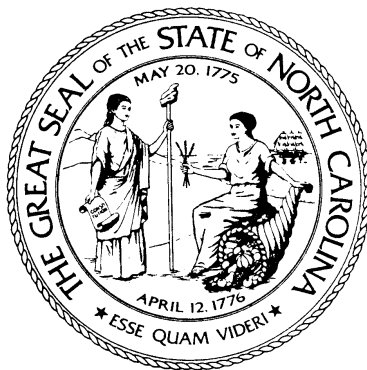


**BIENNIAL REPORT REGARDING  
FUEL AND FUEL-RELATED CHARGE ADJUSTMENT  
PROCEEDINGS FOR ELECTRIC UTILITIES**

**REQUIRED PURSUANT TO G.S. 62-133.2(g)**

**DATE DUE: JULY 1, 2011  
SUBMITTED: JUNE 29, 2011**

**RECEIVED BY  
THE JOINT LEGISLATIVE  
COMMISSION ON GOVERNMENTAL OPERATIONS**



**SUBMITTED BY  
THE UTILITIES COMMISSION**

## INTRODUCTION

This report is being provided to the Joint Legislative Commission on Governmental Operations pursuant to the provisions of G.S. 62-133.2(g), which requires the Utilities Commission (Commission) to provide reports on July 1 of every odd-numbered year summarizing the proceedings conducted during the preceding two years pursuant to G.S. 62-133.2, the statute providing for fuel and fuel-related charge adjustments for electric utilities.

G.S. 62-133.2 provides for two types of rate adjustments: fuel and fuel-related charge adjustments and “true-ups.” Both types of adjustments take place in the context of a single hearing, but they are separate and distinct, and it is important to distinguish between them. A fuel and fuel-related charge adjustment is a prospective adjustment to the fuel cost component of electric rates (the fuel factor) designed to account for changes in the cost of fuel and certain fuel-related cost items as set in the electric utility’s last general rate case (the base fuel factor). This adjustment is based on pro forma data and utilizes an historical 12-month test period. The test period data are used as a guide to what these fuel and fuel-related costs will be in the future. However, no matter how carefully this adjustment is set, it will never perfectly match the costs that the utility actually incurs in the future, and that is why a “true-up” is allowed. The “true-up” looks at data to determine whether the reasonable fuel and fuel-related expenses prudently incurred by the utility were more or less than what had been provided for in the rates collected during that period. A “true-up” is an adjustment to rates by which under-recovered fuel and fuel-related costs are collected by the utility or over-recovered fuel and fuel-related costs are returned to customers. The “true-up” adjustment is referred to as an experience modification factor (or EMF) rider.

Fuel charge adjustments first began in North Carolina during the 1970s, when the price of fuel was escalating rapidly as a result of the Arab oil embargo. The Commission first used its traditional ratemaking powers to establish formulas under which fuel charge factors were added to customers’ bills each month based upon ongoing changes in the cost of fuel. This procedure was challenged in court and was upheld by the Supreme Court in 1976. Meanwhile, in 1975, the General Assembly amended G.S. 62-134 in order to provide a statutory basis for fuel charge adjustment proceedings. In 1982, based upon the recommendation of the Utility Review Committee, the General Assembly repealed the fuel charge adjustment provisions of G.S. 62-134(e) and enacted the predecessor of the present fuel charge adjustment statute, G.S. 62-133.2. Under this statute, fuel charge adjustment proceedings are held once each year for each electric utility that generates electricity by fossil or nuclear fuels to determine whether the fuel and fuel-related cost component of electric rates should be adjusted up (increment rider) or down (decrement rider).

“True-ups” were first introduced in 1985. In a fuel charge adjustment proceeding for Carolina Power & Light Company, the Commission added an “experience modification factor” to rates in order to allow the Company to recover a portion of its previously under-recovered fuel expense. This Order was challenged in court, and in

1987 the Court of Appeals held that G.S. 62-133.2, as then written, did not authorize such a “true-up.” On July 24, 1987, the General Assembly amended G.S. 62-133.2 to provide explicitly for “true-ups.”

By this same 1987 legislation, the General Assembly provided for repeal of the entire fuel charge adjustment statute in 1989. In 1989, the General Assembly extended the sunset date until 1991. In 1991, the General Assembly extended the sunset date until 1997 and provided for the Commission to report every two years “summarizing the procedures conducted pursuant to G.S. 62-133.2 during the preceding two years and recommending whether this section should be continued, repealed, or amended.” In 1995, the General Assembly removed the sunset provision altogether and eliminated the requirement that the Commission recommend in its reports whether G.S. 62-133.2 should be continued, repealed, or amended.

On August 20, 2007, Session Law 2007-397 (Senate Bill 3) was signed into law. This comprehensive legislation, among other things, established a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) for North Carolina and provided for REPS cost recovery through a rate rider; provided for cost recovery of demand-side management and energy efficiency expenditures through a separate rate rider; and amended the fuel charge adjustment statute. Originally, the fuel charge adjustment statute, G.S. 62-133.2, provided for a uniform rider to reflect actual changes in the utility’s cost of fuel and in the fuel cost component of the electric utility’s purchased power. Senate Bill 3 amended G.S. 62-133.2 to remove the requirement that fuel and fuel-related costs be recovered by a rider that is uniform as to all customer classes. Senate Bill 3 also amended G.S. 62-133.2 to allow electric utilities to recover additional costs through the annual fuel charge adjustment. The fuel and fuel-related costs that are now recoverable under G.S. 62-133.2 are:

- The cost of fuel burned;
- The cost of fuel transportation;
- The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and catalysts consumed in reducing or treating emissions (reagents);
- The total delivered non-capacity 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;
- The capacity costs associated with all purchases of electric power from qualifying cogeneration facilities and qualifying small power production facilities that are subject to economic dispatch;
- Except for those costs recovered pursuant to the REPS rate rider, the total delivered costs of purchases of power from renewable energy facilities and new renewable energy facilities pursuant to the REPS requirement or any similar federal requirement; and
- The fuel cost component of other purchased power.

These amendments to G.S. 62-133.2 became effective as of January 1, 2008; they apply to the costs of reagents incurred on and after August 20, 2007, and to other fuel and fuel-related costs incurred on and after January 1, 2008.

## **SUMMARY OF FUEL CHARGE ADJUSTMENT PROCEEDINGS**

Before summarizing the individual proceedings conducted pursuant to G.S. 62-133.2 during the preceding two years, the Commission will provide a brief background on the way the statute is administered.

