2013-472-E, the Company requested and
10 the Commission approved deferral of costs related to the Harris Units 2
11 and 3 Combined Operating License Application (“COLA”).² This
12 adjustment amortizes the South Carolina retail deferred balance of \$6.7
13 million over a 5-year period.
- 14 • In the same docket, the Company requested and the Commission approved
15 deferral of costs related to compliance with Nuclear Regulatory
16 Commission (“NRC”) requirements in response to events at the
17 Fukushima Daiichi Nuclear Power Station in Japan in March 2011 and
18 NRC requirements related to cyber security. This adjustment amortizes
19 the South Carolina retail deferred balance of \$5.5 million over a 5-year
20 period.

² The Shearon Harris Units 2 and 3 Combined License Application remains in suspended review status at the Nuclear Regulatory Commission and DE Progress is considering withdrawal.

- 1 • In Docket 2001-139-E, the Company, along with other utilities in the state,
2 filed a notice of application to form a Regional Transmission
3 Organization, GridSouth, and then filed a notice withdrawing the
4 application. The associated deferred costs have been included in the
5 Company's rate base since that time. This adjustment amortizes the South
6 Carolina retail deferred balance of \$3.7 million over a 5-year period.
- 7 • In Docket 2014-482-E, the Company requested and the Commission
8 approved deferral of costs related to extreme storm events in the first
9 quarter of 2014. This adjustment removes the South Carolina retail
10 deferred balance from rate base. The Company is instead requesting to
11 accrue a return on the deferred balance while it explores alternative cost
12 recovery options for the significant storm costs incurred by the Company
13 over the last five years. This proposal is discussed in more detail later in
14 my testimony.

15 **18. Amortize deferred environmental costs**

16 In DEP's last rate case, Docket 2016-227-E, the Commission approved the
17 ongoing deferral of certain costs incurred in connection with compliance with
18 federal and state environmental requirements as it relates to Coal Combustion
19 Residuals ("CCRs" or "coal ash"). The nature of these costs is described in more
20 detail in Witness Kerin's testimony. No fines, penalties, or costs on which DE
21 Progress has agreed to forego recovery are included in the deferral. This
22 adjustment amortizes the deferred costs over a 5-year period. While the costs to
23 comply with CAMA and the CCR Rule are largely duplicative, there are a small

1 portion of the costs that the Company has determined are specific to CAMA,
2 unique to North Carolina and appropriate for direct assignment to North Carolina,
3 as discussed by Witness Kerin. As previously referenced, the deferral calculation
4 nets the total compliance costs allocated to South Carolina retail with the cost of
5 removal that is being collected from customers up through the effective date of
6 the new depreciation rates. After that point, the amounts were netted in the
7 deferral of incremental depreciation expense. Some of the deferred compliance
8 costs are related to ash basin closure and are subject to asset retirement obligation
9 (“ARO”) accounting per Generally Accepted Accounting Principles (“GAAP”).
10 Some of the deferred compliance costs are related to the continued operation of
11 the active plants and are not subject to ARO accounting, and instead are
12 capitalized to plant in service. The deferred compliance costs included in this
13 case are the costs after the cut-off in the last rate case, June 30, 2016, through the
14 cut-off in this case, December 31, 2018, with the October 1, 2018 – December 31,
15 2018 period still based on a projection as of the time of the filing. The total
16 system spend on coal ash basin closure costs during this period (July 2016
17 through December 2018) for DE Progress is \$526.4 million. After applying
18 allocations factors, netting with the cost of removal and incorporating the return
19 on the deferred costs through the expected date on new rates in this case, the
20 expected deferred balance as of May 31, 2019, on a South Carolina retail basis is
21 \$50.8 million. The Company then subtracted \$1.5 million from the balance to
22 exclude the South Carolina retail portion of an amount that the North Carolina
23 commission disallowed for prudence reasons. While the two commissions may

1 make differently rulings on what is deemed prudent and recoverable, the
2 Company has decided not to seek this amount in South Carolina. After this
3 subtraction, the remaining deferred balance is \$49.3 million. The total system
4 compliance amounts placed in service related to continued operations at active
5 plants through December 2018, are \$171.7 million. The deferred depreciation and
6 return on these investments results in an additional deferred balance on a South
7 Carolina retail basis of \$1.1 million, for a total deferred balance of \$50.4 million.
8 Over the 5-year amortization period, the annual amortization expense is \$10.1
9 million. When added together with the net-of-tax return on the unamortized
10 balance of \$2.8 million, the total annual revenue requirement requested in this
11 case for deferred CCR compliance costs is \$12.9 million. The Company expects
12 to continue to invest significant amounts related to coal ash compliance after the
13 December 2018 cut-off in this case. Instead of requesting recovery of an ongoing
14 level of these costs in this case, the Company is requesting the Commission
15 approve a continuation of the deferral, similar to what it approved in Docket
16 2016-227-E, for costs not included in this case. Specifically, the Company is
17 requesting approval to defer CCR compliance spend related to ash basin closure
18 beginning January 1, 2019, the depreciation and return on CCR compliance
19 investments related to continued plant operations placed in service on or after
20 January 1, 2019, and a return on both deferred balances at the overall rate of
21 return approved in this case.

1 **19. Amortize deferred cost balance related to SC AMI**

2 In Docket 2018-205-E, the Company petitioned for approval to defer into a
3 regulatory asset account the incremental O&M expense and the depreciation
4 expense incurred once the Advanced Metering Infrastructure technology ("AMI")
5 meters are installed, as well as the associated carrying costs on the investment and
6 deferred costs at its weighted average cost of capital. The Commission approved
7 the Company's petition on July 25, 2018. Witness Schneider discusses the AMI
8 deployment in more detail. The total projected deferred costs are \$1.4 million on
9 a South Carolina retail basis. This adjustment amortizes the deferred balance over
10 a 3-year period, resulting in an annual revenue requirement of \$0.5 million. The
11 Company is also requesting permission to establish a regulatory asset/liability and
12 defer to this account the incremental O&M and depreciation expense associated
13 with ongoing AMI deployment, including the carrying cost on the investment and
14 on the deferred costs at the weighted average cost of capital approved in this case.
15 As described in Witness Schneider's testimony, as of September 2018, DE
16 Progress has installed approximately 38,000 smart meters, and the next phases of
17 deployment will replace the Company's remaining approximately 128,000 older
18 technology meters with AMI meters. Without the accounting treatment requested
19 by the Company, these costs will impact the Company's financials on a meter by
20 meter basis through the deployment program; accordingly, unlike capital projects
21 of similar financial magnitude, the Company will not recover its time value of
22 money in the form of allowance for funds used during construction. Instead, the
23 Company's earnings are impacted every time a meter is installed as it creates an

1 instant degradation to the Company's financials. This deferral will allow the
2 Company to bridge this timing gap until the Company's next rate case while
3 installing technology that will enable the customer benefits described by Witness
4 Schneider. Since the amortization proposed in this adjustment only includes
5 meters placed in service through December 31, 2018, the Company requests to
6 defer to the regulatory asset costs for meters placed in service on or after January
7 1, 2019.

8 **20. Normalize for storm costs**

9 This pro forma adjustment normalizes storm restoration costs to an average level
10 of costs the Company has experienced over the last ten years. The ten-year
11 average excludes the unusual storms for which the Company has requested and
12 received deferral accounting treatment, the 2014 ice storm and winter storm Pax
13 and Hurricane Matthew.

14 **21. Annualize O&M non-labor expenses**

15 This adjustment annualizes Test Period operating and maintenance expenses
16 excluding fuel, purchased power, and labor costs to reflect the change in unit
17 costs that occurred during this period.

18 **22. Normalize O&M labor expenses**

19 This adjustment adjusts the wages and salaries and related employee benefits
20 costs to reflect annual levels of costs as of July 1, 2018. This adjustment also
21 reflects changes in related payroll taxes.

1 **23. Update benefits costs**

2 This adjustment updates the Test Period cost of labor-related benefits to match the
3 result of an updated study performed by the Company's consultants. This
4 adjustment also removes benefits related amortizations that expired at the end of
5 2017.

6 **24. Levelize nuclear refueling outage costs**

7 In the Company's last general rate case, the Commission approved an accounting
8 mechanism that levelized certain costs related to nuclear refueling outages. This
9 adjustment annualizes the amortization expense related to this mechanism
10 incurred during the Test Period to the level experienced at the end of the Test
11 Period.

12 **25. Amortize rate case costs**

13 This adjustment amortizes the incremental rate case costs incurred for this docket
14 over a 5-year period.

15 **26. Adjust aviation expenses**

16 This adjustment removes 50 percent of the corporate related aviation expenses
17 allocated to DE Progress in the Test Period that are not related to aerial patrol.
18 While the Company believes these costs are reasonable, prudent and appropriate
19 to recover from customers, we have-for purposes of this case-made an adjustment
20 to this item.

21 **27. N/A**

1 **28. Adjust for credit card fees**

2 Currently, customers who pay their electric bill by credit card, debit card or ACH
3 are required to pay a fee of \$1.50 per transaction to the third party who processes
4 these payments. As described in the testimony of Witness Gharthey-Tagoe, the
5 Company is now proposing to implement a fee-free credit/debit card program that
6 would allow residential customers to utilize their credit cards or debit cards to pay
7 their utility bills without paying a surcharge or convenience fee, and instead for
8 the Company to pay these costs to the third party and recover the cost from all
9 customers as part of its cost of service. This adjustment increases operating and
10 maintenance expense by \$0.8 million to reflect this cost including the growth in
11 number of transactions expected as a result of this change.

12 **29. Adjust O&M for executive compensation**

13 This adjustment removes 50 percent of the compensation of the four Duke Energy
14 executives with the highest level of compensation allocated to DE Progress in the
15 Test Period. While the Company believes these costs are reasonable, prudent and
16 appropriate to recover from customers, we have, for purposes of this case, made
17 an adjustment to this item.

18 **30. Adjust for Customer Connect Project**

19 This adjustment increases Test Period O&M related to the Company's Customer
20 Connect project and amortized the deferred balance over a 3-year period. The
21 Customer Connect project will replace the Company's current billing system and
22 is currently planned to be placed in service in 2021. The project is described in
23 more detail in the testimony of Witness Hunsicker. Due to the nature of the

1 project costs, a significant amount of the spending between now and the in-
2 service date will be O&M. This adjustment increases Test Period O&M by \$1.2
3 million (from \$0.2 million to \$1.4 million), which is the average incremental level
4 on a South Carolina retail basis expected over the next two years. These
5 estimates are based on signed contracts for the primary software, systems
6 integration and change management professional services, that resulted from an
7 extensive request for proposal process conducted in 2016. This increase in O&M
8 plus the amortization expense of \$0.5 million and a return on the deferred balance
9 of \$0.1 million equal a combined revenue increase for this adjustment of \$1.8
10 million.

11 **31. Adjust vegetation management expenses**

12 This adjustment normalizes vegetation management expenses by adjusting for
13 known changes in program cycle times and contract costs.

14 **32. Synchronize interest expense with end of period rate base**

15 This adjustment adjusts income taxes for the tax effect of the annualization of
16 interest expense reflected in the pro forma cost of service.

17 **33. Adjust 1/8 O&M for accounting and pro-forma adjustments**

18 This adjustment adjusts the Company's rate base to include the additional
19 working capital required as a result of the additional O&M expenses the Company
20 is proposing in this proceeding as shown on Line 2, Column 3 of Bateman Exhibit
21 1, Page 4d.

1 **34. Adjust for tax rate change**

2 Witness Panizza discusses the Tax Cuts and Jobs Act (the "Tax Act"), which
3 became law on December 22, 2017. One change he discusses from the Tax Act is
4 the reduction in the corporate income tax rate from 35 to 21 percent. This
5 adjustment reduces the Test Period income tax expense to reflect this change.
6 The adjustment also reduces accumulate deferred income taxes for one year's
7 worth of the deferred income tax expense adjustment. The net result of this
8 adjustment is a reduction in revenue requirement for customers of \$17.0 million.
9 In addition to impacting tax expense, the reduction in the corporate income tax
10 rate also impacts the levelized amortizations established in the last rate case
11 (Lines 23, 24, 26, and 28 of Settlement Agreement Attachment A). Because the
12 tax rate is now lower, the after-tax rate of return is higher, which would result in
13 an increase in the levelized amortization expense. Instead of proposing to
14 increase the amortization expense in this case, the Company is proposing to keep
15 the amortization expense equal to the amount established in the last rate case.
16 This will result in a longer amortization period than was anticipated in that case.
17 Other impacts of the Tax Act and benefits for customers are described later in my
18 testimony.

19 **35. Grid Improvement Plan Deferral**

20 In Docket 2018-206-E, the Company requested and the Commission approved
21 deferral of costs related to the Company's Grid Improvement Plan. In 2018, the
22 Company has, or will by December, place in service investments of \$17.6 million
23 on a South Carolina retail basis. The deferral of the depreciation, O&M, property

1 tax, and return on these investments plus the return on deferred balance results in
2 a deferred balance as of May 31, 2019 of \$2.3 million. This adjustment amortizes
3 this deferred balance over a two-year period for a revenue requirement impact of
4 \$1.2 million for this adjustment. I discuss the proposed recovery for investments
5 under the Grid Improvement Plan placed in service after December 2018 later in
6 my testimony.

7 **Q. PLEASE EXPLAIN WHAT IS PRESENTED ON PAGES 4 THROUGH 4d**
8 **OF BATEMAN EXHIBIT 1.**

9 A. Page 4 shows total Company and South Carolina retail components of original
10 cost rate base. The total Company amounts and South Carolina retail components
11 were taken from the Company's Cost of Service Study as of December 31, 2017.

12 Pages 4a, 4b, 4c, and 4d are details of components making up original cost
13 rate base as of December 31, 2017 adjusted for known and measurable changes.
14 On each of these four pages, Column 1 shows the total Company per book
15 amounts at December 31, 2017; Column 2 reflects the amount for South Carolina
16 retail electric operations; Column 3 sets forth the accounting adjustments
17 allocated to South Carolina retail operations; and Column 4 reflects the South
18 Carolina retail amounts including adjustments.

19 Page 4a is a summary of the Company's investment in electric plant in
20 service as of December 31, 2017 by functional classification. Page 4b details
21 accumulated depreciation and amortization for each of the classes of electric plant
22 in service. The composite depreciation rates based on end of 2017 plant balances
23 for each class of property are shown at the bottom of the page on Lines 8 through

1 15. The depreciation rates underlying these composite calculations were
2 approved by the Commission on July 25, 2018 in Docket 2018-204-E and are
3 supported by Witness Doss. Page 4c is a summary of the Company's investment
4 in materials and supplies as of December 31, 2017 included in rate base. Page 4d
5 reflects the working capital investment included in rate base.

6 **V. EXCESS DEFERRED INCOME TAX ("EDIT") RIDER**

7 **Q. PLEASE EXPLAIN THE COMPANY'S PROPOSED EDIT RIDER.**

8 A. Witness Panizza discusses the Tax Act, which became law on December 22,
9 2017. Earlier in my testimony, I described how the Company has incorporated
10 into the base rate revenue requirements in this case the reduction in the corporate
11 income tax rate from 35 to 21 percent. For the remaining benefits of the Tax Act,
12 the Company is proposing to create an EDIT rider. Bateman Exhibit 3 shows the
13 Year 1 calculation of this rider, and then shows for illustrative purposes how the
14 rider would be calculated in future years. The rider contains the following five
15 categories of benefits for customers:

- 16 1. Federal EDIT - Protected
- 17 2. Federal EDIT – Unprotected, PP&E related
- 18 3. Federal EDIT – Unprotected, non PP&E related
- 19 4. Deferred Revenue
- 20 5. NC EDIT

21 Federal EDIT – Protected, Unprotected PP&E related, and Unprotected, non
22 PP&E related

1 At the end of 2017, the company had a certain amount of Accumulated Deferred
2 Income Taxes ("ADIT") on its balance sheet. These are income taxes which the
3 Company has expensed for accounting purposes, but for which the Company will
4 not need to pay the Internal Revenue Service ("IRS") until some point in the
5 future. Because the Company has use of the cash until it has to pay the IRS, the
6 ADIT is included as a reduction to rate base and is basically used as a source of
7 financing for investments used to benefit customers – poles, lines, generation
8 plant investments, etc. With the change in the federal tax rate, the amount that the
9 Company must pay to the IRS in the future for these ADIT obligations has been
10 reduced. At the end of 2017, the Company calculated this reduction and the
11 difference was carved out and stayed on the balance sheet, and in rate base, as
12 EDIT. Instead of having an obligation to pay this money to the IRS in the future,
13 the Company now has an obligation to pay it to customers. However, since the
14 money is currently being used to finance investments benefitting customers, as the
15 Company pays the money to customers, it must find other sources of financing for
16 these investments. If the money is returned to customers too quickly, it can put
17 pressure on the Company's credit metrics and create rate volatility for customers.
18 Within EDIT, there are three subcategories.

