

R8-55 ANNUAL HEARINGS TO REVIEW CHANGES IN THE COST OF FUEL AND FUEL-RELATED COSTS

(a) As used in this rule, "cost of fuel and fuel-related costs" means all of the following:

- (1) The cost of fuel burned.
- (2) The cost of fuel transportation.
- (3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
- (4) The total delivered noncapacity related costs, including all related transmission charges, of all purchases of electric power by the electric public utility that are subject to economic dispatch or economic curtailment.
- (5) The capacity costs associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities, as defined in 16 U.S.C. 796, that are subject to economic dispatch by the electric public utility.
- (6) Except for those costs recovered pursuant to G.S. 62-133.8(h), the total delivered costs of all purchases of power from renewable energy facilities and new renewable energy facilities pursuant to G.S. 62-133.8 or to comply with any federal mandate that is similar to the requirements of subsections (b), (d), (e) and (f) of G.S. 62-133.8.
- (7) All costs incurred to comply with the Swine Farm Methane Capture Pilot Program established in Section 4 of S.L. 2007-523.
- (8) The fuel cost component of other purchased power.

Cost of fuel and fuel-related costs shall be adjusted for (a) any net gains or losses resulting from any sales by the electric public utility of fuel and other fuel-related costs components and (b) any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.

(b) For each electric public utility generating electric power by means of fossil and/or nuclear fuel for the purpose of furnishing North Carolina retail electric service, the Commission shall schedule an annual public hearing pursuant to G.S. 62-133.2(b) in order to review changes in the electric public utility's cost of fuel and fuel-related costs. The annual cost of fuel and fuel-related cost adjustment hearing for Duke Energy Carolinas, LLC, will be scheduled for the first Tuesday of June each year; for Duke Energy Progress, LLC., the annual hearing will be scheduled for the third Tuesday of September each year; and for Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina, the annual hearing will be scheduled for the third Tuesday of November each year.

(c) The test periods for the hearings to be held pursuant to paragraph (b) above will be uniform over time. The test period for Duke Energy Carolinas, LLC will be the calendar year; for Duke Energy Progress, Inc., the test period will be the 12-month period ending March 31; and for Dominion North Carolina Power, the test period will be the 12-month period ending June 30.

(d) The Commission shall permit each electric public utility to charge an increment or decrement as a rider to its rates for changes in the cost of fuel and fuel-related costs used in providing its North Carolina customers with electricity from the cost of fuel and fuel-related costs established in the electric public utility's previous general rate case on the basis of cost per kilowatt-hour. The increment or decrement may be different among customer classes. The general methodology and procedures to be used in establishing the cost of fuel and fuel-related costs shall be as follows:

- (1) Cost of fuel and fuel-related costs will be preliminarily established utilizing the methods and procedures approved in the utility's last general rate case, except that capacity factors for nuclear production facilities will be normalized based generally on the national average for nuclear production facilities as reflected in the most recent North American Electric Reliability Corporation's Generating Availability Report, adjusted to reflect unique, inherent characteristics of the utility, including, but not limited to, plants 2 years or less in age and unusual events. The national average capacity factor for nuclear production facilities shall be based on the most recent 5-year period available and shall be weighted, if appropriate, for both pressurized water reactors and boiling water reactors. The costs shall be allocated among customer classes in accordance with G.S. 62-133.2(a2), as applicable. A cost of fuel and fuel-related cost rider will then be determined based upon the difference between the cost of fuel and fuel-related costs thus established and the base cost of fuel and fuel-related cost component of the rates established in the utility's most recent general rate case. The foregoing normalization requirement assumes that the Commission finds that an abnormality having a probable impact on the utility's revenues and expenses existed during the test period.