The statute applies to Duke Power Company LLC d/b/a Duke Energy Carolinas, LLC, a subsidiary of Duke Energy Corporation (Duke); Carolina Power & Light Company d/b/a Progress Energy Carolinas, Inc., a subsidiary of Progress Energy, Inc. (PEC); and Virginia Electric and Power Company d/b/a Dominion North Carolina Power, a subsidiary of Dominion Resources, Inc. (Dominion NC Power). The Commission, following lengthy rulemaking proceedings, adopted Commission Rule R8-55 to implement the statute. A copy of this Rule is attached to this report as Appendix A. The Rule establishes a date certain for each company's annual fuel charge adjustment hearing. The hearing for Duke is held on the first Tuesday of June of each year, the hearing for PEC is held on the third Tuesday of September of each year, and the hearing for Dominion NC Power is held on the second Tuesday of November of each year. If a company has a general rate case hearing scheduled close to the date for its annual fuel and fuel-related charge adjustment hearing, the two hearings may be consolidated. However, the issues in the fuel and fuel-related charge adjustment proceeding will be decided separately from the issues in the general rate case. Rule R8-55 also establishes a test period for each company that is uniform from year to year. The test period for Duke is the calendar year, the test period for PEC is the 12-month period ending March 31, and the test period for Dominion NC Power is the 12-month period ending June 30.

The burden of proof is on the utility to show that its fuel and fuel-related costs were reasonable and prudently incurred. As previously noted, fuel charge adjustments were originally prompted by fluctuating fuel prices resulting from the Arab oil embargo. More recent fluctuations in fuel expenses have generally been due to the availability of nuclear generating units, a heavier reliance on generating units using fossil fuels to serve the growth in electric load even when all existing nuclear generating units perform at high capacity factors and, most recently, increased fossil fuel costs. The cost of nuclear fuel is far less than the cost of coal and other fossil fuels, and the level of total fuel expense is, therefore, significantly affected by how well a utility's nuclear power plants operate. Thus, the capacity factors for nuclear plants are important considerations in fuel charge adjustment proceedings. Appropriate nuclear capacity factors are crucial both in setting rates for the future and in determining the amount of the "true-up." Only "reasonable fuel and fuel-related costs prudently incurred" are trued-up, and the Commission uses nuclear capacity factors as indications of management efficiency and prudence. In that regard, Rule R8-55(k) specifically provides:

The burden of proof as to the correctness and reasonableness of any charge and as to whether the test year fuel expenses 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 systemwide 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 Council's Equipment Availability Report, appropriately weighted for size and type of plant or (b) an average systemwide nuclear capacity factor, based on a two-year simple average of the systemwide 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 Council's Equipment Availability Report, appropriately weighted for size and type of plant, or a presumption will be created that the utility incurred the increased fuel expense 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 fuel 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.

While nuclear capacity factors remain an important consideration in fuel charge adjustment proceedings, nuclear plant performance has improved and the nuclear capacity factors have tended to stabilize over the years. However, the existing nuclear units are not capable of generating enough electric energy to meet the total demand for electric energy, even at the highest possible levels of performance. Since the demand for electric energy in North Carolina has grown, the reliance on generating units using more expensive fossil fuels to produce additional energy has also increased, and this is another factor that has contributed to higher fuel expenses and fuel factors. Finally, in more recent years, the unit prices of fossil fuels have increased, which has also impacted utility fuel costs.

The following sections of this report present a summary of each of the six fuel and fuel-related charge adjustment proceedings conducted during the preceding two years in chronological order. Following the summaries, a table showing selected summary information for each of these six fuel and fuel-related charge adjustment proceedings is also attached.

## 1. Duke – Docket No. E-7, Sub 875

This fuel and fuel-related charge adjustment proceeding for Duke utilized a 12-month test period that consisted of the calendar year 2008. Duke filed its Application and supporting pre-filed testimony and exhibits on March 4, 2009. The evidentiary hearing was held on June 2, 2009 and the Commission Order was issued on July 29, 2009.

On May 15, 2009, Duke filed certain revisions to its original filing and reduced its requested fuel and fuel-related cost factors. According to the Company, such revisions were necessary as a result of minor corrections identified during the Public Staff's review of Duke's Application. As revised, Duke requested Commission approval of fuel and fuel-related cost factors of 2.3491¢ per kWh for the residential customer class, 2.3475¢ per kWh for the general service/lighting customer class, and 2.3516¢ per kWh for the industrial customer class.<sup>1</sup> The requested fuel and fuel-related cost factors were calculated using an adjusted test period system fuel and fuel-related cost amount of \$1,921,936,000. This amount of fuel and fuel-related cost was based, in part, upon a normalized system nuclear capacity factor of 90.30%. Duke recommended using the 90.30% capacity factor in this proceeding based on the operational history of the Company's nuclear units and the number of outage days scheduled for the units during the period that the rates established in this proceeding would be in effect. During the test year, Duke achieved a system average nuclear capacity factor of 91.50%. In comparison, the most recent five-year (2003-2007) national average capacity factor for nuclear units similar to Duke's was 89.96%, according to the North American Electric Reliability Council's Equipment Availability Report (NERC). Normalization adjustments were also made to the test period data for weather, customer growth, line losses, and unit fuel prices.

The adjusted test period system fuel and fuel-related cost amount of \$1,921,936,000 included certain noncapacity purchased power costs and renewable energy purchased power costs. In part, G.S. 62-133.2(a2) requires that noncapacity purchased power costs and renewable energy purchased power costs must be allocated among the customer classes as specifically set forth in the statute and recovered through a separate component for each customer class in the fuel and fuel-related cost factor. In addition, G.S. 62-133.2(a2) provides that the annual increase in the aggregate amount of such costs that are recoverable must not exceed two percent of the utility's total North Carolina retail jurisdictional revenue in the preceding year. Duke testified that it calculated a noncapacity purchased power component and a renewable purchased power component for each customer class in accordance with G.S. 62-133.2(a2) and provided evidence that demonstrated that the annual increase in such costs did not exceed two percent of its North Carolina retail revenues in 2008.

The Public Staff testimony recommended approval of Duke's requested fuel and fuel-related cost factors and no party submitted any evidence to the contrary. Based

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<sup>1</sup> This and all subsequent fuel and fuel-related cost factors and EMF riders exclude the gross receipts tax and the regulatory fee.

upon the evidence, the Commission concluded that the adjusted test period system fuel and fuel-related cost of \$1,921,936,000 and fuel and fuel-related cost factors of 2.3491¢ per kWh, 2.3475¢ per kWh, and 2.3516¢ per kWh, for the residential, general service/lighting, and industrial customer classes, respectively, were reasonable and appropriate for use in this proceeding.