- 19 • Protected – These amounts are generally related to Property, Plant &
20 Equipment (PP&E) and there are specific IRS requirements that require
21 that this amount be returned to customers no more quickly than the
22 prescribed method. The amortization period the Company is using here is
23 called the Average Rate Assumption Method ("ARAM") and results in a

1 Year 1 amortization rate for this category of 4.29 percent. Also, because
2 under this method, the Company would have been allowed to return a
3 certain amount of this category to customers in 2018, but did not, the
4 Company calculated the amount that could have been returned and moved
5 it into the Unprotected, non-PP&E related category. This is shown on
6 Line 2 of Bateman Exhibit 3, Page 1.

- 7 • Unprotected PP&E related – These amounts are also related to PP&E but
8 do not fall under the federal guidelines for protected status. Because the
9 Company would have paid these amounts to the IRS over the remaining
10 life of the underlying property, the Company is proposing to return these
11 amounts to customers over a 20-year period.

- 12 • Unprotected non PP&E related – These amounts are not related to
13 property and instead are related to items such as regulatory assets and
14 liabilities, and other balance sheet items, and also include the amount
15 transferred from the Protected category. The Company is proposing to
16 return these amounts to customers over a 5-year period.

17 Deferred Revenue

18 As directed in Docket 2017-381-A, the Company began deferring effective
19 January 1, 2018, the impact on customer rates of the reduction in the federal
20 corporate income tax rate. Line 3 of Bateman Exhibit 3, Page 1, shows the
21 projected balance for this liability as of December 2018. The Company will
22 continue to defer the impact from January 1, 2019 through the new rates effective
23 date in this case. Those additional amounts are not known at this time, and will

1 be included in the Year 2 EDIT rider calculation. The Company has also netted
2 against the projected balance certain deferred balances related to the Distributed
3 Energy Resource Program ("DERP"). This offset is discussed further by Witness
4 Ghartey-Tagoe.

5 NC EDIT

6 Similar to the EDIT that results from the reduction in the federal corporate
7 income tax rate, there are EDIT balances that resulted from the reduction in the
8 North Carolina state corporate income tax rate. The Company began to return the
9 amounts to customers in the last rate case. In Docket 2018-205-E, the
10 Commission granted permission for the Company to continue recording the
11 amortization expense through no later than June 30, 2019. If new customer rates
12 are effective in this proceeding June 1, 2019, as requested by the Company, then
13 the amortization would stop May 31, 2019. The projected balance at that time is
14 expected to be less than \$1.0 million, as shown on Line 6 of Bateman Exhibit 3,
15 Page 1, and the Company is proposing to refund the full remaining balance to
16 customers in Year 1 of the EDIT rider.

17 **Q. PLEASE EXPLAIN HOW THESE FIVE CATEGORIES OF BENEFITS**
18 **WILL BE INCORPORATED INTO THE EDIT RIDER.**

19 **A.** The proposed rider will contain the amortization for each of these five categories
20 of benefits. These amounts can be seen in Columns B through G of Bateman
21 Exhibit 3, Page 2. As these amounts are refunded to customers, rate base will
22 increase. As such, the rider also calculates the return on the increased rate base
23 since the last rate case. This is shown in Column L of Bateman Exhibit 3, Page 2.

1 Column M shows the sum of the amortization and return, and Column N shows
2 the revenue requirement for the rider grossed up for license fee and the public
3 utility assessment fee. The amount in the Year 1 row on Bateman Exhibit 3, Page
4 2 of \$10.0 million decrease in revenue is the rider that is being proposed in this
5 case. Some of the balances used to create the Year 1 rider are as of the end of
6 2017 or projected end of 2018 balances. I will provide an updated version of this
7 exhibit with end of 2018 actual balances prior to the hearing. I will also update
8 the exhibit with whatever the latest known ARAM rate is at that time to avoid
9 possible normalization violations. Years 2 through 5 are shown for illustrative
10 purposes. However, the actual rider amounts for those years may change based
11 on several factors.

12 First, if there are additional adjustments to any of the balances on Rows 1
13 through 5 of Page 1 of the exhibit, the annual amortization amounts will be
14 recalculated to accommodate the change in balance. For example, the Company
15 will continue to defer revenue for the change in the federal income tax rate until
16 new rates effective in this case reflect the change. This additional deferred
17 balance is unknown at this time, but will be incorporated into the rider in
18 subsequent years.

19 A second factor that would impact the calculation of the rider beyond Year
20 1 is changes in the ARAM rate. The Company updates this rate annually and the
21 most current rate would be used when establishing customer rates.

22 A third factor that would impact the calculation of the rider beyond Year 1
23 is the impact of future rate cases. In future rate cases, the EDIT balance in base

1 rates shown in Column J and the rate of return used to calculate Column L of
2 Bateman Exhibit 3, Page 2 would be updated based what is approved in that case.

3 Finally, the retention factor used to calculate Column N will be updated to
4 reflect any future changes in the license fee or public utility assessment fee rates,
5 as needed.

6 The Company will propose to file the rider amounts, along with the
7 spread to the classes and derivation of the rate, for each subsequent year with the
8 Commission in this docket by March 31, for rider rates effective June 1.

9 Bateman Exhibit 2 shows how the EDIT rider revenue requirement will be
10 spread to the rate classes. Witness Hager explains how the amounts were
11 allocated to the customer classes in her testimony. The Year 1 rider revenue
12 requirements by rate class were provided to Witness Wheeler who explains the
13 derivation of the rider rate in his testimony.

14 **VI. GRID IMPROVEMENT PLAN REQUEST**

15 **Q. HAS THE COMPANY INCLUDED COSTS ASSOCIATED WITH THE**
16 **GRID IMPROVEMENT PLAN?**

17 **A.** Yes. The Company has included grid improvement investments, placed in service
18 through December 31, 2018, in the revenue requirement calculation show in
19 Bateman Exhibit 1. The revenue requirement on these investments is included in
20 Line 11, Adjust for post test year additions to plant in service, and Line 35,
21 Amortize deferred cost balance related to SC Grid, of my pro forma adjustments
22 shown on Bateman Exhibit 1, Page 3, and described earlier in my testimony.

1 Q. HAS THE COMPANY SOUGHT ANY ADDITIONAL ACCOUNTING
2 AND RECOVERY METHODS FOR ONGOING GRID IMPROVEMENT
3 PLAN COSTS?

4 A. Yes. The Company's application requests that the Commission approve the
5 Company's Grid Improvement Plan as described by Witness Oliver, along with
6 associated Phase 1 and Phase 2 rates effective June 1, 2020 and June 1, 2021.
7 Such Phase 1 and Phase 2 proposed rates, provided in Wheeler Direct Exhibit No.
8 6, serve as "step-ups" in base rates for the revenue requirement associated with
9 those investments to be approved in this case. Bateman Exhibit 4 shows the
10 calculation of the proposed Phase 1 and Phase 2 revenue requirements in more
11 detail. For investments under the plan placed in service from January 1, 2019
12 through December 31, 2019, the Company is proposing to capture the costs
13 associated with these investments in the Phase 1 rates, effective June 1, 2020, one
14 year after the rates effective date requested in this case. For investments under
15 the plan placed in service from January 1, 2020 through December 31, 2020, the
16 Company is proposing to capture the costs associated with these investments in
17 the Phase 2 rates, effective June 1, 2021, one year after the Phase 1 rates. As part
18 of this request, the Company seeks approval to defer costs associated with the
19 incremental grid improvement plan investments placed in service after December
20 31, 2018 until those costs are included base rates, either through the Phase 1 or 2
21 rates or a subsequent general rate case. The Phase 1 rates would also include
22 amortization of deferred costs associated with 2019 investments over a two-year
23 period. The Phase 2 rates would include amortization of deferred costs associated

1 with 2020 investments over a two-year period, and would also include a
2 decrement to remove what will then be the completed amortization for 2018
3 investments described in pro forma Line 35.

4 As to the deferral of cost incurred between rate effective dates, the
5 Company respectfully requests Commission approval to defer the financial effects
6 of the grid improvement plan work outlined by Witness Oliver, including
7 incremental O&M, depreciation expense and property tax, as well as the carrying
8 costs on the investment and on the deferred costs at each utility's weighted
9 average cost of capital, until the rates effective date of the Phase 1 and 2 rates,
10 effective June 1, 2020 and June 1, 2021, respectively, and then afterward until
11 the utility's next general rate case.

12 **Q. PLEASE EXPLAIN WAS IS SHOWN IN BATEMAN EXHIBIT 4.**

13 A. Page 1 of Bateman Exhibit 4 shows the revenue requirement for both the South
14 Carolina retail jurisdiction and by rate class for Phase 1 and Phase 2 on Lines 21
15 and 31, respectively. The revenue requirement increase in total for South
16 Carolina retail is \$5.1 million for Phase 1 and \$5.8 million for Phase 2.

17 Page 2 shows the derivation of the Phase 1 jurisdictional revenue requirement
18 including the amortization of the deferred balance for 2019 investments.

19 Page 3 shows the details of the deferral calculation for the 2019 investments,
20 including the plant in service, O&M and amortization amounts that carry forward
21 to Page 2.

22 Page 4 shows the derivation of the Phase 2 jurisdictional revenue requirement
23 including the amortization of the deferred balance for 2020 investments.

1 Page 5 shows the details of the deferral calculation for the 2020 investments,
2 including the plant in service, O&M and amortization amounts that carry forward
3 to Page 4.

4 Page 6 shows the system capital spend and O&M for 2019 and 2020 that
5 corresponds to the Grid Improvement Plan described by Witness Oliver. It also
6 shows the allocations to South Carolina retail and the assumptions for the lag
7 between when capital is spent and when assets are placed in service that was used
8 for the revenue requirement calculation. The numbers and assumptions on this
9 page are the basis for the detailed deferral calculations on Pages 3 and 5.

10 Page 7 shows the cost of capital requested in this case and used in the calculation
11 of the revenue requirements on Pages 2 through 5.

12 **Q. WOULD THE PARTIES HAVE A CHANCE TO REVIEW THE WORK**
13 **COMPLETED IN ADVANCE OF THE EFFECTIVE DATE OF NEW**
14 **RATES?**

15 A. Yes. The Company would be willing to file status reports to apprise stakeholders
16 of our progress as explained by Witness Oliver, as well as through an ORS
17 conducted audit.

18 **Q. IF APPROVED, WOULD THE COMPANY AGREE TO PUT FORTH THE**
19 **SAME INFORMATION FOR FUTURE YEARS?**

20 A. Yes. The Company envisions that expenditures for years outside of the Grid
21 Improvement Plan (not established in this case) be brought back before the
22 Commission through a process like this one for similar treatment.

1 **Q. PLEASE DESCRIBE THE ORS AUDIT REFERENCED ABOVE?**

2 A. The Company proposes that the audit by ORS be conducted prior to the effective
3 date of the Phase 1 and 2 rates to be approved in this case. Accordingly, we
4 recommend the following parameters for an audit:

- 5 • By March 1 of 2020 and 2021, the Company will file an updated version
6 of Bateman Exhibit 4 showing the actual grid improvement plan balances
7 placed in service and incremental O&M by month during the prior
8 calendar year. The Company will certify that these plant in service and
9 O&M amounts are part of the Grid Improvement Plan described by
10 Witness Oliver, and are ready to be audited. The Company will also
11 include a narrative explaining the work completed and the status of the
12 plan.
- 13 ■ The ORS should audit the plant in service balances and confirm whether
14 the Company has indeed placed in service the amounts included in the
15 updated Bateman Exhibit 4 and spent the incremental O&M and that these
16 were investments under the Commission-approved Grid Improvement
17 Plan. The audit should be limited in scope and not a recreation of the rate
18 case (return on equity, cost allocation, etc.) or an examination of the
19 appropriateness of the Grid Improvement Plan.
- 20 ■ ORS should be given sixty (60) days from the date that the Company files
21 the updated Bateman Exhibit 4 to complete its audit and file a report with
22 the Commission on May 1.
- 23 ■ When ORS certifies to the Commission by May 1 that the Company has
24 met the conditions above, the Phase 1 and 2 rates should be placed into
25 effect for service on or after June 1.

26 **Q. WHAT HAPPENS IF THE ACTUAL INVESTMENTS RESULT IN A**
27 **REVENUE REQUIREMENT LESS THAN THE AMOUNT SHOWN IN**
28 **BATEMAN EXHIBIT 4?**

29 A. With its March 1, 2020 and March 1, 2021 certifications, the Company will
30 include an update version of Bateman Exhibit 4 with the actual investments
31 placed in service in the prior calendar year. If the update results in a lower

revenue requirement, the approved step-up rates will be reduced to reflect the lower revenue requirement. If the update results in a higher revenue requirement, the approved step-up rates will not change, and the difference will be deferred to be considered in a future general rate case. As a result, the Phase 1 and Phase 2 rate changes will be no greater than the amounts approved in this case; however, they could be less.

VII. STORM COSTS REQUEST

Q. IS THE COMPANY SEEKING TO RECOVER COSTS FOR STORM RESTORATION IN THIS CASE?

A. No. DE Progress has incurred significant storm restoration in its South Carolina service territory costs over the last five years. The Company has requested and received deferral for two 2014 storms (Docket 2014-482-E) and for Hurricane Matthew (2016-408-E). The table below shows the deferred balance as of the end of September 30, 2018 for each currently approved South Carolina retail deferral.

Storm	Deferred Balance as of September 30, 2018
2014 Ice Event & Winter Storm Pax	\$14.7
Hurricane Matthew	\$66.0
Total	\$80.7

The Company was granted permission to defer a return on the deferred balance for Hurricane Matthew and is currently doing so. The Company proposes not to begin amortization of the balances in this case, but instead continue to defer the return after the rates effective date in this case, and update the overall weighted average cost of capital used in the calculation once the Commission issues a final

320-41

1 order in this docket. The deferred balance for the 2014 storms was included in
2 rate base in the Company's last rate case. Earlier in my testimony, I described the
3 pro forma that removes this balance from rate base. Consequently, the Company
4 is requesting to begin deferring a return on the deferred balance, at the overall
5 weighted average cost of capital approved in this case, for the 2014 storms
6 beginning with new rates effective in this case.

7 In a similar manner, the Company will soon file a petition requesting
8 deferral for significant costs incurred this year in connection with Hurricane
9 Florence and Hurricane Michael and plans to seek the same accounting treatment
10 for these costs as described above, namely a return at the overall weighted
11 average cost of capital, and no amortization.

12 The Company plans to explore alternative options for recovery of these
13 deferred balances for the storms described above. If the Company is unable to
14 secure a suitable, alternative recovery mechanism that results in customer savings,
15 then the Company, at that point, will need to seek recovery through more
16 traditional mechanisms in a future rate case.

1 V. CONCLUSION

2 Q. IN YOUR VIEW, ARE OPERATING EXPENSES AND RATE BASE
3 CALCULATED BY DUKE ENERGY PROGRESS IN THIS PROCEEDING
4 IN ACCORDANCE WITH THE PROVISIONS OF S.C. CODE ANN.
5 SECTIONS 58-27-820 AND 58-27-870 AND 26 S.C. CODE REGS. 103-303
6 AND 103-823?

