

THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COLUMBIA, SOUTH CAROLINA

PROCEEDING #16-11513

FEBRUARY 10, 2016

10:37 A.M.

ALLOWABLE EX PARTE BRIEFING [ND-2016-5-E]

REQUESTED BY DUKE ENERGY CAROLINAS, LLC (DEC) AND DUKE ENERGY PROGRESS
(DEP) – COAL ASH DISPOSAL

TRANSCRIPT OF
ALLOWABLE *EX PARTE* BRIEFING

COMMISSION MEMBERS PRESENT: Nikiya M. 'Nikki' HALL,
Chairman; Swain E. WHITFIELD, *Vice Chairman*; and
COMMISSIONERS John E. 'Butch' HOWARD, Elliott F. ELAM, JR.,
Comer H. 'Randy' RANDALL, Elizabeth B. 'Lib' FLEMING, and
G. O'Neal HAMILTON,

ADVISOR TO COMMISSION: Joseph Melchers, General Counsel

STAFF PRESENT: F. David Butler, Senior Counsel; James Spearman,
Ph.D., Executive Assistant to the Commissioners; B. Randall Dong,
Esq., Josh Minges, Esq., and David W. Stark, III, Esq., Legal Staff;
Tom Ellison and Lynn Ballentine, Advisory Staff; Jo Elizabeth M.
Wheat, CVR-CM/M|GNSC, Court Reporter; and Allison Minges and Deborah
Easterling, Hearing Room Assistants

APPEARANCES:

HEATHER SHIRLEY SMITH, ESQUIRE, along with MIKE RUHE
[Director, Environmental Policy and Affairs / Duke Energy
(SC)], presenter, representing DUKE ENERGY CAROLINAS, LLC, AND DUKE
ENERGY PROGRESS, LLC

JEFFREY M. NELSON, ESQUIRE, representing the SOUTH
CAROLINA OFFICE OF REGULATORY STAFF

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Please note the following inclusions/attachments to the record:

- PowerPoint presentation (PDF)

For identification of additional referenced materials (if any) and links for same, please see:

- ORS correspondence filed as part of the *ex parte* briefing process

P R O C E E D I N G S

1
2 **CHAIRMAN HALL:** Thank you. Be seated. Good
3 morning, everyone. We will call this Allowable Ex
4 Parte Briefing to order, and ask Mr. Melchers to
5 read the docket, please.

6 **MR. MELCHERS:** Thank you, Madam Chairman.
7 Commissioners, we are here pursuant to a Notice of
8 Request for Allowable Ex Parte Briefing. The
9 requestors are Duke Energy Carolinas, LLC, and Duke
10 Energy Progress, LLC. The topic is: Coal Ash
11 Disposal. And we are here pursuant to that Notice
12 in the Commission's hearing room, February 10th, at
13 10:30 in the morning.

14 Madam Chair, if I could just make one
15 programming note.

16 Folks, we are having construction and
17 remodeling done to our downstairs, so if you need
18 to find a restroom, head up the stairs and then
19 just keep going straight down the hall upstairs.
20 Thanks.

21 **CHAIRMAN HALL:** All right. Thank you, Mr.
22 Melchers.

23 And who appears representing Duke Energy
24 Carolinas?

25 **MS. SMITH:** Heather Shirley Smith, on behalf

1 of Duke Energy Carolinas and Duke Energy Progress.

2 **CHAIRMAN HALL:** Okay. Thank you.

3 And for ORS?

4 **MR. NELSON:** Good morning, Madam Chair. I'm
5 Jeff Nelson. I represent the Office of Regulatory
6 Staff as Mr. Dukes Scott's representative.

7 **CHAIRMAN HALL:** Okay, Mr. Nelson. And do you
8 have any remarks you wanted to give?

9 **MR. NELSON:** I do.

10 **CHAIRMAN HALL:** Okay.

11 **MR. NELSON:** Thank you, Madam Chair.