Duke also requested approval of EMF increment rate riders of 0.2205¢ per kWh for the residential class, 0.2238¢ per kWh for the general service/lighting class, and 0.2253¢ per kWh for the industrial class to collect the under-recovery of fuel and fuel-related cost that occurred during the test year. Duke testified that it experienced an under-recovery of its North Carolina retail fuel and fuel-related cost of \$45,998,000 from the residential class, \$48,923,000 from the general service/lighting class, and \$29,772,000 from the industrial class. To calculate the requested EMF increment riders, Duke divided the under-recovered fuel and fuel-related cost for each customer class by the adjusted North Carolina retail test year kWh sales for each customer class. After conducting its review, the Public Staff testified that it recommended approval of the EMF increment riders requested by Duke. No other party submitted any evidence to the contrary. In its Order, the Commission concluded that EMF increment riders of 0.2205¢ per kWh, 0.2238¢ per kWh, and 0.2253¢ per kWh, for the residential, general service/lighting, and industrial customer classes, respectively, were reasonable and appropriate for use in this proceeding. The Commission also found that Duke's fuel and reagent procurement and power purchasing practices during the test period were reasonable and prudent.

Accordingly, the Commission found that the total or net fuel and fuel-related cost factors to be billed to Duke's North Carolina retail customers during the 12-month billing period beginning September 1, 2009 were 2.5696¢ per kWh for the residential class, 2.5713¢ per kWh for the general service/lighting class, and 2.5769¢ per kWh for the industrial class. These total or net fuel and fuel-related cost factors consisted of the prospective fuel and fuel-related cost factors plus the EMF riders for each customer class as discussed above.

Finally, Duke requested approval to continue billing a Nantahala area customer rider equal to 0.1539¢ per kWh to collect deferred purchased power costs owed by Nantahala area customers. Such rider was established in Duke's previous fuel and fuel-related charge adjustment proceeding, Docket No. E-7, Sub 847, as discussed in the Commission's Order dated August 8, 2008, issued in that proceeding. In its Order issued in this proceeding, the Commission approved the continuation of the Nantahala area customer rider of 0.1539¢ per kWh.

The result of the Commission decisions and Order in this fuel and fuel-related charge adjustment proceeding for Duke was an increase of approximately \$228.5 million in revenue on an annual basis. The rate increases were approximately \$4.07 for the residential class, \$4.09 for the general service/lighting class, and \$4.12 for industrial class, for each 1,000 kWh of usage per month.

## **2. PEC – Docket No. E-2, Sub 949**

This fuel and fuel-related charge adjustment proceeding for PEC employed a 12-month test period ending March 31, 2009. PEC filed its Application and supporting pre-filed testimony and exhibits on June 4, 2009. The evidentiary hearing was held on September 15, 2009 and the Commission issued its Order on November 16, 2009.

As background information, in PEC's previous fuel and fuel-related charge adjustment proceeding, Docket No. E-2, Sub 929, PEC noted that prior to enactment of Senate Bill 3, G.S. 62-133.2(a) required the Commission to apply a "uniform increment or decrement" to electric rates for the recovery of fuel costs. However, Section 5 of Senate Bill 3 removed the word "uniform" from the statute. In that proceeding, for the first time, PEC developed and proposed different fuel and fuel-related cost factors for each rate class such that each rate class would experience the same percentage increase in its average monthly bill. PEC testified that the traditional, uniform cents per kWh method would have resulted in an increase of approximately 18% for PEC's large industrial customers. However, even the new uniform bill increase methodology proposed by PEC would have increased the average monthly bill of each rate class by 13.61%. Part of the 13.61% increase initially proposed by PEC was due to an under-recovery of fuel and fuel-related cost amount of \$203,363,040. Given those circumstances, PEC, the Public Staff, and two parties representing large industrial customers entered into a Settlement Agreement in that proceeding wherein they agreed to support the use of PEC's new uniform bill increase methodology in that proceeding as well as in PEC's next two annual fuel and fuel-related charge adjustment proceedings. In addition, those parties also agreed in the Settlement Agreement to spread the recovery of PEC's under-recovered fuel cost amount of \$203,363,040 equally over three billing periods beginning with that fuel proceeding and in PEC's next two annual fuel and fuel-related charge adjustment proceedings. By spreading the recovery of the \$203,363,040 amount over three years, the requested increase initially proposed by PEC in that proceeding was reduced from 13.61% to 9.05%. The Commission approved these provisions of the Settlement Agreement for the limited purpose of setting rates in that proceeding.

In the pre-filed testimony and exhibits of PEC in this proceeding, PEC submitted that its total system forecasted fuel and fuel-related cost for the period that the rates established in this proceeding would be in effect equaled \$1,785,912,023. The nuclear capacity factor used in forecasting this amount of fuel and fuel-related cost was 90.47%. PEC's actual nuclear capacity factor for the test year was 91.24%. In comparison, the most recent NERC five year average (2003-2007) capacity factor, appropriately weighted for size and type of plant similar to PEC's nuclear units, equaled 88.10%. PEC then allocated the total system forecasted cost to the North Carolina retail jurisdiction. The total amount allocated to the North Carolina retail jurisdiction was \$1,171,877,706. This total amount included \$138,689,247 of noncapacity purchased power costs subject to economic dispatch or curtailment that were allocated to North Carolina retail based upon energy usage in 2008. The total North Carolina retail amount also included \$9,914,370 for capacity costs of purchases from qualifying

cogeneration and small power production facilities and the fuel and fuel-related costs of purchases from renewable energy facilities that were allocated based upon peak demand during 2008. PEC also used the \$138,689,247 and \$9,914,370 amounts to calculate specific components for each customer class in its proposed fuel and fuel-related cost factors as required by G.S. 62-133.2(a2). Finally, the total amount allocated to North Carolina retail included an amount of \$1,023,274,089 for all other types of fuel and fuel-related costs.

PEC also testified that the total North Carolina retail fuel and fuel-related cost under-recovery appropriate for purposes of this proceeding was \$130,837,934. This total amount of under-recovery consisted of: (1) an under-recovery of \$56,507,146 for the 12-month period August 1, 2008 through July 31, 2009; (2) an under-recovery of \$67,787,680, which was one-third of PEC's under-recovered fuel cost at July 31, 2008, pursuant to the terms of the Settlement Agreement as discussed above; (3) an under-recovery of \$4,116,542 applicable to Docket No. E-2, Sub 934; and (4) interest of \$2,426,566 associated with under-recovered fuel costs and calculated consistent with the Commission Orders in Docket Nos. E-2, Sub 868, 889 and 929. PEC's testimony explained that it developed and proposed different EMF riders for each rate class to recover the total North Carolina retail fuel and fuel-cost under-recovery of \$130,837,934. To calculate the proposed EMF increment riders, PEC divided the under-recovered fuel and fuel-related cost amount for each customer class. The EMF increment riders proposed by PEC were 0.225¢ per kWh for the residential class, 0.407¢ per kWh for the small general service class, 0.424¢ per kWh for the medium general service class, 0.480¢ per kWh for the large general service class, and 0.267¢ per kWh for the lighting class.