7 A. Yes, they are. The Company generally experienced a level of ordinary business
8 expenses and rate base that was reasonable and necessary to provide safe and
9 reliable electric service to its customers for the twelve-month period ending
10 December 31, 2017. In order to meet the requirements of S.C. Code Ann.
11 Sections 58-27-820 and 58-27-870 and 26 S.C. Code Regs. 103-103 and 103-823,
12 the actual operating expenses and rate base levels for the Test Period were
13 adjusted for known and measurable changes as described above.

14 Q. DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?

15 A. Yes.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23 (PURSUANT TO PREVIOUS INSTRUCTION,

24 THE PREFILED SUPPLEMENTAL DIRECT

25 TESTIMONY OF LAURA A. BATEMAN FOLLOWS.)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2018-318-E

In the Matter of:	)	SUPPLEMENTAL DIRECT
	)	TESTIMONY OF
Application of Duke Energy Progress, LLC	)	LAURA BATEMAN
For Adjustments in Electric Rate Schedules	)	FOR
and Tariffs	)	DUKE ENERGY PROGRESS, LLC

I. INTRODUCTION AND PURPOSE

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

3 **A. My name is Laura A. Bateman and my business address is 411 Fayetteville Street,**
4 **Raleigh, North Carolina. I am a Director of Rates & Regulatory Planning,**
5 **employed by Duke Energy Carolinas, LLC, testifying on behalf of Duke Energy**
6 **Progress, LLC ("DE Progress" or the "Company").**

7 **Q. ARE YOU THE SAME LAURA A. BATEMAN WHOSE DIRECT**
8 **TESTIMONY AND EXHIBITS WERE FILED IN THIS DOCKET ON**
9 **NOVEMBER 8, 2018?**

10 **A. Yes.**

11 **Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL DIRECT**
12 **TESTIMONY IN THIS PROCEEDING?**

13 **A. The purpose of my supplemental direct testimony is to present updates to certain**
14 **accounting and pro forma adjustments and present additional adjustments to the**
15 **Company's cost of service as shown on Bateman Supplemental Exhibit 1. As I**
16 **stated on page 12 of my direct testimony, several adjustments included in the**
17 **Company's original filing contained projections that the Company reserved the**
18 **right to update with actuals prior to the hearing. In my supplemental direct**
19 **testimony, I update those adjustments to reflect actuals. I also update or present**
20 **adjustments based on circumstances and events that have occurred since the**
21 **Company made its November 8, 2018 filing. Finally, I present updates to the**

1 Company's proposed Excess Deferred Income Tax ("EDIT") rider as shown in
2 Updated Bateman Exhibit 3.

**II. UPDATES TO THE COMPANY'S TEST YEAR
OPERATING REVENUE, EXPENSES AND RATE BASE**

3
4 **Q. PLEASE DESCRIBE BATEMAN SUPPLEMENTAL EXHIBIT 1.**

5 A. Bateman Supplemental Exhibit 1 presents the illustrative impact of additional
6 adjustments to the Company's cost of service. While DE Progress is not
7 requesting a change to its proposed revenue requirement as a result of these
8 adjustments at this time, Bateman Supplemental Exhibit 1 illustrates the impact
9 these adjustments (e.g., updating costs to reflect actuals) would have on the
10 Company's cost of service.

11 **Q. WAS BATEMAN SUPPLEMENTAL EXHIBIT 1 PREPARED BY YOU OR**
12 **AT YOUR DIRECTION AND UNDER YOUR SUPERVISION?**

13 A. Yes.

14 **Q. PLEASE EXPLAIN THE ADJUSTMENTS THAT ARE PRESENTED IN**
15 **BATEMAN SUPPLEMENTAL EXHIBIT 1.**

16 A. **Line 8 - Annualize depreciation on year end plant balances**

17 This adjustment has been updated to remove the depreciation expense related to
18 the Lilesville-Rockingham transmission line that was constructed and placed in
19 service to satisfy Federal Energy Regulatory Commission ("FERC") market
20 mitigation requirements related to the Duke-Progress merger. At this time, the
21 only transmission market mitigation project for which the Company is seeking to
22 recover costs is the Greenville-Kinston Dupont 230 kV line. Therefore, the

322-4

1 depreciation expense associated with the Lilesville-Rockingham transmission line
2 has been removed.

3 **Line 11 - Adjust for post test year additions to plant in service**

4 This adjustment has been updated to reflect the actual additions to plant in service
5 from October 1, 2018 through December 31, 2018. These additions were
6 estimated in the Company's November 8, 2018 filing.

7 **Line 17 - Adjust for previously deferred amounts - Harris COLA,**
8 **GridSouth, Fukushima/Cybersecurity, 2014 Storms**

9 The Fukushima/Cybersecurity deferred balance in this adjustment was updated to
10 reflect the actual costs incurred from October 1, 2018 through December 31,
11 2018. These costs were estimated in the Company's November 8, 2018 filing.

12 **Line 18 - Amortize deferred environmental costs**

13 This adjustment has been updated to reflect the actual costs and plant additions
14 from October 1, 2018 through December 31, 2018. These costs were estimated in
15 the Company's November 8, 2018 filing. This adjustment was also updated to
16 remove costs for certain seeps repair work for which the Company is not seeking
17 recovery.

18 **Line 19 - Amortize deferred cost balance related to SC AMI**

19 This adjustment has been updated to reflect the actual South Carolina Advanced
20 Metering Infrastructure ("SC AMI") plant additions from October 1, 2018
21 through December 31, 2018. These amounts were estimated in the Company's
22 November 8, 2018 filing.

23 **Line 23 - Update benefits costs**

1 This adjustment has been updated to reflect the actual 2018 expenses for active
2 medical benefits. These amounts were projected in the Company's November 8,
3 2018 filing.

4 **Line 25 - Amortize rate case costs**

5 This adjustment has been updated to reflect the actual rate case costs from
6 October 1, 2018 through December 31, 2018. These amounts were estimated in
7 the Company's November 8, 2018 filing.

8 **Line 30 - Adjust for Customer Connect additional expense and deferral**

9 The Customer Connect deferred balance in this adjustment was updated to reflect
10 the actual costs incurred from October 1, 2018 through December 31, 2018.
11 These costs were estimated in the Company's November 8, 2018 filing.

12 **Line 31 - Adjust vegetation management expenses**

13 This adjustment was updated to reflect known increases in contract rates that were
14 finalized in December 2018. The amount of these increases was not known at the
15 time of the original filing.

16 **Line 32 - Synchronize interest expense with end of period rate base**

17 This adjustment has been updated to reflect a change to income taxes.
18 Specifically, because of the updates to rate base described in this supplemental
19 testimony, interest costs have been updated resulting in a flow through effect to
20 income taxes.

21 **Line 33 - Adjust 1/8 O&M for accounting and pro-forma adjustments**

22 This adjustment has been updated to reflect the changes to cash working capital
23 resulting from the other changes discussed in this supplemental testimony.

1 **Line 35 - Adjust deferred cost balance related to SC Grid**

2 This adjustment has been updated to reflect the actual SC grid improvement costs
3 and plant additions from October 1, 2018 through December 31, 2018. These
4 costs were estimated in the Company's November 8, 2018 filing.

5 **Line 36 - Remove certain expenses - NEW**

6 This adjustment was added to remove expenses that may either have been
7 inadvertently booked above the line during the Test Period or inadvertently
8 allocated to South Carolina. While it is possible these charges were reversed in
9 subsequent journal entries, the Company has opted to remove the amounts from
10 this case.

11 **Line 37 - Adjust for Allocation of PUC License Tax Expense - NEW**

12 This adjustment was added to correct an allocation of the South Carolina license
13 fee imposed on South Carolina property and gross receipts under South Carolina
14 Code §12-20-100 in the per books cost of service. In the original filing, these
15 taxes were inadvertently allocated to all jurisdictions. This pro forma updates the
16 allocation to direct assign the portions of the tax based on gross receipts and
17 distribution property to South Carolina. The portions related to transmission,
18 production, and general plant are still allocated to all jurisdictions..

19 **Line 38 - Adjust for ongoing payment obligation - NEW**

20 On November 14, 2018, DE Progress entered into a confidential settlement
21 agreement to resolve litigation related to a contract for the sale of gypsum, a
22 byproduct of coal plant production. The Company believes the settlement
23 agreement will result in lower costs to customers as compared to alternative

1 outcomes. The agreement obligates the Company to make payments over a
2 specified period of time. This adjustment increases operating expense to include
3 recovery of these payments.

4 **Q. DOES BATEMAN SUPPLEMENTAL EXHIBIT 1 REFLECT ANY**
5 **CHANGE IN THE REVENUE REQUIREMENT SOUGHT BY THE**
6 **COMPANY IN THIS PROCEEDING?**

7 **A.** No, not at this time. DE Progress will file an updated Bateman Exhibit 1 at the
8 time of hearing, which will incorporate the additional cost of service adjustments
9 reflected in Bateman Supplemental Exhibit 1, as well as other possible
10 adjustments to cost of service to the extent the actual changes are based on
11 circumstances and events occurring up to the time the hearing is closed.

12 **Q. IN YOUR OPINION, DO THESE ACCOUNTING AND PRO FORMA**
13 **ADJUSTMENTS REFLECT KNOWN AND MEASURABLE CHANGES**
14 **TO THE COMPANY'S TEST YEAR OPERATING EXPENSES,**
15 **REVENUES, AND RATE BASE?**

16 **A.** Yes.

III. UPDATES TO THE COMPANY'S PROPOSED EDIT RIDER

17 **Q. PLEASE EXPLAIN THE UPDATES TO THE COMPANY'S PROPOSED**
18 **EDIT RIDER SHOWN IN UPDATED BATEMAN EXHIBIT 3?**

19 **A.** Several updates were made to this exhibit to include actual balances or more
20 recently available information. The total impact of the updates was a decrease in
21 the Year 1 decrement rider of \$122,000 (from -\$10,008,000 to -\$9,887,000), as
22 shown on Page 2, Line 6. Below is the detail of the updates:

322-8

- 1 • The federal EDIT liability balances were updated as of December 31, 2018, as
2 shown on Line 1a of Page 1. These updates reflect true-ups that were made
3 during 2018 to the December 31, 2017 balances.
- 4 • The ARAM rate, the amortization rate required for the federal EDIT –
5 protected balance, on line 7 of Page 1, was also updated based on a more
6 recent calculation by the Company's Tax Department.
- 7 • The deferred revenues shown on Line 3 of Page 1 and calculated on Page 3
8 were updated with actual deferred amounts for October 1, 2018 through
9 December 31, 2018. These amounts were estimated in the Company's
10 November 8, 2018 filing.
- 11 • The calculation of the NC EDIT on Page 4 was updated with the actual
12 balance as of December 31, 2018 in line 7. This amount was estimated in the
13 Company's November 8, 2018 filing.

IV. CONCLUSION

- 14 Q. DOES THIS CONCLUDE YOUR PRE-FILED SUPPLEMENTAL DIRECT
15 TESTIMONY?
- 16 A. Yes.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22 (PURSUANT TO PREVIOUS INSTRUCTION,

23 THE PREFILED SECOND SUPPLEMENTAL

24 DIRECT TESTIMONY OF

25 LAURA A. BATEMAN FOLLOWS.)

**BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA**

DOCKET NO. 2018-318-E

In the Matter of: Application of Duke Energy Progress, LLC For Adjustments in Electric Rate Schedules and Tariffs	))))))	SECOND SUPPLEMENTAL DIRECT TESTIMONY OF LAURA BATEMAN FOR DUKE ENERGY PROGRESS, LLC

I. INTRODUCTION AND PURPOSE

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

3 **A. My name is Laura A. Bateman and my business address is 411 Fayetteville Street,**
4 **Raleigh, North Carolina. I am a Director of Rates & Regulatory Planning,**
5 **employed by Duke Energy Carolinas, LLC, testifying on behalf of Duke Energy**
6 **Progress, LLC ("DE Progress" or the "Company").**

7 **Q. ARE YOU THE SAME LAURA A. BATEMAN WHO PREVIOUSLY**
8 **FILED DIRECT, SUPPLEMENTAL, REBUTTAL AND REVISED**
9 **REBUTTAL TESTIMONY AND EXHIBITS IN THIS PROCEEDING?**

10 **A. Yes.**

11 **Q. WHAT IS THE PURPOSE OF YOUR SECOND SUPPLEMENTAL**
12 **DIRECT TESTIMONY IN THIS PROCEEDING?**

13 **A. The purpose of my testimony is to comment on the modification to the**
14 **Company's proposed Excess Deferred Income Tax ("EDIT") Rider in the**
15 **Stipulation entered into between DE Progress and Nucor Steel-South Carolina**
16 **("Nucor") regarding the issues raised in Nucor's direct testimony ("Stipulation").**

17 **Q. DO YOU HAVE ANY EXHIBITS TO YOUR SECOND SUPPLEMENTAL**
18 **TESTIMONY?**

19 **A. Yes. Bateman Second Supplemental Exhibit 3 updates the Company's proposed**
20 **EDIT Rider to reflect the terms of the Stipulation. The total impact of the**
21 **modifications increases the benefit to customers in Year 1 of the EDIT Rider from**
22 **\$9,881,000 to \$12,802,000 million. Below are the details of the modifications:**

- 1 • On Page 1, Line 9 of the exhibit, the amortization period for the deferred
2 revenues was reduced from 5 years to 3 years.
- 3 • On Page 1, Line 4 on the exhibit, the portion of deferred revenues to be
4 removed from the rider and used to offset the Distributed Energy Resources
5 Program ("DERP") regulatory asset was reduced from \$12,668,000 to
6 \$6,000,000.
- 7 • Since the deferred revenues included on Line 3, Page 1 of the exhibit only
8 include deferred revenues through December 31, 2018, the remaining deferred
9 revenues through May 31, 2019, will be included in the next annual update of
10 the Rider, and will be flowed back over a two-year period starting June 1,
11 2020. As a result, all deferred revenues will be returned to customers within
12 three years of new rates effective in this case.

13 Bateman Second Supplemental Exhibit 3 reflects the Company's requested rate of
14 return. Bateman Exhibit 3 will be updated again to reflect the allowed rate of
15 return once the Commission issues its order in this proceeding.

16 **Q. WAS BATEMAN SUPPLEMENTAL EXHIBIT 3 PREPARED BY YOU OR**
17 **AT YOUR DIRECTION AND UNDER YOUR SUPERVISION?**

18 A. Yes.

19 **Q. IN YOUR VIEW, IS THE STIPULATION IN THE PUBLIC INTEREST?**

20 A. Yes. The Stipulation is the result of negotiations between the Stipulating Parties,
21 it lowers the overall initial increase requested by the Company from South
22 Carolina customers, and resolves many of the issues in the case between the

324-4

1 Stipulating Parties without the necessity of contentious litigation. Therefore, we
2 respectfully request that the Commission approve the Stipulation.

II. CONCLUSION

3 Q. DOES THIS CONCLUDE YOUR SECOND SUPPLEMENTAL DIRECT
4 TESTIMONY?

5 A. Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23 (PURSUANT TO PREVIOUS INSTRUCTION,
24 THE PREFILED REVISED REBUTTAL
25 TESTIMONY OF LAURA A. BATEMAN FOLLOWS.)

**BEFORE
THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
DOCKET NO. 2018-318-E**

In the Matter of:	)	
	)	REVISED REBUTTAL
		TESTIMONY OF
Application of Duke Energy Progress,	)	LAURA BATEMAN
LLC for Adjustments in Electric Rate	)	FOR DUKE ENERGY
Schedules and Tariffs	)	PROGRESS, LLC

I. INTRODUCTION AND PURPOSE

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

3 A. My name is Laura A. Bateman and my business address is 411 Fayetteville
4 Street, Raleigh, North Carolina. I am a Director of Rates and Regulatory
5 Planning, employed by Duke Energy Carolinas, LLC, testifying on behalf
6 of Duke Energy Progress ("DE Progress" or the "Company").

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

9 A. Yes, I did. I filed direct testimony and exhibits in this docket on November
10 8, 2018. I filed supplemental direct testimony exhibits on January 18,
11 2019.

12 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

13 A. The purpose of my rebuttal testimony is to respond to certain accounting
14 and ratemaking adjustments proposed by the Office of Regulatory Staff
15 ("ORS"), and to respond to the ORS's recommendations with regards to
16 deferred costs that would result in the Company not being able to fully
17 recover its prudently incurred costs.