12 Typically, as I've tried to do in these,
13 recently at least, I'd just like to do a little
14 intro regarding procedures and everything, for some
15 people maybe that haven't been here before.

16 For those of you who don't know me, I'm Jeff
17 Nelson, and I'm the Chief Counsel for the Office of
18 Regulatory Staff, and I am here as the designee for
19 the Executive Director of the Office of Regulatory
20 Staff, this morning. As the ORS representative,
21 it's my duty to certify the proceedings here this
22 morning within 72 hours of them being concluded to
23 the Chief Clerk of the Public Service Commission,
24 so we operate on a fairly tight timeframe under the
25 statutory framework that allows these allowable ex

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partes.

The requirements of the statute are, in part, the allowable ex parte be confined to the subject matter which has been noticed for this here today, and the subject matter noticed in this matter is "Coal Ash Disposal." So I, therefore, ask the presenters, the Commission, and the Staff to please keep the subject related just to coal ash disposal this morning.

Additionally, the statute prohibits participants, Commissioners, or Commission Staff, from requesting or giving any commitment, predetermination, or prediction regarding any action by the Commission as to any ultimate or penultimate issue which either is or is likely to come before the Commission. We, therefore, ask the participants, Commissioners, and Staff, also, if possible, to keep from trying to refer to any additional documents or materials that aren't included in the presentation. When you do that, myself and Heather both have to try and pull this stuff together at the last minute, so we'd ask, if at all possible, that you try and refrain from referencing any documents like that.

As a final note, I'd like to point out to

1 everybody here: Y'all should've gotten, when you
2 came in today, a form at the table out here. You
3 should have both signed in for the Public Service
4 Commission and received a form. Good legal advice
5 always is: Read the form. Read anything before you
6 sign it. So, I would ask you to please read that,
7 make sure you sign that form, and then turn it in
8 before you leave today.

9 That's all I have, Madam Chair. Thank you.

10 **CHAIRMAN HALL:** Okay. Thank you.

11 If there's nothing further, then Mr. Ruhe, if
12 you want to go ahead with your presentation.

13 **MIKE RUHE [DUKE ENERGY]:** Thank you. All
14 right.

15 **CHAIRMAN HALL:** Yeah, if you can hit that
16 button and pull it closer, please.

17 **MIKE RUHE [DUKE ENERGY]:** [Indicating.] Yeah.
18 I see the lights now. Okay.

19 **CHAIRMAN HALL:** Okay.

20 **MIKE RUHE [DUKE ENERGY]:** All right. Good
21 morning, Commissioners.

22 [Reference: Presentation Slide 1]

23 My name is Mike Ruhe. I'm the Environmental
24 Policy & Affairs Director for Duke Energy here in
25 South Carolina. Thank you for the opportunity to

1 provide this update on Duke Energy's coal ash
2 management activities here in the State. It's been
3 exactly one year since I was last here before you.

4 Since then, much scientific and engineering
5 work has been done at both our W.S. Lee and
6 Robinson Plants. The results of that work have
7 been shared with our regulators, and we worked
8 closely with them and our local communities to
9 finalize these ash basin closure strategies.

10 [Reference: Presentation Slide 2]

11 As you may recall, following the Dan River ash
12 release in February of 2014, the company initiated
13 a thorough engineering evaluation of all of its ash
14 basins and related piping systems across our fleet.
15 We are committed to the safe and reliable
16 operations of those basins until they're ultimately
17 closed.

18 We've been developing a comprehensive, longer-
19 term ash basin closure strategy for all of our ash
20 basins. While closing these basins has always been
21 part of our – of the company's vision, we have
22 substantially accelerated that work. Because
23 conditions at each site are unique, we believe that
24 effective closure approaches should be based on
25 site-specific science and engineering, and we've

1 engaged some of the best experts in the country to
2 help us develop those protective closure
3 strategies.