PEC also developed and proposed total fuel and fuel-related cost factors, including the EMF riders, for each rate class such that each rate class would experience the same percentage change in its average monthly bill, consistent with the applicable provisions of the Settlement Agreement filed in PEC's previous fuel charge adjustment proceeding and applicable to this proceeding and in accordance with requirements of G.S. 62-133.2. PEC testified that its forecasted total North Carolina retail fuel and fuel-related cost of \$1,171,877,706 and the total North Carolina retail under-recovery of \$130,837,934 resulted in a projected total decrease in its fuel and fuel-related cost equal to \$13,738,889, or a decrease of 0.41%. Therefore, PEC developed total fuel and fuel-related cost factors such that each rate class would experience a decrease of 0.41% in average monthly bills. The total fuel and fuel-related cost factors, including the EMF increment riders proposed by PEC, were 3.487¢ per kWh for the residential class, 3.552¢ per kWh for the small general service class, 3.301¢ per kWh for the medium general service class, 3.192¢ per kWh for the large general service class, and 4.408¢ per kWh for the lighting class.

PEC also testified that its fuel and fuel-related procurement and power purchasing practices were reasonable and prudent during the test period. In addition, PEC's testimony demonstrated that the annual increase in the aggregate amount of noncapacity purchased power costs, qualifying capacity costs, and renewable energy

costs requested for recovery did not exceed two percent of PEC's total North Carolina jurisdictional revenues for 2008 consistent with the requirements of G.S. 62-133.2(a2).

After conducting its investigation, the Public Staff testified that PEC had prudently operated its system during the test period and PEC's fuel and fuel-related costs were reasonable and prudent. The Public Staff also concurred with PEC's under-recovery calculation and proposed no adjustments to the EMF increment riders proposed by PEC. The Public Staff also recommend approval of the total fuel and fuel-related cost factors proposed by PEC.

In its Order, the Commission stated that no other party offered any evidence regarding PEC's under-recovered fuel and fuel-related costs or forecasted fuel and fuel-related costs for the rate period. In addition, the Commission noted that no other party presented any evidence regarding PEC's proposed EMF increments or the proposed rate design for the recovery of the fuel and fuel-related costs. Therefore, the Commission found and concluded that the rates proposed by PEC and recommended by the Public Staff were just and reasonable and should be approved for the purposes of this proceeding.

The result of the Commission's decisions and Order in this proceeding for PEC was a decrease of approximately \$13.7 million in revenue on an annual basis. The rate decreases for each rate class were as follows: 45¢ for residential, 49¢ for small general service, 34¢ for medium general service, 29¢ for large general service, and 94¢ for lighting, for each 1,000 kWh of usage per month.

### **3. Dominion NC Power – Docket No. E-22, Sub 456**

This fuel and fuel-related charge adjustment proceeding for Dominion NC Power utilized a test period consisting of the 12-month period ending June 30, 2009. The Company filed its Application and supporting pre-filed testimony and exhibits on August 27, 2009. The evidentiary hearing was held on November 10, 2009. At the hearing, certain parties, including Dominion NC Power, the Public Staff, and an intervenor representing a large industrial customer, informed the Commission that they had entered into a Settlement Agreement, pursuant to which they had agreed not to call their witnesses to the stand and all parties waived cross-examination. Therefore, at the hearing, the pre-filed testimony and exhibits of all witnesses were admitted into evidence by the Commission. The Commission issued its Order on December 17, 2009.

In its Application and pre-filed testimony, Dominion NC Power requested approval of a prospective fuel and fuel-related cost factor equal to 2.621¢ per kWh. The requested fuel and fuel-related cost factor was calculated using an adjusted test period system fuel and fuel-related cost of \$2,116,146,664 by the adjusted test period system sales of 80,737,662 MWh. The Company's adjusted test period system fuel expense and requested fuel and fuel-related cost factor was based, in part, on a 91.88% nuclear capacity factor, which was the expected nuclear capacity factor during the period that

the rates established in this proceeding would be in effect. The actual system nuclear capacity factor during the test year was 92.39%. In comparison, the most recent NERC five year average (2003-2007) nuclear capacity factor for pressurized water reactors weighted for similar size was 89.21%. Normalization adjustments were also made to test period generation and sales for weather, customer growth, and usage. During the test year for this proceeding, Dominion NC Power purchased power from suppliers, primarily through the markets administered by PJM Interconnection, LLC, that did not provide the Company with the actual fuel costs associated with those purchases. In the Company's last fuel charge adjustment proceeding, Docket No. E-22, Sub 451, Dominion NC Power and the Public Staff entered into a Settlement Agreement, wherein the parties agreed to use a 70% fuel-to-energy cost ratio to determine the fuel cost of the Company's purchases from suppliers that do not provide the Company with actual fuel cost associated with such purchases. Since the terms of the Settlement Agreement also applied to this fuel charge adjustment proceeding, Dominion NC Power used the 70% ratio to determine the fuel cost of such purchases in determining its adjusted test period fuel cost. No party expressed opposition to the fuel and fuel-related cost factor proposed by Dominion NC Power and, based upon the evidence in this proceeding, the Commission approved a fuel and fuel-related cost factor of 2.621¢ per kWh in its Order.

Dominion NC Power initially requested approval of an EMF increment rider of 0.376¢ per kWh to collect \$14,859,013 of under-recovered fuel and fuel-related cost in the North Carolina retail jurisdiction during the test period. The EMF increment of 0.376¢ per kWh was determined by dividing the \$14,859,013 under-recovery by the adjusted North Carolina test year sales of 3,954,767 MWh. After conducting its investigation, the Public Staff recommended two adjustments which reduced the Company's initially requested under-recovery by \$878,863. As a result, the Public Staff proposed a test year under-recovery amount of \$13,980,150 and an EMF increment of 0.354¢ per kWh. In rebuttal testimony, Dominion NC Power accepted the Public Staff's proposed adjustments and the resulting under-recovery and EMF. In its Order, the Commission found that Dominion NC Power under-recovered its North Carolina retail fuel and fuel-related cost by \$13,980,150 during the test year and required the Company to implement an EMF increment rider equal to 0.354¢ per kWh to collect the under-recovered fuel cost. The Commission also found that Dominion NC Power's fuel procurement and power purchasing practices were reasonable and prudent during the test year.