18 Q. DOES YOUR TESTIMONY INCLUDE ANY EXHIBITS?

19 A. Yes, I have included two exhibits. Bateman Rebuttal Exhibit 1, which is an
20 informational filing and a revision of the original Bateman Exhibit 1 filed
21 with my direct testimony. Bateman Rebuttal Exhibit 1 shows the

1 Company's revised revenue requirement incorporating the Company's
 2 adjustments filed in its supplemental filing and the Company's rebuttal
 3 position in this case. Bateman Rebuttal Exhibit 3 shows the proposed
 4 EDIT Rider updated for the change in cost of debt supported in the
 5 rebuttal testimony of Company witness Sullivan.

6 **Q. WERE THESE EXHIBITS PREPARED BY YOU OR UNDER**
 7 **YOUR DIRECTION AND SUPERVISION?**

8 **A.** Yes, these exhibits were prepared under my supervision.

9 **II. RESPONSE TO THE OFFICE OF REGULATORY STAFF**
 10 **ACCOUNTING ADJUSTMENTS**

11 *Adjustments Not Opposed*

12 **Q. ARE THERE ANY ACCOUNTING ADJUSTMENTS WHERE THE**
 13 **COMPANY AND THE ORS AGREE BASED ON THE COMPANY'S**
 14 **FILING MADE ON NOVEMBER 8TH, 2018?**

15 **A.** Yes, there are thirteen accounting adjustments where the Company and the
 16 ORS agree based on the filing the Company made on November 8, 2018.

17 #1 – Annualize Retail revenues for current rates

18 #2 – Update fuel costs to approved rate and other fuel related adjustments

19 #3 – Adjust Other Revenue

20 #5 – Eliminate unbilled revenues

21 #6 – Adjust for cost recovered through non-fuel riders

22 #9 – Annualize property taxes on year end plant balances

23 #10 – Adjust for new depreciation rates

- 1 #12 – Remove NCEMPA Acquisition Adjustment
- 2 #13 – Remove expiring amortization credits from test year
- 3 #16 – Adjust for coal inventory
- 4 #24 – Levelize nuclear refueling outage costs
- 5 #26 – Adjust aviation expenses
- 6 #34 – Adjust for tax rate change

7 **Q. ARE THERE ADDITIONAL ADJUSTMENTS RECOMMENDED**
8 **BY THE ORS WITH WHICH THE COMPANY AGREES?**

9 A. Yes, there are 5 recommended adjustments by the ORS with which the
10 Company agrees as detailed below. These adjustments reflect the update of
11 estimates to actuals and additional adjustments to the Company's cost of
12 service, some of which were reflected in Bateman Supplemental Exhibit 1.
13 Bateman Rebuttal Exhibit 1 incorporates these adjustments, which are
14 listed below.

- 15 #8 – Annualize depreciation on year end plant balances
- 16 #11 – Adjust for post test year additions to plant in service
- 17 #23 – Update benefit costs
- 18 #31 – Adjust vegetation management expenses
- 19 #37 – Adjust for Allocation of PUC License Tax Expense

ORS Adjustments Opposed by the Company

Q. PLEASE SUMMARIZE THE ORS'S RECOMMENDATION WITH REGARD TO DEFERRALS.

A. The ORS makes several recommendations with regards to deferred costs that would in effect deny the Company recovery of prudently incurred costs. These recommendations are primarily discussed in the testimony of ORS witness Payne. There are a number of deferrals in this case, which include carrying costs. Carrying costs are necessary to ensure that the Company recovers the full value and effect of the deferral. No one contests the prudence of the expenses in the deferrals though ORS devalues the deferrals by disallowing carrying costs, or a return, and, in most cases, significantly extending the recovery period for the deferred costs.

First, the ORS recommends that the Company be disallowed the return on the incremental costs, which the Company has deferred in a regulatory asset on its books, during the deferral period. ORS witness Payne offers no justification for the disallowance other than citing the portion of the deferral order that states that "(s)uch relief will not prejudice the right of any party to address the prudence of such costs in a subsequent rate proceeding." If ORS witness Payne alleges that the deferred costs were imprudent, he offers no argument explaining such allegation in his testimony. Second, the ORS recommends that the Company be disallowed a return during the amortization period for the portion of the regulatory

1 assets that relate to operating expenses. Finally, in the testimony of ORS
2 witness Morgan, the ORS recommends unnecessarily long recovery
3 periods for the deferred costs, increasing the amount of disallowance to
4 the Company due to the cost of money.

5 **Q. WHICH ADJUSTMENTS ARE IMPACTED BY THE ORS**
6 **RECOMMENDATIONS REGARDING DEFERRALS?**

7 A. The differences in the Company's position and the ORS's position on the
8 adjustments listed below are related to the treatment of deferrals.

9 #17 – Adjust previously deferred amounts – Harris COLA, GridSouth,
10 Fukushima/CyberSecurity, 2014 Storms

11 #18 - Amortize deferred environmental costs

12 #19 – Amortize Deferred Cost Balance Related to SC AMI

13 #25 - Amortize rate case costs

14 #30 - Adjust for Customer Connect additional expense and deferral

15 #35 – Adjust deferred cost balance related to SC Grid

16 The Company and the ORS also have additional areas of disagreement on
17 Adjustments #18, #25, and #30, which I address later in my testimony.

18 **Q. DOES THE COMPANY OPPOSE THESE ORS**
19 **RECOMMENDATIONS REGARDING DEFERRALS?**

20 A. Yes. The Company strongly opposes these recommendations as I explain
21 below and as further explained in the rebuttal testimonies of Company
22 witnesses Ghartey-Tagoe, Wright and Hevert.

1 ORS witness Payne recommends separating the deferred balances
2 into two categories – deferred operating expenses (including O&M,
3 depreciation expense and property taxes on plant in-service) and deferred
4 capital costs (which, under his definition, only includes deferred return on
5 capital investments). ORS witness Payne then goes on to recommend that
6 the Company be disallowed a return on the deferred operating expenses
7 over the entire amortization period, in some cases under the ORS
8 recommendation, as long as 15 years. He argues that the Company would
9 not have earned a return had the costs not been deferred. In other words,
10 had the Company collected the costs from customers in the period which
11 the costs had been incurred, the Company would have no financing
12 requirements and would not need to earn a return. First his logic is flawed
13 because these costs are incremental and could not have been collected
14 from customers in the period in which they were incurred. Furthermore,
15 this logic is misplaced and inconsistent with other carrying costs that the
16 ORS is willing to accept when they are beneficial to customers, as
17 explained below. Moreover, stretching out cost recovery to life of plant as
18 the ORS recommends is a capital-based concept. It is inappropriate to treat
19 costs like capital costs in terms of length of recovery, but not allow them
20 to be placed into rate base or collect carrying costs like undepreciated
21 capital would receive.

22 Applying ORS logic in an even-handed manner, if the Company
23 must accept the weight of carrying costs on expenses to be paid by

1 customers, then it should also accept the benefit of carrying costs which it
2 was otherwise willing to pay customers. The inequity of the ORS
3 argument is clear when one considers deferred income taxes. Income taxes
4 are an operating expense. Deferred income taxes result from the timing
5 difference from when the Company pays the cash for the expense and
6 when the costs are recovered in customer rates. The only difference is that
7 the amounts are collected in rates before the Company pays the cash,
8 resulting in a regulatory liability, instead of a regulatory asset. In order to
9 be consistent in its position, the ORS would need to also recommend
10 removing the deferred tax liabilities from rate base since these are the
11 result of deferred operating expenses. For DE Progress, the accumulated
12 deferred income tax plus excess deferred income tax balances included as
13 a reduction to rate base in this case are \$414 million. Removing these
14 items from rate base would result in a 27 percent increase in rate base. If
15 the ORS were to consistently apply its logic, it would be a significant
16 detriment to customers if taken to its logical conclusion.

17 The appropriate and more equitable treatment, and the one
18 proposed by the Company, is to continue to include the deferred taxes in
19 rate base recognizing that the Company has additional cash that can be
20 used to finance utility investments and customers should receive a return
21 on the Company's use of that cash. In the same way, the regulatory assets
22 resulting from the Commission approved deferrals, including the deferred
23 operating expenses, are appropriate to include in rate base because there is

326-9

1 a timing difference between when amounts are paid and when they are
2 collected from customers. During this time, the Company must incur
3 additional financing costs related to the cash it has borrowed for the
4 amounts it has expended but not yet collected from customers.

5 In his testimony, ORS witness Payne references that the National
6 Association of Utility Commissioners ("NARUC") Rate Case and Audit
7 Manual states that regulatory assets and other deferrals should be
8 examined to determine if the deferred costs are appropriate to be included
9 in rate base. The manual says nothing about splitting the regulatory assets
10 between deferred operating expenses and deferred capital costs. I have
11 never heard of this concept before and, as far as the Company can tell, the
12 ORS developed this idea in isolation without any supporting industry
13 manuals, documentation or precedent. The NARUC manual that ORS
14 witness Payne refers to states:

15 "In looking at the nature of the deferrals, the auditor should
16 consider whether the deferral is appropriate for inclusion in rate
17 base. For instance, is the utility deferring certain fuel or purchased
18 power expenses under a mechanism that is approved by the
19 Commission allowing for dollar-for-dollar recovery of those
20 costs?" (Pages 22-23)

21 Consistent with what this manual appears to be referring to, the Company
22 does not and is not proposing in this case to earn a return on its deferred
23 fuel balances. The deferred balances at question in this case are very

1 different, and both the Company and the ORS have proposed multi-year
2 recovery periods. While the Company would still disagree, if the ORS
3 were proposing recovery of the deferred costs through a one-year rider,
4 their proposed rate base treatment would at least be more logical and
5 consistent with the NARUC manual. That is not the case.

6 The ORS recommendations discussed above suggest a business
7 can borrow money for free. However, investors do not provide interest free
8 loans.

9 **Q. HOW WOULD YOU SUMMARIZE THE COMPANY'S POSITION**
10 **ON RETURNS ON DEFERRALS?**

11 A. Deferrals, by definition, recognize that the Company is incurring a cost
12 that is not currently recovered in customer rates. The Company is
13 incurring costs related to these deferrals. Those costs, whether designated
14 as capital or operating expense for accounting purposes, require cash. That
15 cash must be obtained from the Company's debt and equity investors. And
16 those investors require interest, or a return, on the cash they have invested
17 in the Company. These financing costs (the return on the deferred costs)
18 are a real cost that the Company incurs and to disallow recovery of these
19 costs during the deferral period or the amortization period would be to
20 disallow prudently incurred costs.

1 Q. WHAT IS YOUR RESPONSE TO THE AMORTIZATION PERIOD
2 LENGTHS PROPOSED BY ORS WITNESS PAYNE?

3 A. The chart below shows the deferrals for which ORS witness Payne
4 recommends longer amortization periods than what the Company recommends.

Adj #	Adjustment	Deferred Balance (\$MM)	Company Position	Company Position	ORS Position
SC -1700	Harris COLA	\$6.7	5	8	
SC -1900	SC AMI (new meters)	\$1.6	3	15	
SC -3500	SC Grid	\$2.2	2	5	

5 While exact amortization periods are subjective, there needs to be a
6 balance and consideration of both the impact on customer rates and the
7 impact on the Company's cash flow. Given the deferred balances, the
8 amortization periods proposed by ORS witness Payne are excessive and
9 unnecessarily long for these deferrals. In addition, I will point out that as
10 in DEP's last rate case, the Company agreed to delay beginning the
11 amortization on both the Harris COLA and Fukushima/Cyber Security
12 deferred balances. In this case, the ORS recommends an 8-year
13 amortization period for the Harris COLA costs because that is the length
14 of time over which the costs were incurred. However, this
15 recommendation fails to recognize that absent the settlement in the last
16 case, the Company would have begun amortizing these costs starting
17 January 1, 2017. Had the Company used an 8-year period to amortize the

1 costs at that point, there would only be five and a half years remaining in
2 the amortization period by the time new rates are effective in this case.
3 Therefore, even using the ORS's logic, the Company's proposed
4 amortization period is more appropriate. Finally, since the ORS has
5 recommended to disallow the return during the amortization period on a
6 portion of all the deferrals, the longer amortization periods exacerbate the
7 disallowance. Again, the logic is contradictory. ORS doesn't support a
8 return because the costs were not originally classified as capital, but then
9 turns around and treats them like capital by proposing the AMI deferral be
10 recovered over the life of the assets. Therefore, the Company opposes
11 these recommendations.

12 **Q. PLEASE DESCRIBE THE COMPANY'S RESPONSE TO THE**
13 **REMAINING ORS PROPOSED ADJUSTMENTS.**

14 A. The Company opposes the ORS recommendations on the remaining
15 adjustments. The Company's positions on the remaining ORS adjustments
16 are explained below.

17 **Adjustment #18 – Amortize deferred environmental costs**

18 The Company opposes the adjustments recommended by the ORS. First,
19 the ORS recommends disallowing a portion of the returns on the
20 components of the deferral relating to capital investments at operating
21 plants. The punitive nature of the adjustment recommended by Witness
22 Payne to disallow the return on the deferred costs for this component
23 during the deferral period and not earn a return during the time period

1 when the costs are being recovered (amortization period) is discussed
2 above. The Company also vigorously opposes the ORS recommendations
3 to disallow certain coal ash related costs for the reasons set forth in the
4 rebuttal testimony of Company witnesses Kerin and Wright.

5 **Adjustment #20 – Normalize for storm costs**

6 The Company's pro forma adjustment normalizes storm restoration costs
7 to the average level of costs the Company experienced over the past ten
8 years. However, ORS witness Morgan recommends eliminating the
9 expenses in the highest and lowest years to use an eight-year average
10 expense level. The Company does not oppose this component of the ORS
11 adjustment. However, the ORS adjustment also removes the inflation
12 impact to storm costs, which is not described in ORS's testimony and has
13 a larger impact on the average. The Company does oppose this component
14 of the ORS's adjustment, as it is unreasonable and ignores the current
15 costs implicated in addressing storms.

16 The Company's adjustment adjusts each storm cost year included
17 in the ten-year average to be comparable to the test year on an inflation
18 adjusted basis. This is appropriate because as with the costs of other goods
19 and services, the costs associated with storm restoration – e.g., the costs
20 for contract labor, such as line workers and tree professionals, materials,
21 and staging and logistics – have increased significantly in the last ten
22 years. In fact, the average annual inflation rate calculated by the Company
23 for the ten years beginning in 2008 is 1.422 percent per year, or 14.22

1 percent over the ten-year period. This adjustment is more than reasonable
2 given that DE Progress' contract labor costs alone have increased 25
3 percent from 2008 to 2017.¹ By removing the Company's inflation
4 adjustment, the ORS seems to be implying that the Company should be
5 able to hire contractors to work on storm restoration in 2019 for the exact
6 same hourly rate it paid them in 2008. This is not realistic, and this portion
7 of the ORS adjustment should be rejected by the Commission. Bateman
8 Rebuttal Exhibit 1, Page 3, Line 20 updates this adjustment to reflect the
9 ORS's recommendation to use an eight-year average, but continues to
10 include inflation adjusted costs in the average.

11 **Adjustment #21 – Annualize O&M non-labor expenses**

12 The Company annualized Test Period O&M expenses (excluding fuel,
13 purchased power, and labor costs) to reflect the change in costs that
14 occurred during the test period. ORS witness Major proposes to exclude
15 this adjustment because "it is based on projected and estimated data rather
16 than known and measurable expenses." This is not true and the Company
17 maintains that its adjustment is appropriate. First, the purpose of the
18 Company's proposal is not to project O&M expenses, but instead to
19 annualize the impacts of inflation to an end of test period level. The
20 adjustment takes actual known and measurable inflation metrics
21 (Consumer Price Index and Producer Price Index) and compares the

¹ This percentage is based on on-system contractor rates for 2008 and 2017. These are the contractors that DE Progress uses on its system on a regular basis, and relies upon when there is a storm event.