- (2) Cost of fuel and fuel-related costs will be modified as provided in G.S. 62-133.2(a3).
 - (3) The cost of fuel and fuel-related costs as described above will be further modified through use of an experience modification factor (EMF) rider, which may be different among customer classes. The EMF rider will reflect the difference between reasonable and prudently incurred cost of fuel and fuel-related costs and the fuel-related revenues that were actually realized during the test period under the cost of fuel and fuel-related cost components of rates then in effect. Upon request of the electric public utility, the Commission shall also incorporate in this determination the experienced over-recovery or under-recovery of the cost of fuel and fuel-related costs up to thirty (30) days prior to the date of the hearing, provided that the reasonableness and prudence of these costs shall be subject to review in the utility's next annual fuel and fuel-related costs adjustment hearing.
 - (4) The cost of fuel and fuel-related cost rider and the EMF rider as described hereinabove will be charged as an increment or decrement to the base fuel cost component of rates established in the electric public utility's previous general rate case.
 - (5) The EMF rider will remain in effect for a fixed 12-month period following establishment and will carry through as a rider to rates established in any intervening general rate case proceedings; provided, however, that such carry-through provision will not relieve the Commission of its responsibility to determine the reasonableness of the cost of fuel and fuel-related costs, other than that being collected through operation of the EMF rider, in any intervening general rate case proceeding.
 - (6) Pursuant to G.S. 62-130(e), any over-collection of reasonable and prudently incurred cost of fuel and fuel-related costs to be refunded to a utility's customers through operation of the EMF rider shall include an amount of interest, at such rate as the Commission determines to be just and reasonable, not to exceed the maximum statutory rate.
- (e) Each electric public utility, at a minimum, shall submit to the Commission for purposes of investigation and hearing the information and data in the form and detail as set forth below:
- (1) Actual test period kWh sales, peak demand by customer class, fuel-related revenues, and fuel-related expenses for the utility's total system and for its North Carolina retail operations.
 - (2) Test period kWh sales normalized for weather, customer growth and usage. Said normalized kWh sales shall be for the utility's total system and for its North Carolina retail operations. The methodology used for such normalization shall be the same methodology adopted by the Commission, if any, in the utility's last general rate case.
 - (3) Adjusted test period kWh generation corresponding to normalized test period kWh usage. The methodology for such adjustment shall be the same methodology adopted by the Commission in the utility's last general rate case, including adjustment by type of generation; i.e., nuclear, fossil, hydro, pumped storage, purchased power, etc. In the event that said methodology is inconsistent with the normalization methodology set forth in paragraph (d)(1) above, additional pro forma calculations shall be presented incorporating the normalization methodology reflected in paragraph (d)(1).
 - (4) Cost of fuel and applicable fuel-related costs corresponding to the adjusted test period kWh generation, including a detailed explanation showing how such cost of fuel and fuel-related costs were derived. The cost of fuel shall be based on end-of-period unit fuel prices incurred during the test period, although the Commission may consider other fuel prices if test period fuel prices are demonstrated to be nonrepresentative on an on-going basis. Unit fuel prices shall include delivered fuel prices and burned fuel expense rates as appropriate.
 - (5) Procurement practices and inventories for fuel burned and for ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions.
 - (6) The cost of fuel burned and of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions at each generating facility.
 - (7) Any net gains or losses resulting from any sales by the electric public utility of fuel or other fuel-related costs components.
 - (8) Any net gains or losses resulting from any sales by the electric public utility of by-products produced in the generation process to the extent the costs of the inputs leading to that by-product are costs of fuel or fuel-related costs.
 - (9) All costs incurred to comply with the Swine Farm Methane Capture Pilot Program established in Section 4 of S.L. 2007-523.

- (10) The monthly fuel report and the monthly base load power plant performance report for the last month in the test period and any information required by Rules R8-52 and R8-53 for the test period which has not already been filed with the Commission. Further, such information for the complete 12-month test period shall be provided by the electric public utility to any intervenor upon request.
- (11) All workpapers supporting the calculations, adjustments and normalizations described above.
- (12) The nuclear capacity rating(s) in the last rate case and the rating(s) proposed in this proceeding. If they differ, supporting justification for the change in nuclear capacity rating(s) since the last rate case.
- (13) The proposed rate design to recover the electric public utility's cost of fuel and fuel-related costs.