Dominion NC Power also submitted a study in this proceeding showing the impact of the Company's integration into PJM Interconnection, LLC (PJM) on its North Carolina retail fuel cost during the test year (the PJM study). In Docket No. E-22, Sub 418, the Commission allowed the Company to join PJM, a regional transmission organization approved by the Federal Energy Regulatory Commission, by Order dated April 19, 2005 (the PJM Order), subject to several conditions. The Commission included such conditions in the PJM Order to ensure that Dominion NC Power's ratepayers are held harmless from any adverse effects of joining PJM, including higher fuel charge adjustments. Therefore, the purpose of the PJM study is to demonstrate that the Company has complied with the relevant conditions contained in the PJM

Order. The PJM study submitted by the Company in this proceeding compared the Company's total energy costs and fuel charge adjustment costs associated with operating in PJM versus the hypothetical case of the Company operating as a stand-alone entity during the test period for this proceeding. Based on the results of this study, the Company testified that joining PJM had provided system fuel cost benefits and that no fuel cost adjustments were necessary to comply with the relevant conditions of the PJM Order. After reviewing the PJM Study submitted by the Company in this proceeding, the Public Staff testified although the savings were small, particularly when compared to the total cost of Dominion NC Power's total cost of purchased power, no adjustment appeared to be warranted to reduce the Company's fuel costs. In its Order, the Commission concluded that the PJM Study submitted by the Company was reasonable for use in this proceeding and that no adjustment to reduce the Company's fuel costs was necessary.

Finally, as noted above, the fuel factor recommended by Dominion NC Power and the Public Staff, and ultimately approved by the Commission, was a uniform rate applied to all kWh sales to all customers. A large industrial customer of the Company submitted testimony which stated that voltage losses have a measureable and significant effect on every utility's cost of delivered energy and that Dominion NC Power uses less fuel and incurs a lower cost to produce and deliver a unit of energy to a high voltage or transmission customer, compared to a low voltage customer. This intervenor further testified that uniform charges in Dominion NC Power's fuel riders is inconsistent with its cost-of-service allocation of fuel expense to different rate classes based upon energy loss factors. Based upon an analysis in the testimony of that intervenor, it was recommended that the Commission require the Company to implement a non-uniform voltage-differentiated fuel rate beginning with this proceeding. In rebuttal, Dominion NC Power testified that while this intervenor was correct in theory, the analysis in their testimony was not thorough enough for the Commission to determine how to establish class-differentiated fuel charges in this proceeding. The Company stated that a more comprehensive study would need to be conducted to evaluate alternative methods and to determine the most reasonable basis for establishing class-differentiated fuel charges. Therefore, the Company recommended that the Commission delay making a decision on this issue until the Company's next general rate case. In a Settlement Agreement filed on the date of the hearing in this proceeding between Dominion NC Power, the Public Staff, and this large industrial customer, these parties all agreed to support the consideration of appropriate methods to determine voltage-differentiated fuel charges for application in the Company's next general rate case and future fuel charge adjustment proceedings. The Settlement Agreement provided a timetable for the exchange of information between the parties supporting the consideration of voltage-differentiated fuel charges in the Company's next general rate case or fuel charge adjustment proceeding. The Commission concluded that the Settlement Agreement contained reasonable provisions to resolve this issue for purposes of this proceeding.

The result of the Commission's decision and Order in this proceeding was a decrease of approximately \$5.3 million in revenue on an annual basis and a net rate

decrease of approximately \$1.33 per month for a typical residential customer using 1,000 kWh per month.

#### **4. Duke – Docket E-7, Sub 934**

Duke's most recent fuel and fuel-related charge adjustment proceeding employed a 12-month test period that consisted of the calendar year 2009. Duke filed the Application and supporting pre-filed testimony and exhibits on March 2, 2010. The evidentiary hearing was held on June 2, 2010 and the Commission Order was issued on August 6, 2010.

In its Order, the Commission approved fuel and fuel-related cost factors of 2.2845¢ per kWh for the residential customer class, 2.2841¢ per kWh for the general service/lighting customer class, and 2.2840¢ per kWh for the industrial customer class. The approved fuel and fuel-related cost factors were based upon the adjusted test period system fuel and fuel-related cost amount of \$1,782,395,000. This amount of fuel and fuel-related cost was based, in part, upon a normalized system nuclear capacity factor of 90.68%. Duke recommended using the 90.68% nuclear capacity factor in this proceeding based on the operation history of the Company's nuclear units and the number of outage days scheduled for the nuclear units during the billing period that the rates established in this proceeding would be in effect. During the test year, Duke achieved a system average nuclear capacity factor of 94.34%. In comparison, the most recent NERC five-year (2004-2008) national average capacity factor for pressurized water reactors similar in size to Duke's was 90.43%. Normalization adjustments were also made to test period data for weather, customer growth, and line losses/Company use.

The adjusted test period system fuel and fuel-related cost amount of \$1,782,395,000 included certain renewable energy purchased power capacity costs. In part, G.S. 62-133.2(a2) requires that renewable energy costs be allocated among the customer classes as specifically set forth in the statute and recovered through a separate component for each customer class in the fuel and fuel-related cost factor. In addition, G.S. 62-133.2(a2) provides that the annual increase in the aggregate amount of such costs that are recoverable must not exceed two percent of the electric utility's total North Carolina jurisdictional revenue in the prior year. In this proceeding, renewable purchased power capacity costs were allocated on the basis of production plant as established by the Commission's Order dated December 7, 2009 in Docket No. E-7, Sub 909, Duke's most recent general rate case proceeding, and the annual increase in such costs did not exceed two percent of Duke's North Carolina retail revenues in 2009.

The Commission Order in this proceeding also found that Duke had over-recovered its North Carolina retail fuel costs during the period January 1, 2009 through April 30, 2010 by amounts of \$62,250,000, \$59,969,000 and \$28,917,000 for the residential, general service/lighting, and industrial customers classes, respectively. The interest associated with these over-recovered fuel costs, calculated at a rate of

10% per annum, was \$9,337,000, \$8,995,000, and \$4,338,000, respectively. To calculate the appropriate EMF decrement rate riders, the over-recovered fuel and fuel-related costs plus interest for each customer class was divided by the adjusted North Carolina retail kWh sales for each customer class. In its Order, the Commission determined that the appropriate EMF decrement rate riders including interest were 0.3406¢ per kWh for the residential class, 0.3207¢ per kWh for the general service/lighting customer class, and 0.2923¢ per kWh for the industrial customer class. Therefore, the Commission required Duke to implement these EMF decrement riders in its rates to refund the over-recovered fuel and fuel-related costs plus interest. The Commission also found that Duke's fuel and reagent procurement and power purchasing practices were reasonable and prudent during the test period.