1 average of the test period to the end of test period metrics. These metrics
2 for the 2017 test period are historic, known and measurable, and publicly
3 available from the U.S. Bureau of Labor Statistics. This adjustment is very
4 similar to the customer growth adjustment which the ORS has not
5 rejected. The customer growth adjustment compares the average number
6 of customers during the test period to the end of test period number of
7 customers in order to annualize the impacts of customer growth to an end
8 of test period level. Both adjustments annualize impacts – one for
9 customer growth and one for inflation – and both are appropriate to
10 include.

11 **Adjustment #22 – Normalize O&M labor expenses**

12 The Company's adjustment adjusts the wages and salaries and related
13 employee benefit costs to reflect annual levels of costs as of July 1, 2018
14 and also reflects changes in related payroll taxes. The ORS recommends
15 updating the salary allocator for DEC to the same date as the O&M labor
16 expense, July 1, 2018, and the Company does not oppose this portion of
17 the ORS recommendation. However, the Company does not agree with
18 ORS witness Major's recommendation to remove 50 percent of the
19 Company's long and short-term incentive ("LTI" and "STI") program
20 costs for the reasons discussed by Company witness Metzler.

21 **Adjustment #25 – Amortize rate case costs**

22 The Company opposes this adjustment recommended by ORS witness
23 Payne to disallow the Company to earn a return on the deferred costs

1 during the deferral period and not earn a return during the time period
2 when the costs are being recovered is discussed above. The Company also
3 opposes ORS witness Major's recommendation to disallow certain rate
4 cases expenses due to alleged insufficient documentation to support the
5 costs. The expenses being challenged are legal services provided by
6 outside counsel which are billed to the Company using an e-billing
7 system. Upon contacting the ORS to determine the level of detail they
8 would need to determine the documentation was sufficient, the Company
9 was informed that only a paper invoice would suffice. An e-billing system
10 has been utilized at Duke for the last several years. It is a commonly used
11 platform and not unusual for a large company to utilize for administrative
12 efficiency. Instead of paper invoices, outside vendors are given login
13 credentials to access the system where they input all relevant billing
14 information (date, matter, rate, hours, description of work performed, etc.)
15 directly into the system. Once the information is entered, the approving
16 attorney is prompted to access the system, review the information and
17 approve or deny the invoice. At all times, the information is provided,
18 communicated and stored electronically. When a data request is made to
19 review the billing data, the system exports the data to Microsoft Excel,
20 which is supplied as the response. For legal invoices, the descriptions of
21 work performed are reviewed for privileged information before providing.
22 During discussions with the ORS, the Company offered to provide
23 screenshots of the data in the system, redact the privileged information by

326-17

1 hand before submitting to them or have our vendors sign affidavits
2 attesting that they have reviewed the information the Company is
3 providing to the ORS and that it is true and accurate. At the time of this
4 testimony being finalized, the Company has not heard back from the ORS
5 but notes that its expenses were reasonably and prudently incurred and no
6 justifiable reason for disallowance has been given.

7 **Adjustment #29 – Adjust O&M for executive compensation**

8 The ORS agrees with the Company's adjustment to remove 50 percent of
9 the compensation of the four Duke Energy Executives with the highest
10 level of compensation allocated to DE Progress in the test period.
11 However, since ORS witness Major proposed to remove 50 percent of
12 incentives for all employees in adjustment #22, he added back the 50
13 percent of incentives for the top four executives in this adjustment. The
14 Company does not agree with ORS witness Major's recommendation
15 related to the incentive pay components for all employees, including
16 linemen, call center representatives, etc., for the reasons discussed by
17 Company witness Metzler. However, the Company excluded 50 percent of
18 the compensation, including incentives, of its top four executives in its
19 original filing, and I have kept that exclusion in this adjustment in
20 Bateman Rebuttal Exhibit 1, rather than moving it to Adjustment #22 as
21 ORS witness Major has.

22 **Adjustment #30 – Adjust for Customer Connect Project**

326-18

1 The Company has included costs related to its Customer Connect project
2 which will replace the Company's current billing system and is currently
3 planned to be placed in service in 2021 and 2022. Due to the nature of the
4 costs, a significant portion of the spending between now and the in-service
5 date will be O&M. The ORS has made two recommendations to the
6 Company's adjustment which the Company opposes. The Company's
7 opposition to the ORS recommendations regarding deferrals are discussed
8 earlier in my testimony. In addition, the ORS recommends removing the
9 Company's proposed increase to O&M. ORS witness Payne states these
10 costs should be removed because they are not known and measurable. As
11 stated in my direct testimony, these costs are based on signed contracts.
12 Portions of the costs are based on amounts specified in the contracts and
13 the remaining amount can be reasonably estimated based on the activities
14 the Company is obligated to in the contract. This is comparable to O&M
15 for a new generation plant. When a new plant is placed in service, the
16 Company is obligated to operate and maintain that plant and the
17 Company's obligation is known and can be reasonably measured. The
18 exact level of O&M is not known, but an approximate level can be
19 reasonably estimated based on experience operating similar plants. To
20 allow a utility no level of O&M in rates for the new plant would be
21 unreasonable. Similarly, to allow the Company no level of O&M, or solely
22 the amount in the test period of \$160,000, for Customer Connect would
23 also be unreasonable. At a minimum, the Company's actual O&M in 2018

1 of \$923,000 should be allowed. However, the Company believes its
2 proposed amount of \$1,387,000 is reasonable and should be allowed.
3 Company witness Hunsicker, in both her direct and rebuttal testimony,
4 details the benefits the system will provide to customers and the
5 Company's commitment to incur the costs through signed contracts.
6 Removing from this case the operating expenses needed to implement the
7 project is the same as denying the Company the opportunity to recover
8 those costs for a new billing system which no one has contested.

9 I will note that an alternative that would still allow the Company
10 to recover these costs is for the Commission to approve a continuation of
11 the deferral of the incremental operating expenses incurred related to the
12 Customer Connect project, including a carrying charge on the deferred
13 costs, until the Company's next general rate case. This would be a
14 reasonable alternative to the Company's adjustment related to Customer
15 Connect and would be similar to the treatment agreed to in partial
16 settlement and approved by the North Carolina Utilities Commission in
17 the Company's recent North Carolina rate case.²

18 **Adjustment #32 – Synchronize interest expense with end of period**
19 **rate base**

20 While the amounts calculated by the Company and ORS for this
21 adjustment are different based on other areas of disagreement, we agree on

² Order dated June 22, 2018, in North Carolina Utilities Commission Docket No. E-7 Sub 1146.

1 the concept of and the method used to calculate this adjustment.

2 **Adjustment #33 – Adjust 1/8 O&M for accounting and pro forma**
3 **adjustments**

4 The Company's rate base is adjusted to include the additional working
5 capital required as a result of the additional O&M expenses the Company
6 is proposing in this proceeding. ORS proposes an adjustment to working
7 capital which reflects ORS adjustments to O&M expenses. To the extent
8 that Company does not agree with certain of the ORS's proposed O&M
9 expense adjustments for the reasons discussed in my testimony, the
10 Company disagrees with the ORS's amount for this adjustment. However,
11 we agree on the concept of and the method used to calculate this
12 adjustment.

13 **Adjustment #36 – Remove Certain Expenses**

14 The Company opposes this adjustment. The ORS recommends removing
15 O&M expense of \$875,000, from the test period for costs ORS witness
16 Major characterized as "sponsorships, lobbying expenses, service awards,
17 advertising, coal ash litigation costs and other miscellaneous items." The
18 Company reviewed the same transactions that the ORS reviewed and has
19 agreed to remove \$97,000 from O&M expense. After the Company's
20 adjustment, there are no lobbying costs or image-building advertising
21 costs in this case.

1 However, the items in the ORS's adjustment the Company
2 disagrees with removing in this proceeding primarily fall into the
3 following categories:

4 1. **Employee incentives, service & safety awards, and any costs to**
5 **recognize and reward the Company's employees who serve our**
6 **customers.** The appropriateness of these costs is addressed in the
7 rebuttal testimony of Company witness Metzler.

8 2. **Lineman's Rodeo costs.** The Lineman's Rodeo is an industry
9 event where linemen share best practices and compete in events
10 where they have the opportunity to display and hone their skills as
11 linemen to provide reliable service (ex. Pole top rescue, proper
12 insulation techniques) to the benefit of our customers. Prior to the
13 event, linemen are training to prepare for the event, which has the
14 benefit of additional preparation for their jobs. The appropriateness
15 of these costs is addressed in the rebuttal testimony of Company
16 witness Metzler.

17 3. **Organization dues.** These membership dues for local South
18 Carolina Chambers of Commerce and other local South Carolina
19 organizations that promote economic development in South
20 Carolina, such as the Historic Marion Revitalization Association
21 and the Darlington Downtown Revitalization Association, are
22 appropriately included in the case. Chamber of Commerce
23 organizations promote policies, initiatives and principles that

1 benefit all citizens through economic investments, job creation and
2 retention, strong schools, and attracting and retaining business
3 development. As the Greater Florence Chamber of Commerce puts
4 it, its mission is to "Promote and enhance a favorable business
5 climate and improve the quality of life to make Florence the best
6 community in which to live and operate a business." Membership
7 in the various Chambers of Commerce and other Civic
8 organizations is an integral part of managing our business
9 responsibly on behalf of our customers and keeping in contact with
10 a very important segment of our customers.

11 Funds paid to these organizations that are not specified as a
12 donation or lobbying on the invoice are generally in support of
13 business, economic development and the communities we serve. It
14 is reasonable, as explained by Witness Gharthey-Tagoe, that the
15 Company participates in these organizations to best serve the
16 communities in which our customers live and in which we operate.

- 17 4. **Costs that are not 100 percent related to South Carolina.** The
18 ORS removed several transactions that it labeled as "not related to
19 SC." For example, the ORS removed registration fees paid to the
20 North Carolina Department of Motor Vehicles ("DMV") for
21 transmission vehicles. However, the ORS made no adjustment to
22 accept the full cost of fees paid to the South Carolina DMV that
23 were also allocated between North Carolina and South Carolina.

1 Transmission assets are considered system assets and the costs to
2 maintain those assets, including registration fees on company
3 vehicles, are appropriately allocated to all customers based on peak
4 demand. Therefore, the Company allocated the registration fees for
5 transmission vehicles paid to both the North Carolina and the
6 South Carolina Departments of Motor Vehicle to all customers
7 based on a transmission allocator. On other costs that could be
8 direct assigned by state, such as bill inserts, the ORS
9 recommended removing the costs for North Carolina bill inserts
10 that were allocated between North Carolina and South Carolina,
11 but did not recommend direct assigning 100 percent of the costs
12 for South Carolina bill inserts to South Carolina. If the ORS had
13 direct assigned both North Carolina and South Carolina bill insert
14 costs, it likely would have ended up in a similar place as the
15 Company achieved through applying an allocator based on number
16 of customers. The key point is that the ORS is focused on what
17 costs South Carolina customers should not pay, but ignores the
18 effect of that same logic on what costs South Carolina customers
19 should bear under that same theory.

20 5. **Timing differences.** The Company believes that the 2017 test year
21 amount requested for recovery in this proceeding is representative
22 of the Company's expenses for a 12-month period. The ORS
23 removed various transactions due to the invoice date and the date

326-24

1 the invoice was paid being in different calendar years. For
2 example, if the invoice was dated 2016 and paid in 2017 the ORS
3 removed the expense from the test year. However, this ignores the
4 fact that the Company uses accrual accounting. When the expenses
5 are incurred, the Company will accrue an estimated expense if the
6 amount meets a certain threshold per the Company's accrual
7 policy. Then, when the invoice is received and processed, which
8 may be the following calendar year, the Company reverses the
9 accrual and books the actual expense. This suggests the ORS
10 believes unless an expense is paid in the year it is incurred it
11 should not be recovered from customers, ignoring the concept of
12 accrual accounting in the removal of these expenses.

13 6. **Litigation expenses.** The Company opposes ORS witness Major's
14 recommendation to remove litigation expenses in this adjustment
15 for the reasons set forth in the rebuttal testimony of Company
16 witness Wright.

17 **Adjustment #40 – Customer Growth**

18 While the amounts calculated by the Company and ORS for this
19 adjustment are different based on other areas of disagreement, we agree on
20 the concept of and the method used to calculate this adjustment.

Remaining Adjustments Opposed by the Company

Q. OF THE REMAINING ADJUSTMENTS THAT THE COMPANY OPPOSES, WHICH ONES ARE RESPONDED TO BY OTHER COMPANY WITNESSES?

A. The following ORS adjustments from Audit Exhibit KLM-2, are responded to by other Company witnesses in rebuttal testimony

Debt cost rate of 4.06 percent

The Company has updated the cost of debt to 4.16 percent, reflecting the cost of debt financing through December 2018. This adjustment is further discussed in the rebuttal testimony of Company witness Sullivan.

Change in return on equity from 10.50 to 9.30 percent

The Company opposes this adjustment for the reasons set forth in the rebuttal testimony of Company witness Hevert.

Adjustment #15 - Adjust reserve for end of life nuclear costs

The Company opposes the ORS's position on this adjustment for the reasons set forth in the rebuttal testimony of Company witness Henderson.

Adjustment #28 – Adjust for credit card fees

The Company opposes the ORS's position on this adjustment for the reasons set forth in the rebuttal testimony of Company witness Quick.

Adjustment #38 – Adjust for Ongoing Payment Obligation

The Company opposes the ORS's position on this adjustment for the reasons set forth in the rebuttal testimony of Company witness Coppola.

326-26

1 **Adjustment #39 – Adjust for Nuclear Supplies and Materials**

2 **Adjustment**

3 The Company opposes the ORS's position on this adjustment for the
4 reasons set forth in the rebuttal testimony of Company witness Henderson.

5 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

6 **A. Yes.**

1 THE EXAMINATION BY MS. SMITH CONTINUES.

2 Q Thank you, Ms. Bateman. I have a couple of
3 additional questions for you.

4 A (BATEMAN) Uh-huh.

5 Q Six, to be exact. In the surrebuttal testimony of
6 ORS witness Payne, did he cite a number of rulings
7 from other state regulatory commissions regarding
8 deferrals in support of his position?

9 A (BATEMAN) Yes.

10 Q Those were not referenced in his direct testimony,
11 correct?

12 A (BATEMAN) Correct.

13 Q Do you have a reaction to those authorities?

14 A (BATEMAN) Yes. First of all, I would say the
15 states that Witness Payne cites and the authorities
16 that he cites, none of them support the position
17 that the ORS has taken in this case with respect to
18 deferrals. So the states that he cites -- he lists
19 criteria that should be used to approve deferrals
20 in certain states, and that's something that's more
21 appropriate to discuss in a generic docket. I will
22 point out that all of the deferrals that we're
23 talking about in this case have already been
24 approved by the Commission. And, looking at other
25 states to determine what criteria is appropriate

1 for South Carolina going forward is important, but
2 it should also be done in the context of a generic
3 docket, and it should also be done in such a way
4 that we can look at, for those states, do they have
5 future test years, do they have multi-year rate
6 plans, do they have multiple riders. Because those
7 items will impact what criteria is appropriate for
8 granting deferrals. And, so, I think this
9 Commission needs to look at what criteria's
10 appropriate for South Carolina given our regulatory
11 framework, and that's most appropriately done in
12 the generic docket.

13 Q Did Witness Payne also make reference, for the
14 first time, in his surrebuttal testimony, to
15 accounting authorities not including -- included in
16 his direct testimony? For example, accounting for
17 public utilities, the Deloitte manual, and a
18 certain newly cited quote from the "NARUC Rate Case
19 and Audit Manual"?

20 A (BATEMAN) Yes.

21 Q Do you have a response to the use of those
22 citations and their applicability to the issue of
23 deferrals?

24 A (BATEMAN) Yes. So, first of all, on Page 7 of Mr.
25 Payne's surrebuttal testimony, he cites two new

1 authorities: the "Deloitte Regulated Utilities
2 Manual" and the "FERC Electric Chart of Accounts."
3 And then he introduces some new criteria that I
4 think he thinks should be applied to deferrals,
5 that they should be unforeseen or outside of
6 management control. I want to be clear that that
7 criteria is nowhere in the references that he
8 cited. In fact, the Deloitte manual that he cites
9 specifically lists rate case expenses as an example
10 of a typical deferred cost. And, so, rate case
11 costs would not qualify for those criteria that Mr.
12 Payne is proposing, that deferrals be unforeseen or
13 outside of management control.