An electric public utility that is subject to G.S. 62-133.2(a3) is required to provide only the applicable information prescribed by subdivisions (5), (6) and (8) of this subsection.

(f) The electric public utility shall file the information required under this rule, accompanied by workpapers and direct testimony and exhibits of expert witnesses supporting the information filed herein, and any changes in rates proposed by the electric public utility (if any), not less than 98 days prior to the hearing; . Nothing in this rule shall be construed to require the electric public utility to propose a change in rates or to utilize any particular methodology to calculate any change in rates proposed by the utility in this proceeding.

(g) The electric public utility shall publish a notice for two (2) successive weeks in a newspaper or newspapers having general circulation in its service area, normally beginning at least 30 days prior to the hearing, notifying the public of the hearing before the Commission pursuant to G.S. 62-133.2(b) and setting forth the time and place of the hearing.

(h) Persons having an interest in said hearing may file a petition to intervene setting forth such interest at least 21 days prior to the date of the hearing. Petitions to intervene filed less than 21 days prior to the date of the hearing may be allowed in the discretion of the Commission for good cause shown.

(i) The Public Staff and other intervenors shall file direct testimony and exhibits of expert witnesses at least 21 days prior to the hearing date. If a petition to intervene is filed less than 21 days prior to the hearing date, it shall be accompanied by any direct testimony and exhibits of expert witnesses the intervenor intends to offer at the hearing.

(j) The electric public utility may file rebuttal testimony and exhibits of expert witnesses no later than 12 days prior to the hearing date.

(k) The burden of proof as to the correctness and reasonableness of any charge and as to whether the test year cost of fuel and fuel-related costs were reasonable and prudently incurred shall be on the utility. For purposes of determining the EMF rider, a utility must achieve either (a) an actual system-wide nuclear capacity factor in the test year that is at least equal to the national average capacity factor for nuclear production facilities based on the most recent 5-year period available as reflected in the most recent North American Electric Reliability Corporation's Generating Availability Report, appropriately weighted for size and type of plant or (b) an average system-wide nuclear capacity factor, based upon a two-year simple average of the system-wide capacity factors actually experienced in the test year and the preceding year, that is at least equal to the national average capacity factor for nuclear production facilities based on the most recent 5-year period available as reflected in the most recent North American Electric Reliability Corporation's Generating Availability Report, appropriately weighted for size and type of plant, or a presumption will be created that the utility incurred the increased cost of fuel and fuel-related costs resulting therefrom imprudently and that disallowance thereof is appropriate. The utility shall have the opportunity to rebut this presumption at the hearing and to prove that its test year cost of fuel and fuel-related costs were reasonable and prudently incurred. To the extent that the utility rebuts the presumption by the preponderance of the evidence, no disallowance will result.

(l) The hearing will generally be held in the Hearing Room of the Commission at its offices in Raleigh, North Carolina.

(m) Each electric public utility shall follow deferred accounting with respect to the difference between actual reasonable and prudently incurred cost of fuel and fuel-related costs and cost of fuel and fuel-related costs recovered under rates in effect.

(n) If the Commission has not issued an order pursuant to G.S. 62-133.2 within 180 days after the date the electric public utility has filed any proposed changes in its rates and charges in this proceeding based solely on the cost of fuel and fuel-related costs, then the utility may place such proposed changes into effect. If such changes in the rates and charges are finally determined to be excessive, the electric public utility shall refund any excess plus interest to its customers in a manner directed by the Commission.

(NCUC Docket No. E-100, Sub 47, 5/1/84; NCUC Docket No. E-100, Sub 47, 8/14/86; NCUC Docket No. E-100, Sub 55, 4/27/88; 6/22/88; 1/25/90; 12/11/90; NCUC Docket No. M-100, Sub 128, 10/27/99; NCUC Docket No. E-100, Sub 113, 2/29/08; NCUC Docket No. E-100, Sub 113, 3/13/08; NCUC Docket No. M-100, Sub 140, 12/03/13; NCUC Docket No. E-100, Sub 160, 10/11/18.)