In this proceeding an issue arose among the parties as to whether the noncapacity costs associated with certain purchases of power by Duke were eligible for recovery as fuel and fuel-related costs. G.S. 62-133.2(a1)(4) includes as cost of fuel and fuel-related costs "the total delivered noncapacity related costs...of all purchases of electric power by the electric public utility, that are subject to economic dispatch or economic curtailment." The Public Staff testified that, during the course of its investigation, it discovered that Duke had included the non-fuel energy costs associated with certain power purchases that were not subject to economic dispatch or economic curtailment in the determination of Duke's proposed fuel and fuel-related cost factors and EMF riders. The Public Staff testified that only the fuel costs of these power purchases that were not subject to economic dispatch or economic curtailment were recoverable under the provisions of G.S. 62-133.2(a1)(7) and recommended that the non-fuel energy cost associated with such purchases should be removed from the determination of the fuel and fuel-related cost factors and EMF riders proposed by Duke. In rebuttal testimony, Duke testified that the power purchases at issue were economic and resulted in lower energy costs for the Company and its customers. Duke also argued that the intent of changes in fuel cost recovery by Senate Bill 3 allows utilities more timely cost recovery of the noncapacity costs of such purchases. However, Duke agreed that the purchases at issue were not subject to dispatch or curtailment at all. In its Order, the Commission concluded that Duke should not be allowed to recover the non-fuel energy expenses of purchases that were not subject to economic dispatch or economic curtailment and that the adjustments recommended by the Public Staff to exclude the non-fuel energy costs were appropriate and reasonable for purposes of this proceeding.

In a related matter, the Public Staff testified that it has also discovered that the base fuel factor of 2.3489¢ per kWh established in Duke's most recent general rate increase proceeding, Docket No. E-7, Sub 909, included non-fuel energy costs associated with purchases from the same suppliers that the Public Staff recommended be removed from the fuel and fuel-related costs in this proceeding. The Public Staff stated that such non-fuel energy costs should only be recovered in base rates. Therefore, the Public Staff recommended that the base fuel factor established in Docket No. E-7, Sub 909 should be restated to exclude the non-fuel purchased power energy expenses that should not have been included. The restatement was necessary in order

to accurately compare fuel revenues and fuel costs for purposes of determining future EMFs and fuel and fuel-related cost riders. The restated base fuel factor recommended by the Public Staff was 2.3284¢ per kWh. Finally, although the Public Staff recommended restatement of the base fuel factor established in Docket No. E-7, Sub 909 to exclude the non-fuel purchased power expenses that should not have been included, the Public Staff also testified that it was reasonable to conclude those non-fuel energy expenses would have properly been recoverable and included in base rates. Therefore, the Public Staff also recommended establishment of a non-adjustable base rate rider of 0.0205¢ per kWh in order to allow the Company to continue to recover the difference between the base fuel factor established in Docket No. E-7, Sub 909 and the restated base fuel factor. In its rebuttal testimony, Duke testified that these adjustments were appropriate if the Commission agreed with the Public Staff's recommendation that certain non-fuel purchased power energy costs should be excluded from recovery in this proceeding. In its Order, the Commission required that the base fuel factor be restated as recommended by the Public Staff and authorized Duke to establish the non-adjustable base rate rider of 0.0205¢ per kWh in its rates effective September 1, 2010.

In summary, the Commission found that the total or net fuel and fuel-related cost factors to be billed to Duke's NC retail customers during the 12-month billing period beginning September 1, 2010 were 1.9439¢ per kWh for the residential customer class, 1.9634¢ per kWh for the general service/lighting customer class, and 1.9917¢ per kWh for the industrial customer class. These total or net factors consisted of the prospective fuel and fuel-related cost factors plus the EMF riders discussed above. The Commission also approved the uncontroverted continuation of the Nantahala customer rider of 0.1539¢ per kWh as established in Docket No. E-7, Sub 847.

The result of the Commission decision and Order in this fuel and fuel-related charge adjustment proceeding for Duke was a net decrease of approximately \$328.7 million on an annual basis. The net rate decreases were \$6.26 for the residential class, \$6.08 for the general service/lighting class, and \$5.84 for the industrial class, for each 1,000 kWh of usage per month.

## **5. PEC – Docket No. E-2, Sub 976**

PEC's most recent fuel and fuel-related charge adjustment proceeding employed a 12-month test period consisting of the year ending March 31, 2010. PEC filed its Application and supporting pre-filed testimony and exhibits on June 4, 2010. The evidentiary hearing was held on September 21, 2010 and the Commission issued its Order on November 17, 2010.

PEC submitted in its pre-filed testimony and exhibits that its total system forecasted fuel and fuel-related cost for the period that the rates established in this proceeding would be in effect equaled \$1,548,910,781. The nuclear capacity factor used in forecasting this amount of fuel cost was 93.77%. PEC's actual nuclear capacity factor for the test year was 91.36%. In comparison, the NERC five year average

(2004-2008) nuclear capacity factor, appropriately weighted for size and type of plants similar to PEC's units, equaled 89.0%. PEC then allocated the total system forecasted fuel cost to the North Carolina retail jurisdiction. The total amount allocated to the North Carolina retail jurisdiction was \$1,030,754,396. This total amount included \$77,282,805 of noncapacity purchased power cost subject to economic dispatch or economic curtailment that was allocated to North Carolina retail based upon energy usage in 2009. The total North Carolina retail amount also included \$25,846,580 for capacity costs of power purchases from qualifying cogeneration and small power production facilities and the fuel and fuel-related costs of purchases from renewable energy facilities that were both allocated based upon peak demand during 2009. PEC also used the \$77,282,805 and \$25,846,580 amounts to calculate specific components for each customer class in its proposed fuel and fuel-related cost factors as required by G.S. 62-133.2(a2). Finally, the total amount included \$927,625,011 for all other types of fuel and fuel-related costs.

In its Application and pre-filed direct testimony, PEC initially submitted that the total North Carolina retail fuel and fuel-related cost under-recovery appropriate for purposes of this proceeding was \$34,009,193. The \$34,009,193 total under-recovery consisted of: (1) a fuel over-recovery of \$45,186,038 for the period from August 1, 2009 through April 30, 2010; (2) a projected fuel under-recovery of \$10,118,697 for the period from May 1, 2009 through July 31, 2009; (3) \$67,787,680, which was one-third of PEC's under-recovered fuel cost at July 31, 2008, that was deferred for recovery in this proceeding pursuant to the terms of the Settlement Agreement discussed in the summary of PEC's previous fuel and fuel-related charge adjustment proceeding, Docket No. E-2, Sub 949; and (4) \$1,288,854 of interest associated with the under-recovered fuel and fuel-related costs deferred for recovery in the Settlement Agreement offset by interest on the over-recoveries during the 12-month period ending July 31, 2010. PEC testified that it developed and proposed different EMF riders for each rate class to recover the total North Carolina retail fuel and fuel-related cost under-recovery of \$34,009,193. To calculate the proposed EMF riders, PEC divided the under-recovered fuel and fuel-related cost amount for each customer class by the adjustment North Carolina retail kWh sales for each customer class. The EMF riders proposed by PEC were (0.012)¢ per kWh for the residential class, 0.422¢ per kWh for the small general service class, 0.199¢ per kWh for the medium general service class, 0.087¢ per kWh for the large general service class, and (0.032)¢ per kWh for the lighting class.