14 Q In his surrebuttal testimony, did Witness Payne
15 provide, for the first time, his -- his calculation
16 of the aggregate impact of the deferrals at -- at
17 issue from his point of view?

18 A (BATEMAN) Yes. He provided it from his point of
19 view.

20 Q Does the Company agree that this is the full
21 financial impact of the ORS recommendations on
22 deferrals?

23 A (BATEMAN) No. I would disagree with that. Mr.
24 Payne only calculates the annual impact, but the
25 Company will be experiencing that disallowance over

1 multiple years, so the total impact would be much
2 larger, and we calculate it at approximately three
3 times as much. And, in addition, the fact that an
4 impact is relatively small is not in and of itself
5 a legitimate reason for a disallowance, no more
6 than it would be a legitimate reason for a proposed
7 increase. Like if I were to introduce a pro forma
8 to increase expenses by \$900,000 and my sole
9 justification was that the impact was small, that
10 would not be reasonable.

11 And, finally, I do think while -- while he
12 calculates the impact of the deferrals that we're
13 talking about in this case, I do think it's
14 important that the Commission keep in mind that the
15 Company has over a \$150 million of deferred storm
16 costs and those deferred storm costs have been
17 removed from this case to mitigate the impact on
18 customers.

19 However, if the -- if the proposed logic that
20 the ORS has applied to deferrals in this case were
21 deferred -- were applied to those deferred storm
22 costs, meaning no return on the deferred costs
23 related to operating expenses, whether during the
24 deferral period or the amortization period, that
25 would be a huge impact to the Company. So we think

1 this is an important issue and -- and is
2 significant.

3 Q Did Mr. Payne also make statements on Page 8 for
4 the first time in surrebuttal alleging that "only
5 shareholders benefit from deferrals at the direct
6 expense of customers"?

7 A (BATEMAN) Yes. He did.

8 Q Do you agree with that statement?

9 A (BATEMAN) No. To say that customers have not
10 benefited from the deferrals in this case is simply
11 not true. Customers have benefited through the
12 money spent for the underlying costs plus customers
13 have benefited from delays of and mitigation of
14 rate increases that directly resulted from the
15 deferrals in this case.

16 And I think it would be helpful to provide a
17 little background on the deferrals that we're
18 talking about in this case. So if you look at the
19 Fukushima and cybersecurity deferral and the Harris
20 COLA deferred costs, these were both part of a 2013
21 deferral petition that specifically stated that the
22 deferrals would enable the Company to delay a rate
23 case filing. At the time, the ORS found value to
24 customers in that benefit and the Commission
25 approved the petition.

1 In the Company's last rate case, the Company
2 was able to mitigate the increase to customers in
3 that case by delaying recovery of and continuing
4 the deferrals for four of the deferred costs in
5 this case. The Fukushima cybersecurity deferral,
6 the Harris COLA balance, the 2014 storms, and the
7 coal ash deferral were all part of the settlement
8 in that rate case to defer recovery of those costs.
9 And the ORS was a party to that settlement.

10 Finally, in the last rate case settlement, we
11 agreed to a two-year stay-out and had the
12 expectation that we would be filing again for new
13 rates effective 1/1/2019 when the stay-out expired
14 to start collecting the costs that we had deferred.
15 However, last spring, the Company determined that
16 it could delay its rate case filing if it were able
17 to secure certain deferrals and file petitions for
18 deferral for costs related to Customer Connect, AMI
19 deployment, increases in depreciation rates, and
20 the grid improvement plan. The Commission approved
21 those petitions.

22 And even just a five-month delay in increasing
23 -- a five-month delay in the increase benefits
24 customers by anywhere from 10 million to 20
25 million, depending on the increase ultimately

1 approved by the Commission in the case. So to say
2 that customers have not benefited from the
3 deferrals, it's simply just not based on the facts
4 and not true.

5 Q Two more questions for you. As to Witness --
6 excuse me -- ORS witness Major's surrebuttal
7 testimony, Witness Major recounts a conversation
8 between the Company and ORS about rate case
9 expenses for the first time in surrebuttal; is that
10 correct?

11 A (BATEMAN) Yes.

12 Q Do you have a response to the recounting of that
13 conversation?

14 A (BATEMAN) Yes. So my understanding of that
15 conversation is very different. My understanding
16 is that the ORS asserted that only paper invoices
17 would be sufficient documentation for the legal
18 invoices related to rate case expenses. And I have
19 an e-mail from our attorney to the ORS attorney
20 that was sent after the phone conversation on March
21 1st, explaining the Company's e-billing system
22 offering a variety of options on how to provide the
23 information including screenshots and an affidavit
24 from the outside counsel --

25 MR. BATEMAN: Mr. Chairman, this is the

1 hearsay -- what Ms. Bateman's reading off of
2 currently and I would object to its
3 introduction into the record --

4 MS. SMITH: Would you --

5 MR. BATEMAN: -- as testimony.

6 MS. SMITH: Would you like for us to introduce
7 the e-mail?

8 MR. BATEMAN: Ms. Shirley-Smith, I would not
9 have -- I don't believe that Ms. Bateman could
10 authenticate the e-mail to be introduced.

11 WITNESS BATEMAN: I have a copy.

12 MS. SMITH: Would -- would you like to review
13 it?

14 MR. BATEMAN: I've seen the e-mail, but I
15 don't believe that either of these witnesses
16 could properly authenticate it to be
17 introduced into the record.

18 CHAIRMAN RANDALL: Okay. I'm going to
19 overrule the objection. I want to hear --
20 hear it, but very succinctly.

21 MR. BATEMAN: Mr. -- Mr. Chairman, if -- if I
22 may? The e-mail could be taken out of
23 context. I understand the overrule, but may
24 ORS be given the opportunity to present proper
25 -- proper context? I -- I don't have it on

1 me, but at some point in time during this

2 hearing?

3 CHAIRMAN RANDALL: Okay.

4 MR. BATEMAN: Thank you.

5 MS. SMITH: Okay.

6 THE EXAMINATION BY MS. SMITH CONTINUES.

7 A (BATEMAN) So, the e-mail from our attorney
8 explains the Company's e-billing system and offered
9 a variety of options on how to provide information
10 including screenshots and affidavits from outside
11 counsel. The ORS attorney responded that they
12 would discuss internally and get back to us. They
13 did not.

14 Our attorney sent a follow-up e-mail
15 confirming that we were waiting to hear back from
16 them on an acceptable format and the ORS attorney
17 never responded.

18 After reading the allegations in Mr. Major's
19 surrebuttal testimony that more detail was needed,
20 the Company provided -- has since provided this
21 detailed information requested by Mr. Major.
22 However, we have provided it in electronic format.

23 So I hope this resolves the issue. There is
24 still part of me that is unclear as to whether or
25 not the ORS will be satisfied with electronic

1 invoices.

2 Q Last one. Mr. Major also briefly addressed his
3 view of non-allowables in his direct testimony, but
4 in surrebuttal, did he make a number of specific
5 allegations --

6 A (BATEMAN) Yes.

7 Q -- about the ORS's view of non-allowables?

8 A (BATEMAN) Yes.

9 Q And could you respond to those?

10 A (BATEMAN) Yes. So, in surrebuttal, Witness Major
11 claimed that the ORS was recommending disallowance
12 of costs because the Company did not provide
13 sufficient documentation to support the
14 transactions. I will note that the Company
15 provided over 64,000 pages of documentation for
16 these transactions in question and our accounting
17 group spent over 1,000 hours pulling the
18 documentation and organizing it in a way to make it
19 easier to follow for the ORS.

20 When we received the response from the ORS,
21 after providing this huge volume of information,
22 the -- they stated the recommended disallowance and
23 their wholesale disallowance of all incentives, all
24 service and safety awards, all chambers memberships
25 at 50 percent. For the transactions that did have

1 individual explanations, the comment said,
2 "Recognition and reward: Not allowed. Coffee:
3 Not allowed. Decorations: Not allowed. Team
4 lunch: Not allowed." There was even one
5 transaction that was sunscreen for distribution
6 field crews: "Sunscreen: Not allowed."

7 This is not a case of lack of documentation,
8 but a case of different perspectives of what should
9 be recoverable. The Company believes that these
10 costs are just and reasonable in the provision of
11 electric service and should be recoverable.

12 And I did try to break down -- because I know
13 there are so many different transactions in this
14 category -- I did try to break down the costs a
15 little bit further just to provide some information
16 to the Commission. So, for example, the spot
17 bonuses for exceptional contribution awards, those
18 are approximately 117,000. The South Carolina
19 Chambers of Commerce and other South Carolina
20 economic development and community organizations,
21 that's approximately \$46,000. The lineman rodeo is
22 \$26,000. The service and safety awards are
23 \$32,000. The allocations issue that I address in
24 my rebuttal testimony is \$4,000. The timing
25 differences that I address in my rebuttal testimony

1 is 12,000. The -- there's a -- a general category
2 of "Recognition and Reward" not allowed, and this
3 would include the coffee and the decorations and
4 the team lunches, as well. That's about 40,000.
5 And then 97,000 was removed by the Company. And
6 the biggest category is the coal ash litigation
7 costs were -- were kind of added on at the very
8 end. They weren't part of the discussions that
9 Witness Major discusses in his surrebuttal. And
10 that's 390,000.

11 Q Thank you.

12 MS. SMITH: With that, Ms. Bateman and Mr.
13 Gharthey-Tagoe are available for questions.

14 CHAIRMAN RANDALL: Thank you. Okay. Walmart?

15 MS. GRUNDMANN: Yes, sir.

16 CHAIRMAN RANDALL: Ms. Grundmann.

17 MS. GRUNDMANN: Good afternoon. (To Mr.
18 Erskine) May I ask that the ELMO be on?

19 CROSS-EXAMINATION

20 BY MS. GRUNDMANN:

21 Q Good afternoon, Mr. Gharthey-Tagoe. I do, in fact,
22 have some questions about your summary provided. I
23 would like to direct your attention specifically to
24 Page 3 of your summary. It's that first full
25 sentence at the top of Page 3, and I believe here

1 you're talking about the returns on equity that
2 have been proposed by ORS and other parties in this
3 proceeding and you state that their "suggested
4 lower return on equity will put the Company at a
5 disadvantage in the capital markets and would be a
6 disservice to customers." Have I read that
7 correctly?

8 A (GHARTEY-TAGOE) That's correct.

9 Q I believe, and subject to check, that ORS initially
10 recommended a 9.3 ROE in these proceedings; is that
11 correct?

12 A (GHARTEY-TAGOE) That's correct.

13 Q And so when you say here that the ORS and other
14 parties suggested lower return on equity, can you
15 tell me what other parties you mean here?

16 A (GHARTEY-TAGOE) Walmart has certainly suggested a
17 lower return on equity. I believe SCEUC has as
18 well.

19 Q And do you, as you sit here today --

20 A (GHARTEY-TAGOE) South Carolina Energy Users.

21 Q I apologize..

22 A (GHARTEY-TAGOE) I'll move closer to the mic.

23 Q As -- as you sit here today, are you able to
24 recount what the recommendations were from those
25 parties?

1 A (GHARTEY-TAGOE) I believe Walmart was 9.67. I
2 don't recall what the SCEUC number -- I just know
3 it's lower than the 10.5 we've requested.
4 Q Okay. Thank you. And so -- you're -- it's your
5 position that any of the recommendations from any
6 of those parties is too low; is that fair?
7 A (GHARTEY-TAGOE) Yes.
8 Q And are you -- is it your position as you sit here
9 today that an ROE of that level would disadvantage
10 the Company in the capital markets?
11 A (GHARTEY-TAGOE) Yes.
12 Q And can you provide for me what evidence you have
13 to support that conclusion?
14 A (GHARTEY-TAGOE) The testimony of John Sullivan on
15 behalf of the Company and the testimony of Bob
16 Hevert on behalf of the Company.
17 Q And so if -- you believe that the testimony of
18 those two witnesses establishes that an ROE at a
19 level of 9.67 would be too low for the Company to
20 access the capital markets; is that correct?
21 A (GHARTEY-TAGOE) Yes. It will disadvantage the
22 Company. It's not a question of whether we can
23 access it, but the cost at which we would be
24 accessing it. So that's the point.
25 Q And is there any other basis or evidence within the

1 record that supports your statement here in your
2 opening statement?

3 A (GHARTEY-TAGOE) No. I fully rest on those two
4 testimonies.

5 Q Is it also your contention that the ROE necessary
6 for the Company to access the capital markets is at
7 10.5 percent ROE?

8 A (GHARTEY-TAGOE) Well, I'll put it this way:
9 Witness Hevert's testimony supports a range of
10 10.25 to, I believe, 11. He initially picked them
11 at a point of 10.75, and then in -- in an effort to
12 mitigate the impact on customers, we proposed a
13 case built on 10.5.

14 Q And so you -- the Company continues to support, as
15 you sit here today, the analysis that was done by
16 Mr. Hevert as part of this proceeding?

17 A (GHARTEY-TAGOE) Yes.

18 Q And you were present at the rate case hearing
19 involving DEC, were you not?

20 A (GHARTEY-TAGOE) I was.

21 Q And you saw that -- that Mr. Hevert was asked some
22 questions on cross-exam about whether or not his
23 proposed ROE had ever really been adopted by other
24 commissions in cases where he had offered
25 testimony. Do you recall that line of questioning?

1 A (GHARTEY-TAGOE) Generally, I do, yes.

2 Q And do you recall whether the -- his response to
3 the ORS discovery request or his responses to my
4 questioning in that particular proceeding that he
5 acknowledged that there were no instances where his
6 proposed ROE has been adopted in recent years?

7 A (GHARTEY-TAGOE) I -- I recall him saying that
8 there were some that were adopted that were within
9 his range of reasonableness.

10 Q And so none of that testimony has altered -- wait.

11 Let me re-ask that question. None of the
12 testimony or questions that Mr. Hevert provided at
13 the DEC hearing have changed your understanding or
14 belief as to the appropriate ROE to seek in these
15 proceedings; is that fair?

16 A (GHARTEY-TAGOE) That is fair. No. Our position
17 has not changed.

18 Q And do you believe -- so I guess it's also correct
19 to the extent that you support Mr. Hevert's
20 testimony, that you believe that you are presently
21 disadvantaged in the market in terms of accessing
22 capital markets; isn't that true?

23 A (GHARTEY-TAGOE) Yes. To the extent that we're not
24 earning our current allowed return for DEP, it's
25 10.1 percent.

1 In this case, we have -- I'll tell you, we
2 filed quarterly surveillance reports with this
3 Commission reflecting how much we're earning on
4 return on equity. I can assure you we have never
5 earned that 10.1 percent since it was allowed to
6 us.

7 Q Has this case --

8 A (GHARTEY-TAGOE) In this case, part of why we're
9 filing this case is because our overall return on
10 rate base is 4.1 percent, I believe.

11 Q Help me understand, Mr. Gharthey-Tagoe, what about
12 those reports that you've just mentioned warrant an
13 increase in your current return --

14 A (GHARTEY-TAGOE) The only --

15 Q -- from what's currently set up?

16 A (GHARTEY-TAGOE) Yeah. They all -- they all
17 suggest that the Company is not earning a fair rate
18 of return. And, again, every time you come in for
19 a rate case, you -- you know, I think Witness
20 Hevert will say it better than I'm doing and did a
21 better job the last time around, you do an analysis
22 based on current facts and circumstances. All
23 right? So the fact that -- I can tell you there
24 was a time when the Company was allowed to earn
25 more than 12 percent. It doesn't mean that today's

1 number is 12 percent. No. So every time you come
2 in for a rate case, you do another analysis of what
3 the appropriate return on equity should be.

4 Again, we're setting rates prospectively.

5 We're not setting rates retroactively. So his
6 analysis in the context of this case shows that
7 10.75 or the 10.5 we have requested in this case is
8 appropriate.