As stated above, when PEC filed its Application and pre-filed direct testimony on June 4, 2010, PEC included a projected fuel under-recovery of \$10,118,697 for the period from May 1, 2009 through July 31, 2009 in its total North Carolina retail under-recovery of \$34,009,193. On August 20, 2010, PEC filed supplemental testimony in order to include the actual under-recovery for those three months which equaled \$45,487,773. PEC testified that the difference between the projected and actual under-recovery for those three months was primarily due to a longer than anticipated outage at one of its nuclear units and very hot weather. The increase in the under-recovery for those three months, plus adjusted interest, resulted in a revised total North Carolina retail fuel and fuel-related cost under-recovery of \$69,427,566.

However, PEC testified that it did not seek to revise the EMF riders and fuel and fuel-related cost factors that it initially proposed because PEC's industrial customers had budgeted for PEC's initial proposal and the fuel revenue during the next twelve months may offset the additional under-recovery. PEC added that it would seek to recover the difference between the initial total under-recovery of \$34,009,193 and the revised actual under-recovery of \$69,427,566, or \$35,418,373, in its next fuel charge adjustment proceeding.

PEC also developed and proposed total fuel and fuel-related cost factors, including the EMF riders, for each rate class such that each rate class would experience the same change in its average monthly bill, consistent with the provisions of the Settlement Agreement filed in Docket No. E-2, Sub 929 that were applicable to this proceeding and in accordance with the requirements of G.S. 62-133.2. PEC testified that its forecasted total North Carolina retail fuel and fuel-related cost of \$1,030,754,396, as well as the total North Carolina retail under-recovery of \$35,067,341, resulted in a projected total decrease in its fuel and fuel-related cost of \$170,469,937, or a decrease of 5.28%. Therefore, PEC developed total fuel and fuel-related cost factors such that each rate class would experience a decrease of 5.28% in average monthly bills. The total fuel and fuel-related cost factors, including the EMF riders proposed by PEC, were 2.945¢ per kWh for the residential class, 2.959¢ per kWh for the small general service class, 2.879¢ per kWh for the medium general service class, 2.845¢ per kWh for the large general service class, and 3.219¢ per kWh for the lighting class.

PEC also testified that its fuel and fuel-related procurement and power purchasing practices were reasonable and prudent during the test period. In addition, PEC's testimony demonstrated that the annual increase in the aggregate amount of noncapacity purchased power costs, qualifying capacity costs, and renewable energy costs requested for recovery did not exceed two percent of PEC's total North Carolina jurisdictional revenues for 2008 consistent with the requirements of G.S. 62-133.2(a2).

After conducting its investigation, the Public Staff testified that PEC had prudently operated its system and that its fuel and fuel-related cost were reasonable and prudent during the test period. However, the Public Staff recommended that PEC should not be allowed to recover a portion of the total transmission service charges associated with certain long-term dispatchable power purchases that PEC had included in its fuel and fuel-related costs. The Public Staff testimony explained that PEC's transmission service agreements provided for the payment of monthly capacity charges, or reservation charges, no matter how much the transmission capacity is actually used in connection with PEC's purchases of energy. The Public Staff testified that only the portion of the charges related to the transmission of specific purchases of dispatchable or curtailable energy is eligible for recovery as a fuel and fuel-related cost under its interpretation of G.S. 62-133.2(a1)(4). In order to determine a reasonable amount of the transmission charges under its interpretation of the statute, the Public Staff calculated a ratio of the actual use of transmission capacity for specific energy purchases to the total reserved capacity available to deliver the purchases and applied that ratio to the total

transmission charges that PEC had included in its proposed fuel and fuel-related cost during that test year. Based on this calculation, the Public Staff recommended a \$13,432,244 decrease, including interest, to PEC's proposed fuel and fuel-related cost. In rebuttal testimony, PEC testified that, absent firm transmission service, PEC would not be able to depend on long-term dispatchable power purchases to meet its load requirements. In addition, PEC testified that treating fixed transmission service as usage-based is inconsistent with how transmission service is actually purchased and utilized, and inconsistent with the only two requirements for the recovery of transmission charges under G.S. 62-133.2(a1)(4) which are: (1) that the transmission charges related to power purchase; and (2) the power purchase is subject to economic dispatch or economic curtailment. After considering the evidence in the record in this proceeding, the Commission found and concluded that all the transmission charges at issue were necessarily and prudently incurred by PEC, related to purchases of power made by PEC during the test year and incurred for that sole purpose, and the power purchases were subject to economic dispatch or economic curtailment.

No party raised any other issue and in its Order the Commission approved PEC's proposed under-recovery, EMF riders, and total fuel and fuel-related cost factors.

The result of the Commission's decisions and Order in this proceeding for PEC was a decrease of approximately \$170,469,937 in revenue on an annual basis. The rate decrease for each rate class were as follows: \$5.60 for residential, \$6.13 for small general service, \$4.37 for medium general service, \$3.59 for large general service, and \$12.30 for lighting, for each 1,000 kWh of usage per month.

## **6. Dominion NC Power - Docket No. E-22, Sub 461**

The most recent fuel and fuel-related charge adjustment proceeding for Dominion NC Power employed a test period consisting of the 12-month period ending June 30, 2010. The Company filed its Application and supporting pre-filed testimony and exhibits on August 10, 2010. The evidentiary hearing was held on October 14, 2010 and the Commission issued its Order on December 13, 2010.

Earlier that year, on February 15, 2010, Dominion NC Power filed an Application for a general rate increase in Docket No. E-22, Sub 459 and requested that its general rate case be consolidated with this annual fuel and fuel-related charge adjustment proceeding. The Company also requested that the Commission issue a final order for both the general rate case and this fuel charge adjustment proceeding so that new rates resulting from both proceedings would become effective January 1, 2011. On April 7, 2010, the Commission issued an Order that established several procedural requirements, including the consolidation of the general rate case and this annual fuel charge adjustment proceeding that was required by Commission Rule R8-55 to be filed in late August of 2010. Therefore, the Commission Order issued on December 13, 2010 addressed all issues in both the general rate case, including establishment of a new base fuel factor, and the fuel charge adjustment, including establishment of a new fuel and fuel-related cost factor and new EMF rider, and

resulted in a combined revenue and rate change that became effective for service rendered to customers on January 1, 2011.

In its Application and pre-filed testimony, Dominion NC Power initially requested Commission approval of a new aggregate prospective or base fuel and fuel-related cost factor of 2.673¢ per kWh. This uniform fuel factor was determined by dividing the adjusted test period system fuel and fuel-related cost of \$2,169,947,026 by the adjusted test period system sales of 81,189,413 MWh. The Company's adjusted test period system fuel cost was based, in part, on a 94.3% nuclear capacity factor, which was the expected nuclear capacity factor during the period that the rates established in this period would be in effect. Dominion NC Power's actual nuclear capacity factor for the test year was 93.6%. In comparison, the most recent NERC five year average (2005-2009) nuclear capacity factor for units similar in type and size to the nuclear units of the Company was equal to 91.5%. Normalization adjustments were also made to test period generation and sales to account for weather, customer growth, and usage. During the test period for this proceeding, the Company purchased power from suppliers, primarily through the markets administered by PJM, that did not provide the Company with the actual fuel cost of such purchases. The Company also initially proposed to include all of the non-capacity, or energy, costs of such purchases that were subject to economic dispatch or curtailment in its fuel and fuel-related costs.