9 Q So you -- you've generated at least two questions
10 for me. I -- I don't think that your response just
11 now was responsive to my earlier question.

12 What I'm attempting to understand is what
13 evidence is before this Commission, as we sit here
14 today, that justifies an increase from your current
15 ROE of 10.1 to either the 10.75 that Mr. Hevert has
16 proposed, or the lower 10.5 that the Company has
17 indicated it would accept?

18 A (GHARTEY-TAGOE) I will tell you my answer was
19 fully responsive to the extent that I explained to
20 you Witness Hevert did an analysis based on today's
21 facts and circumstances that show that the
22 appropriate reasonable range for a return on equity
23 is 10.25 to 11 percent. And he proposed a 10.75,
24 and we are only asking for a 10.5 in this case.
25 There's abundant evidence in the record, based on

1 the testimony that he will take the stand to
2 support in a few days.

3 Q And so, do you believe that we should look to Mr.
4 Hevert's recommendation as better evidence of the
5 appropriate ROE, or do you think that ROE's
6 actually adopted by commissions is a better
7 indicator of the appropriate return on equity?

8 A (GHARTEY-TAGOE) I think the Commission should look
9 at the evidence presented in this case. I think
10 the law actually prevents the Commission from just
11 looking around the country and saying, "This
12 utility's costs for X is \$10. So that should be
13 Duke Energy's cost. This utility's cost for
14 putting out poles and wires is \$20, so that should
15 be Duke Energy's costs." I think the law requires
16 the Commission to determine Duke Energy's specific
17 costs.

18 ROE is a cost. It's the cost for raising
19 equity capital. And although there is no science
20 -- or it's both a combination of art and science.
21 I don't think you can go into the marketplace and
22 say -- pinpoint, "This is the cost."

23 That's why commissions depend on experts to
24 evaluate the marketplace. They use proxy groups;
25 they use different methodologies and come up with

1 recommendations. And it's up to the Commission,
2 which is an expert in itself, to determine what
3 that number should be.

4 Q Mr. Gharthey-Tagoe, I'm trying to understand how
5 your current testimony squares with your -- the
6 Company's willingness to accept a 9.9 ROE in North
7 Carolina. You're not contending that when you
8 accepted that 9.9 as part of the stipulation
9 entered in that case that that number was somehow
10 not a fair return for the Company to earn, were
11 you?

12 A (GHARTEY-TAGOE) No. I'm saying, in -- in that
13 case, and let's put it in context: It was a
14 settlement agreement including that and some other
15 things, right? So in a settlement, perhaps I may
16 agree to a 9.9. But we're not settling that issue
17 or, you know, a combination of issues that were
18 settled back then, and this -- and -- and that's
19 why -- again, in that case, too, Witness Hevert
20 supported a range and -- like he's doing in this
21 case. And I'm -- we're -- we believe what he's
22 recommended is reasonable. And -- and it's up to
23 the Commission to decide.

24 Q Thank you, Mr. Gharthey-Tagoe.

25 A (GHARTEY-TAGOE) Thank you.

1 CHAIRMAN RANDALL: Okay. All right. Since
2 it's 12:26, I believe we're going to go ahead
3 and break for lunch. And we will be back at
4 -- let's shoot for 1:38.

5 (Witnesses stood aside)

6 (Off the record from 12:26 p.m.
7 until 1:38 p.m.)

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 AFTERNOON PROCEEDINGS

2 CHAIRMAN RANDALL: Okay. Welcome back,
3 everybody. Let's see. We'll call this
4 hearing back to order, and I believe we are at
5 cross-examination by Vote Solar, Mr. Culley.

6 MR. CULLEY: All right. Thank you, Mr.
7 Chairman.

8 THEREUPON came,

9 KODWO GHARTEY-TAGOE,

10 LAURA A. BATEMAN,

11 re-called as witnesses, who, having been previously duly
12 affirmed, were examined and further testified as
13 follows:

14 CROSS-EXAMINATION

15 BY MR. CULLEY:

16 Q And good afternoon.

17 A (GHARTEY-TAGOE) Good afternoon, sir.

18 A (BATEMAN) Good afternoon.

19 Q Ms. Bateman, I'm sorry, I don't have any -- I
20 didn't come with anything for you today, so you can
21 have a little relaxation spell here.

22 A (BATEMAN) That is fine.

23 Q And Mr. Gharthey-Tagoe, I wanted to just ask you a
24 few things. You remember we had a conversation not
25 more than a week or two ago.

1 A I do.

2 Q And I had some questions about your decision-
3 making, in particular, on the decision to switch
4 from the basic customer method to the minimum
5 system method. Do you remember that?

6 A I do.

7 Q And also, the decision to attempt to collect 100
8 percent of the customer-related costs in the BFC.
9 You remember that as well?

10 A I do.

11 Q Okay. Now, are you aware that your rate design
12 witnesses in both of the DEC and the -- and this
13 case, in their rebuttal testimony, recommended, or
14 at least acknowledged, that a residential demand
15 charge might be appropriate?

16 A Yes. But I -- I don't think that was a
17 recommendation to be implemented in this case.

18 Q Okay.

19 A They were just carrying the argument being made by
20 some other intervenors to the logical conclusion.

21 Q Okay.

22 A But that's not what we recommended in this case.

23 Q And was that a decision by those witnesses
24 individually, or was that a decision that you made
25 to include that in their testimony?

1 A No. I think -- again, I think it was by the
2 witnesses to explain what happens if you accept the
3 arguments being made by the intervenors.

4 Q Okay. But as -- as you sit here today, you could
5 say it's -- it's not the position of the Company
6 that in the next rate case you're going to seek a
7 demand charge for residential customers?

8 A I'd say, no, I haven't thought about a next case.
9 Trust me.

10 Q Okay. And I -- I believe we had some exchange
11 about whether a decision had been made at this
12 point to collect 100 percent of the customer cost
13 through the BFC in the future, and would you still
14 say that's the case? You have not made a decision
15 whether that will be the policy of the Company?

16 A Yes. We haven't made a decision, but I'll tell you
17 this: I mean, given how this has played out, I do
18 agree that we -- we should be -- I should have been
19 more intentional about moving towards the
20 appropriate basic facilities charge in a more
21 gradual manner.

22 Q Okay. Thank you for that. And that brings me to
23 Page 4 of your summary today. I -- I believe
24 actually to be precise was this -- yeah. This is a
25 combined summary. So Page 4, kind of this third to

1 last paragraph there. I'll just read it. "In
2 ongoing conversations with customers, and listening
3 to testimony at public hearings, and after reading
4 relevant testimony and comments filed by
5 intervenors and customers, we continue to hear the
6 concerns of our customers." So would you agree
7 that in making adjustments to BFC in this case, you
8 were being reactive?

9 A Yes. The new position, yes.

10 Q And are there steps that you could take before the
11 next case to be proactive in determining what
12 customers want to see in the -- in their rate
13 schedules?

14 A We -- we could certainly have focus groups and that
15 kind of thing. You know, we do talk to customers
16 all the time, and, you know, large customers,
17 small/medium business customers, residential
18 customers.

19 Q Right.

20 A But I'll tell you residential customers typically
21 are not focused on rate design, at least the ones I
22 talk to.

23 Q Uh-huh.

24 A They're focused on, "What's my total bill?"

25 Q Now, speaking of residential customers, are you

1 familiar with a study that was commissioned -- Duke
2 was one of the -- Duke Energy was one of the
3 utilities. I think it was a combination of five
4 other utilities that participated in this. It was
5 EPRI, E-P-R-I. Are you familiar with that study?

6 A No.

7 Q Okay. So that --

8 A I'm familiar with EPRI --

9 Q Okay.

10 A -- but not that study.

11 Q Okay. So you have not reviewed the results of that
12 study?

13 A No.

14 Q Okay.

15 A I have not.

16 Q So none of the decisions you made about adjusting
17 the BFC in this case depended on any -- any results
18 from that because you have not seen that?

19 A No.

20 Q Okay.

21 MR. CULLEY: I think -- I think I have no more
22 questions. So thank you -- actually --
23 actually, I do have one more question.

24 Q Who would be the most appropriate witness to
25 discuss that study with? Do you know?

1 A Steve Wheeler, maybe.

2 MR. CULLEY: All right. Thank you. No more

3 questions.

4 CHAIRMAN RANDALL: Thank you. NAACP, SCCL,

5 Upstate Forever. Mr. Neal.

6 MR. NEAL: Thank you, Mr. Chairman. (To Mr.

7 Erskine) And is -- is the ELMO overhead

8 projector on?

9 MR. ERSKINE: (Indicates)

10 MR. NEAL: Okay, great. Thank you.

11 CHAIRMAN RANDALL: Glad we're going to get to

12 use the ELMO.

13 MR. NEAL: Oh, we're going to try. We're

14 going to try.

15 CHAIRMAN RANDALL: I kept my grandson the

16 other night. Did you know that you can watch

17 Elmo, the fuzzy red one, at two o'clock in the

18 morning?

19 MR. NEAL: I don't think this ELMO can be

20 tickled, but we'll see.

21 CROSS-EXAMINATION

22 BY MR. NEAL:

23 Q So Mr. Gharthey-Tagoe, it's good to see you again.

24 A Good to see you, too, sir.

25 Q Similar to Mr. Culley, I think it's inherent there

1 might be some questions today that -- that'll be
2 reminiscent of a discussion we had in the Duke
3 Carolinas rate case, so bear with me.

4 Just to start, you would agree that the -- the
5 burden is on your company in this case to justify
6 its proposed rate increases; isn't that right?

7 A I agree with that.

8 Q And -- and I think we got to this last time. I'll
9 just make sure. You would agree that the only
10 justification that your company has provided for
11 the increase in the basic facilities charge came
12 from the use of the minimum system methodology in
13 the cost-of-service study; isn't that right?

14 A I would say the -- you know, and Witness Wheeler
15 explains the justification for the level of basic
16 facilities charge we initially proposed and it's
17 multi-fold. One is to eliminate the cross-
18 subsidization that we viewed existed in the class.
19 The other was to send the appropriate price
20 signals. And I know the debate is about how you
21 get there, and the methodology that was -- that
22 underlies this, but those were the motivating
23 factors among other things, too.

24 Q But you don't see a cross-subsidization of the
25 nature that Mr. Wheeler described unless you use

1 the minimum system methodology; isn't that right?

2 A Well, not to the degree you see in this case. Yes.

3 Q In fact, and just to draw a line under this,
4 outside of the use of that methodology, can you
5 point to any other basis for the Company's initial
6 proposal to take the basic facilities charge to
7 \$29.00?

8 A No. The minimum system study is what supports it,
9 yes.

10 Q Thank you. And sort of continuing on another
11 theme, is it fair to say that you were surprised by
12 some of the public outcry to the initial proposed
13 increase in the basic facilities charge?

14 A That's fair to say, yes.

15 Q And, Mr. Gharthey-Tagoe, who -- who at Duke Energy
16 Progress was responsible for studying the potential
17 impact of that increase, basic facilities charge,
18 on residential customers?

19 A Well, I'm not sure there was a "study" conducted.
20 I mean, I think every time you design rates, you
21 look at the basic principles that have been
22 articulated here and -- and in other places. I
23 think Bonbright is one that was cited in one of the
24 testimonies in this case. And -- and they lay out
25 those principles. So we keep that in mind. I know

1 those are not necessarily "rules," but you keep
2 those things in mind as you design rates. But,
3 again, keep in mind you're also designing rates for
4 an entire class.

5 Q Uh-huh.

6 A You know, one of those principles, too, is that one
7 class is not benefited unfairly to the expense of
8 another group of customers, you know, so you try to
9 factor all that in. But, no, we did not go hire
10 anybody or put a particular team together to go
11 door-to-door trying to find out, you know, the
12 reaction that we would get in this case.

13 Q So it's -- as I understand your answer, there was
14 nobody at the Company who took it upon themselves
15 to evaluate how that proposed increase might affect
16 residential customers or their ability to pay their
17 bills?

18 A No. I think we considered it. But, I'm saying,
19 you mentioned a "study." And maybe I'm thinking of
20 a study as something more comprehensive and
21 intricate than you mean it. But we did think about
22 how would this impact customers.

23 Q I guess what I'm trying to figure out is you were
24 surprised by the public reception, and so what I'm
25 really trying to get at is who at the Company might

1 have helped you be prepared for the reception that
2 you got? Who -- who might have analyzed how that
3 could have impacted the residential customers?

4 A No. Not -- we didn't do that kind of an analysis
5 or a study. I mean, we did --

6 Q Okay.

7 A I mean, we've been in enough rate cases to know
8 changes in the basic facilities charge are always
9 unpopular.

10 Q And you testified in your direct, back on Page 26,
11 that even with the proposed rate adjustment, even
12 with the initial basic facilities charge, that
13 customers would pay competitive rates. Do you
14 recall that?

15 A Yes.

16 Q And -- and, again, we've had this discussion in the
17 Duke Carolinas case, you recognize that the basic
18 facilities charge initially proposed would have
19 been the highest in the country for an investor-
20 owned utility?

21 A Well, I -- I heard that from a witness, but, again,
22 you know, I think customers tend to focus on their
23 total bill or the average rate. When you do rate
24 comparisons, that's typically what you see.

25 Q Well, and -- and you also referenced, I believe, in

1 your summary and the surrebuttal testimony of ORS
2 witness Seamen-Huynh -- are you familiar with --
3 let me see if I -- I'm going to have to zoom this
4 in. Hold on. All right.

5 Are you -- are you familiar with the
6 surrebuttal exhibit that Mr. Seamen-Huynh provided
7 with his testimony? Exhibit MSH-5 from his
8 surrebuttal?

9 A Yes. I saw that.

10 Q And so you saw that where it says the "DEP
11 (Schedule RES) (Company Proposed)," on the second
12 line of \$140.39 for -- and again, this is for a --
13 what was described as a typical customer that uses
14 1,000 kilowatt-hours a month, that that is \$15.00
15 -- approximately \$15.00 higher than the South
16 Atlantic 2017 average -- again, from the total
17 bill.

18 A (GHARTEY-TAGOE) Yeah.

19 Q Do you see that?

20 A (GHARTEY-TAGOE) I do.

21 Q Another discussion that we had in the DEC case was
22 about an area of concern that you repeated in your
23 rebuttal testimony in this case, and this was a
24 concern that you expressed that parties seem to
25 assume the change in the basic facilities charge is

1 additive. Do you recall that discussion?

2 A (GHARTEY-TAGOE) Yes.

3 Q And you would agree with me that there's nothing in
4 the testimony of either Mr. Wallach or Mr. Howat in
5 this case that indicated that confusion; isn't that
6 right?

7 A (GHARTEY-TAGOE) Yes.

8 Q You also testified that there -- a benefit of the
9 220 percent increase in the fixed charges is that
10 it would -- and I'm quoting -- "reduce volumetric
11 swings," and again, quoting, "have a smoothing
12 effect on rates." Do you recall your testimony to
13 that effect?

14 A (GHARTEY-TAGOE) I do.

15 Q But the Company's proposed increase in fixed
16 charges doesn't eliminate seasonal fluctuation in
17 bills, does it?

18 A (GHARTEY-TAGOE) No. I think the operative word
19 you used was "reduce."

20 Q Uh-huh. And the Company already offers a way for
21 customers to smooth out their bills, one that
22 doesn't involve increasing the basic facilities
23 charge at all; isn't that right?

24 A (GHARTEY-TAGOE) I suppose you mean the equal
25 payment plan, for example?

1 Q Yes.

2 A (GHARTEY-TAGOE) Yeah.

3 Q Because that -- and so you testified, on Page 30 of
4 your direct, that the equal payment plan allows
5 customers to spread out the impacts of seasonal
6 fluctuations into 12 equal monthly payments; isn't
7 that right?

8 A (GHARTEY-TAGOE) Yes. But I would say not all
9 customers participate in the equal payment plan.

10 Q But it's open to all residential customers?

11 A (GHARTEY-TAGOE) It is open to all customers, yes.

12 Q Switching to some of the comments made, I guess, in
13 your direct, responding to some of the comments
14 from the public hearings, is it fair to say you --
15 you describe the Company's investments in low-
16 income energy-efficiency programs, like the
17 Neighborhood Energy Saver, as a way that the
18 Company is trying to mitigate rate impacts?

19 A (GHARTEY-TAGOE) Yes.

20 Q And do you recall, in the testimony of John Howat,
21 a reference to a study by the American -- sorry --
22 I feel like this is really loud -- American Counsel
23 for Energy Efficient Economy that reviewed the 51
24 largest investor-owned utilities in the country?
25 Do you recall his testimony to that effect?

1 A (GHARTEY-TAGOE) Generally, I do, not specifics.

2 Q And you would agree that the energy-efficiency
3 programs that Duke Energy Progress offers in South
4 Carolina are the same as the programs they offer in
5 North Carolina?

6 A (GHARTEY-TAGOE) Yes.

7 Q And so you are aware that the 2017 utility energy-
8 efficiency score card from the American Counsel for
9 an Energy Efficient Economy, or ACEE, rated Duke
10 Energy Progress North Carolina among the bottom of
11 all the 51 utilities in terms of its investment in
12 low-income energy-efficiency programs?

13 A (GHARTEY-TAGOE) I am not aware of that. I do know
14 that Duke Energy was recently named, actually by an
15 environmental group -- I don't have it with me --
16 as among the best in energy-efficiency programs.

17 Q And, again, I'm referring specifically to the --
18 the Duke Energy Progress low income or income-
19 qualified energy-efficiency programs.

20 A (GHARTEY-TAGOE) Yeah. I'm not aware of the study
21 you're referring to.

22 Q You also testified, in your rebuttal, that the
23 proposed basic facilities charge ensures that other
24 customers are not subsidizing low-use -- low-usage
25 customers, such as customers with vacation or

1 second homes. Do you recall that?

2 A (GHARTEY-TAGOE) I do.

3 Q But you don't have any information about how many

4 of your residential accounts are for second homes,

5 do you?

6 A (GHARTEY-TAGOE) I don't. I mean, I --

7 Q Or vacation homes, right?

8 A (GHARTEY-TAGOE) No. But we know they exist.

9 Q They exist. But you don't have any data about how

10 many there are in your service territory?

11 A (GHARTEY-TAGOE) No.

12 Q And -- but you do have some data about how many of

13 your residential customers are -- are economically

14 impoverished, don't you?

15 A (GHARTEY-TAGOE) Well, I know -- I believe it's

16 Witness Wheeler who does an analysis on rebuttal

17 using some internally generated studies, using

18 \$30,000 as some threshold.

19 Q Uh-huh.

20 A (GHARTEY-TAGOE) So I know we've done some of that

21 type of analysis, yes. But we certainly -- when a

22 customer signs up for service, we don't ask them

23 whether you're low income or high.

24 Q And was the analysis that you just referred to from

25 Mr. Wheeler, was that done before the Company

1 proposed the 220 percent increase in the basic
2 facilities charge or somewhere later down the road?
3 A (GHARTEY-TAGOE) No, no, no. I believe it was done
4 before, and you can verify that with him.
5 Q Okay.
6 A (GHARTEY-TAGOE) Yeah.
7 Q And -- but as president of -- of Duke Energy in
8 South Carolina, are you aware of the demographics
9 of the residential customers in the Progress
10 service territory?
11 A (GHARTEY-TAGOE) Generally aware of it, yes. I
12 travel the territory regularly.
13 Q Would you be surprised that 36.5 percent of the
14 residential population in the Progress territory in
15 South Carolina is at or below 150 percent of the
16 federal poverty level?
17 A (GHARTEY-TAGOE) I would not.
18 Q And would you agree that that's higher than South
19 Carolina as a whole?
20 A (GHARTEY-TAGOE) I don't know that for a fact, but
21 that wouldn't surprise me.
22 Q And, again, you -- you referenced some of the --
23 the -- that chart that was in Mr. Wheeler's
24 rebuttal. This was -- is this what you were
25 referring to?

1 A (GHARTEY-TAGOE) Yes.

2 Q The -- and again, as -- as I understand your
3 testimony, this chart -- or this information was
4 available to the Company before they made their
5 decision to increase the basic facilities charge;
6 is that right?

7 A (GHARTEY-TAGOE) Yes. I believe so.

8 Q And so that means the Company had this information
9 of -- of households where they're -- are earning
10 \$30,000 a year or less that are using anywhere from
11 100 kilowatt-hours a month, 200 kilowatt-hours a
12 month, or 300 kilowatt-hours a month, right? I
13 mean, just -- that's part of what this is showing?

14 A (GHARTEY-TAGOE) Yes.

15 Q And so you -- and you recognize that the original
16 proposal for customers in that -- you know, for --
17 for customers who are using about 300 kilowatt-
18 hours a month would've seen those bills go up by 50
19 percent or more just from the basic facilities
20 charge?

21 A (GHARTEY-TAGOE) Yes.

22 Q And do you know how many of those DEP customers who
23 earned less than \$30,000 a year are disconnected
24 for inability to pay?

25 A (GHARTEY-TAGOE) I do not know that.

1 Q And do you know how many are charged late fees?

2 A (GHARTEY-TAGOE) I do not know that.

3 Q Do you know how many of those customers are behind

4 in paying their utility bills?

5 A (GHARTEY-TAGOE) I do not know that.

6 Q All right. All right. Finally, returning again to

7 the theme of some of the steps the Company has

8 taken to mitigate ratepayer impacts, you also

9 mentioned some of the charitable programs the

10 Company has undertaken; isn't that right?

11 A (GHARTEY-TAGOE) I do, yes.

12 Q And, again, are you familiar with a program that

13 Duke Energy Progress and Carolinas in North

14 Carolina has undertaken called the "Helping Home

15 Fund"?

16 A (GHARTEY-TAGOE) Yes.

17 Q And I believe, Ms. Bateman, you're also familiar

18 with the Helping Home Fund?

19 A (BATEMAN) Generally.

20 Q And I believe -- and you can correct me if I'm

21 wrong -- that, initially, Duke Energy Progress made

22 a \$10 million contribution at the launch of the

23 Helping Home Fund, which is a program that augments

24 the weatherization assistance programs --

25 weatherization -- whole house weatherization

1 efforts in North Carolina; isn't that right?

2 A (BATEMAN) I don't know the exact amount, but I do
3 know that there was a settlement in our 2012 North
4 Carolina rate case that did include reversing some
5 costs of removal liability the -- from the Company
6 and making a donation to that account.

7 Q And -- and, Ms. Bateman, are you aware of
8 additional shareholder contributions that've been
9 made by Duke Energy Progress to the Helping Home
10 Fund since that time?

11 A (BATEMAN) I'm not personally familiar, but it
12 wouldn't surprise me.

13 Q And again, Mr. Ghartey-Tagoe, have you considered
14 the possibility of Duke Energy Progress in South
15 Carolina making a similar kind of contribution from
16 shareholder funds to something like a Helping Home
17 Fund to -- to improve weatherization assistance to
18 low-income customers?

19 A (GHARTEY-TAGOE) I have not, not at this time. But
20 I will say, most of the time, those are in the
21 context of a settlement, you know, and trying to
22 resolve a whole case, so they -- all those become
23 factors, you know, in consideration of whether to
24 settle the case and so forth and so on.

25 MR. NEAL: Thank you. I have no further

1 questions.

2 CHAIRMAN RANDALL: Thank you. Sierra Club?

3 MR. GUILD: Thank you, Mr. Chairman.

4 CHAIRMAN RANDALL: Mr. Guild, I wouldn't think
5 we'd count you as the farm team, so . . .

6 MR. GUILD: I demoted myself, Mr. Chairman.

7 We --

8 CHAIRMAN RANDALL: I hear you.

9 MR. GUILD: -- had some help from out of state
10 that was good.

11 CROSS-EXAMINATION

12 BY MR. GUILD:

13 Q Good afternoon, Mr. Gharthey-Tagoe.

14 A (GHARTEY-TAGOE) Good afternoon.

15 Q Pleasure to have an opportunity to talk to you this
16 afternoon. Well, some of what we experience is
17 kind of déjà vu, because you testified in the
18 Carolinas case and many of us either actively
19 participated or, like myself, got to enjoy
20 listening to your testimony and that of others.

21 But time marches on, and, so I have some new
22 material for you that reflects events that have
23 transpired since we last had an opportunity to
24 talk. Fair to say, isn't it, that your testimony,
25 even before the night hearings, reflected your

1 recognition of the magnitude of the impact of your
2 proposed rate hikes on your residential customers?

3 A (GHARTEY-TAGOE) Yes.

4 Q And that, even before the night hearings, you
5 recognized and expressed the eagerness to take
6 steps to mitigate those impacts on customers?

7 A (GHARTEY-TAGOE) That's correct.

8 Q Can we agree that a significant portion of the
9 costs that are behind this proposed increase are
10 reflected in the cost to manage your coal plant
11 coal ash or your coal combustion residuals?

12 A (GHARTEY-TAGOE) Yes. It is a significant portion
13 of our request.

14 Q All right. And a portion of your testimony's
15 references to mitigation measures was, in this
16 case, you propose to spread some \$50 million of
17 coal ash management costs over a period of five
18 years instead of imposing them in a single year,
19 correct?

20 A (GHARTEY-TAGOE) That's correct.

21 Q But that \$50 million in coal ash residual
22 management costs reflects only costs that have
23 incurred by your company up to a certain date, not
24 costs that are continuing or costs that are
25 expected in the future, correct?

1 A (GHARTEY-TAGOE) That's correct.

2 Q And do you -- do you know offhand what the cutoff

3 date was from that \$50-million figure, roughly?

4 A (BATEMAN) December 2018.

5 A (GHARTEY-TAGOE) It was in 2018.

6 Q The end of the test year?

7 A (GHARTEY-TAGOE) No.

8 A (BATEMAN) No. The end of the test period is

9 December 2017.

10 Q Oh, I'm sorry. You're right. Okay. So you -- you

11 have brought them up to the most recent end-of-

12 calendar year?

13 A (BATEMAN) We included -- in my supplemental

14 testimony, I included actuals through December

15 2018.

16 Q Fine. Thank you. Now, that brings us to sort of

17 where we left off after the Duke Energy Carolinas

18 proceeding, because, on the 1st of April, the North

19 Carolina Department of Environmental Quality issued

20 orders that require significant additional costs in

21 terms of managing coal combustion residuals at

22 several identified coal ash ponds in North

23 Carolina; isn't that correct?

24 A (GHARTEY-TAGOE) That's correct.

25 Q All right. And I'm glad we have our friend, the

1 ELMO, here, because I'm going to put up a
2 screenshot of your -- this is Duke -- a Duke Energy
3 release -- dated press release, at least a web -- a
4 screenshot from the web, April 1st, 2019 responding
5 to those orders by the North Carolina DEQ. Are you
6 familiar with the fact the Company issued a release
7 on that date?

8 A (GHARTEY-TAGOE) Yes.

9 Q Okay. And I want to draw your attention to --
10 again, if I could make this work -- I've got a
11 yellow highlight -- and let me see if I can dial
12 this in. Can you read that --

13 A (GHARTEY-TAGOE) No, sir.

14 Q -- yellow highlight?

15 A (GHARTEY-TAGOE) No, sir.

16 Q This is a test. Okay. And I can't, either.

17 A (GHARTEY-TAGOE) I wish I had brought my distance
18 glasses, but I did not today.

19 Q Well, it's just aging eyes on my part, but I will,
20 then, snatch this back and read it so I -- I can
21 focus as well, and just ask if you'd accept,
22 subject to check, this was the Company's
23 publication on that subject at that time. "Based
24 on current estimates and closure time frames,
25 excavating these basins will add approximately 4

1 billion to 5 billion to the current estimate of 5.6
2 billion for the Carolinas." That is the cost of
3 coal combustion residuals remediation? You have to
4 answer orally so she can pick you up. Is that
5 right?

6 A (GHARTEY-TAGOE) Well, I'm not sure what the
7 question was.

8 Q Oh, I'm sorry. That is the Company's statement, is
9 it not?

10 A (GHARTEY-TAGOE) It is.

11 Q Okay. Sorry. Now, just to round it out today, the
12 Company announced that you are appealing that
13 decision -- those decisions, correct?

14 A (GHARTEY-TAGOE) That's correct.

15 Q Okay. And can we agree that that -- those
16 decisions involved some six remaining coal ash
17 ponds in North Carolina?

18 A (GHARTEY-TAGOE) Correct.

19 Q All right. And I'm just going to read them. Allen
20 Active and Retired Ash Basins; that's one of
21 them -- or two of them, correct?

22 A (GHARTEY-TAGOE) Correct.

23 Q Belews Creek, Cliffside/Rogers Active, correct?

24 A (GHARTEY-TAGOE) Correct. Correct.

25 Q Unit 5 Ash Basins, Marshall, Mayo, Roxboro East and

1 West Ash Basins, correct?

2 A (GHARTEY-TAGOE) Correct.

3 Q Located in seven counties in North Carolina spread

4 across your service territory, correct?

5 A (GHARTEY-TAGOE) Correct. Not all of them are in

6 Duke Energy Progress service territory.

7 Q No. But they're in Duke Energy territory, correct?

8 A (GHARTEY-TAGOE) They are.

9 Q Okay. Understood. Now, if I understand the

10 technology, I just want to briefly try to reach an

11 understanding the -- for the -- with the Commission

12 about what this involved. Coal plants generally

13 are located next to rivers or streams because they

14 need a source of cooling water, correct?

15 A (GHARTEY-TAGOE) Generally, yes. You know, I'll

16 say, you know, we have Witness Kerin coming up,

17 Witness Julie Turner. They know more about how to

18 run coal plants.

19 Q And -- and my co-counsel knows more --

20 A (GHARTEY-TAGOE) So . . .

21 Q -- about them too, so maybe she'll have a chance to

22 ask those people questions. But, just between you

23 and me, on a higher order, the coal ash ponds are

24 also located typically adjacent to rivers and

25 streams?

1 A (GHARTEY-TAGOE) Typically, yes.

2 Q All right. And, oftentimes, they are right next to

3 a river or stream separated by a levy or a -- a

4 bank -- an embankment between the pond and the

5 river, correct?

6 A (GHARTEY-TAGOE) Yes.

7 Q All right. And the typical practice that Duke

8 followed, which I don't dispute was not uncommon in

9 the industry, was to use a wet ash management

10 system that -- that -- that moved a slurry of ash

11 to an unlined pond at those locations, correct?

12 A (GHARTEY-TAGOE) I believe that's correct.

13 Q When I say "unlined pond," I mean basically a pit

14 that doesn't have what today would be thought of as

15 a synthetic liner or a bentonite clay liner; no

16 liner at all, just unlined pit next to the river,

17 correct?

18 A (GHARTEY-TAGOE) Correct.

19 Q All right. And those ponds, Duke's, as in the case

20 with many other electric utilities, have

21 experienced leaks to the -- below the base of the

22 ponds into groundwater below the site. That's

23 common, isn't it?

24 A (GHARTEY-TAGOE) I don't know that.

25 Q Is it common for your system?

1 A (GHARTEY-TAGOE) I mean, it -- it -- it -- I know
2 it happens, but I don't --
3 Q Yeah.
4 A (GHARTEY-TAGOE) -- know that that's the case every
5 time.
6 Q And it's happened in your -- in your system, has it
7 not?
8 A (GHARTEY-TAGOE) Maybe at one or two sites. I
9 don't know. You may want to talk to Mr. Kerin
10 about that.
11 Q All right. Well, are you also aware that it's not
12 only happened at one or two sites, but in addition
13 to the -- the unlined ponds leaking below the ponds
14 into groundwater, there have also been instances of
15 seeps or springs leaking on the side of the ponds
16 directly into the rivers? And the North Carolina
17 DEQ has found, in several instances, where Duke
18 Energy has had those failures of your ponds,
19 haven't they?
20 A (GHARTEY-TAGOE) That's correct. I know --
21 Q And --
22 A (GHARTEY-TAGOE) And -- and I will assure the
23 Commission, no fines or penalties or costs
24 associated with those are included in this case.
25 Q Indeed. But indeed, there were fines and penalties