In addition, Dominion NC Power initially requested approval to differentiate the uniform fuel factor of 2.673¢ per kWh into two class differentiated base or prospective fuel factors. The initially proposed class differentiated base fuel factors were 2.793¢ per kWh for the residential, small general service, outdoor/street lighting and traffic lighting customer classes and 2.506¢ per kWh for the larger industrial customer classes.

The Company also initially requested approval of an EMF decrement rate rider of 0.343¢ per kWh to refund an over-recovery of test year fuel costs. This EMF decrement rider was determined by dividing an over-recovery of its North Carolina retail test year fuel cost of \$14,485,503 by the adjusted North Carolina retail test year sales of 4,224,805 MWh.

Finally, Dominion NC Power submitted a study with the Application filed in this proceeding that showed the impact of the Company's integration into PJM on its North Carolina retail fuel cost during the test year. The purpose of this study was to demonstrate compliance with conditions imposed by the Commission in its Order dated April 19, 2005, in Docket No. E-22, Sub 418, which authorized Dominion NC Power to join PJM.

Prior to the evidentiary hearing, Dominion NC Power, the Public Staff, and three intervenors representing separate industrial customers filed a stipulation addressing issues in both the general rate case and the fuel charge adjustment proceeding. However, this stipulation stated that the Public Staff had not yet completed its investigation in the fuel charge adjustment proceeding and that the Public Staff and the Company would address any issues in a supplemental stipulation as necessary.

Subsequently, Dominion NC Power and the Public Staff filed a supplemental stipulation agreeing to revisions in the base fuel factor to be established in the general rate case and the fuel factor and EMF rider to be established in the fuel charge adjustment proceeding. At the evidentiary hearing, all parties agreed to the stipulation and supplemental stipulation, except the Attorney General, who did not raise any objections, and the stipulations resolved all issues in this proceeding.

In the stipulations, the parties agreed and recommended approval of a new aggregate prospective fuel and fuel-related cost factor of 2.511¢ per kWh. The parties also agreed that the fuel factor should be differentiated by customer class based on the voltage at which service is taken. The recommended voltage-differentiated fuel factors for seven different customer classes ranged from 2.539¢ per kWh for the residential class to 2.441¢ per kWh for the class containing the largest industrial customer. The parties also recommended that these prospective fuel factors serve as the new base fuel factors established in the general rate case. The aggregate prospective and base fuel factor was calculated by dividing an adjusted test period system fuel and fuel-related cost of \$2,038,477,966 by the adjusted test period system sales of 81,189,413 MWh. The level of fuel cost continued to be based, in part, on a nuclear capacity factor of 94.3%. However, contrary to Dominion NC Power's original request to include all of the non-capacity, or energy costs, of power purchases from suppliers that did not provide the actual fuel cost of such purchases in its fuel cost, the stipulating parties also generally agreed that 85% of the non-capacity, or energy cost of such purchases should be recovered as fuel costs and the 85% factor would not change until the sooner of the Company's next general rate case or the fuel charge adjustment proceeding to be held in 2014.

The stipulating parties also recommended approval of an EMF decrement rider equal to 0.280¢ per kWh. This EMF decrement was determined by dividing an over-recovery of its North Carolina retail fuel cost over-recovery of \$11,811,781, which included interest at a rate of 10% per annum, by the adjusted North Carolina retail sales during the test year of 4,224,805 MWh. The recommended EMF decrement of 0.280¢ per kWh was to be implemented on January 1, 2011, to refund the over-recovery of the test year fuel cost.

In its Order, the Commission found and concluded that the provisions of the stipulations were just and reasonable to all parties and were approved for purposes of this proceeding.

The result of the Commission decision and Order in this combined general rate case and fuel and fuel-related charge adjustment proceeding for Dominion NC Power was an increase of approximately \$3.1 million in revenue from base or general rates, offset by a decrease of approximately \$27.3 million from fuel rates for a period of one year. The combined effect was a net rate decrease of approximately \$5.02 per month for a typical residential customer using 1,000 kWh per month during calendar year 2011.

**SUMMARY TABLE OF SIX FUEL CHARGE ADJUSTMENT PROCEEDINGS**

<b>Company and Docket No.</b>	<b>Date of Order</b>	<b>Nuclear Capacity Factor Achieved in Test Year</b>	<b>Approved Fuel Factor<sup>2</sup></b>	<b>EMF Increment or (Decrement)<sup>2</sup> Including Interest</b>	<b>Total Increase/(Decrease) in Annual Revenue and in Residential Rates per 1000 kWh</b>
1. Duke E-7, Sub 875	7/29/09	91.50%	2.3491¢	0.2205¢	\$228.5 million \$4.07
2. PEC E-2, Sub 949	11/16/09	91.24%	3.262¢	0.225¢	(\$14.2 million) (\$0.45)
3. Dominion NC Power E-22, Sub 456	12/17/09	92.39%	2.621¢	0.376¢	(\$5.3 million) (\$1.33)
4. Duke E-7, Sub 934	8/6/10	94.34%	2.2845¢	(0.3406¢)	(\$328.7 million) (\$6.26)
5. PEC E-2, Sub 976	11/17/10	91.36%	2.957¢	(0.012¢)	(\$176.4 million) (\$5.60)
6. Dominion NC Power E-22, Sub 461	12/13/10	93.6%	2.539¢	(0.280¢)	(\$24.2 million) (\$5.02)

<sup>2</sup>Amounts shown are in cents per kWh for residential customers, excluding gross receipts tax and the regulatory fee.

Rule 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. 62-133.7(h), the total delivered costs of all purchases of power from renewable energy facilities and new renewable energy facilities pursuant to G.S. 62-133.7 or to comply with any federal mandate that is similar to the requirements of subsections (b), (d), (e) and (f) of G.S. 62-133.7.

(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 Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc., 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 North Carolina Power, the annual hearing will be scheduled for the second 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 Progress Energy Carolinas, 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), according to the following schedule: Duke Energy Carolinas, LLC, and Progress Energy Carolinas, Inc., not less than 90 days prior to the hearing; Dominion North Carolina Power, not less than 75 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 15 days prior to the date of the hearing. Petitions to intervene filed less than 15 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 15 days prior to the hearing date. If a petition to intervene is filed less than 15 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 5 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.