4 These strategies must protect the public and
5 they must protect groundwater. Further, we must be
6 able to implement them safely. The results of this
7 work has helped the company shape its overall ash
8 management closure strategies for both Lee and
9 Robinson, and I'm pleased to be able to share this
10 update with you today.

11 So let's first take a look at what we're doing
12 at W.S. Lee.

13 [Reference: Presentation Slide 3]

14 To review, the Lee Steam Station was built in
15 1951. Units 1 and 2 were officially retired on
16 November 6, 2014. Unit 3 was converted from coal-
17 firing to natural gas last year. And construction
18 of the new 750 megawatt natural-gas combined-cycle
19 is well underway.

20 Recall that the station has two active ash
21 basins, a primary and secondary basin, and these
22 basins no longer receive coal ash or coal-ash waste
23 since those units are retired, but they do still
24 receive processed wastewater from the plant.
25 There's also a closed inactive basin from the

1 1950s, an ash structural fill, and a former borrow
2 area where ash was placed years ago that is
3 referred to as the ash fill area.

4 Collectively, the site contains about 3.6
5 million tons of ash.

6 [Reference: Presentation Slide 4]

7 All right. Here's an overview picture of the
8 site. You can see – I'll point out a couple of
9 things. Hopefully, I don't shut the machine off.

10 **CHAIRMAN HALL:** Just don't touch it.

11 **MIKE RUHE [DUKE ENERGY]:** Yes. Here is the
12 primary basin we're talking about [indicating], the
13 secondary basin [indicating]. The structural fill
14 [indicating] is right here. The plant proper
15 [indicating]. The coal pile that's long been gone
16 [indicating]. Here [indicating] is the inactive
17 basin, right here; you can see the footprint here.
18 And then the ash fill area is down here
19 [indicating], just in the lower right corner. And,
20 of course, there's the Saluda River [indicating].

21 [Reference: Presentation Slide 5]

22 On September 23, 2014, the company announced
23 that ash from the closed inactive basin and that
24 ash fill area would be excavated and disposed of in
25 a lined solution. Duke Energy entered into an

1 agreement with DHEC on September 29th of that year
2 to do this work, and submitted an Ash Removal Plan
3 to the agency on December 18th. We believe it will
4 take about three years to complete the removal of
5 the ash from these two areas.

6 The company selected Waste Management,
7 Incorporated, to excavate and transport ash from
8 these two areas to a fully lined, solid-waste
9 landfill located in Homer, Georgia. This landfill
10 is also operated by Waste Management. Trucks
11 started hauling that ash from the site on May 15th
12 of last year, and so far, just over 260,000 tons
13 have been excavated and transported off-site. That
14 total represents about 19.2 percent of the total
15 ash from those two areas.

16 [Reference: Presentation Slide 6]

17 Okay. And here, we just have highlighted
18 those two areas a little bit more, so you can get a
19 better idea of what we're talking about, you know.
20 It just shows that other side of the road, where
21 the ash fill area is.

22 [Reference: Presentation Slide 7]

23 All right. Here is an aerial view where –
24 let's see, the ash fill area [indicating]. The
25 inactive basin [indicating]. And, of course, in

1 the foreground here is where land was cleared for
2 the natural gas combined-cycle plant.

3 [Reference: Presentation Slide 8]

4 All right. Here's the inactive basin after
5 the trees were cleared and the topsoil removed, and
6 you can see here, of course, the dark material is
7 coal ash.

8 [Reference: Presentation Slide 9]

9 Here is a view, an overhead view, of how we're
10 loading trucks at that site, and you can see we've
11 got trucks that drive in, do the little loop here,
12 and then backhoes are excavating ash and loading it
13 into the trucks. Then they drive around to an
14 automated truck wash, here, to help reduce dust,
15 and then tarps are put over the truck to make sure
16 no ash or dust gets off when it goes on the road.

17 [Reference: Presentation Slide 10]

18 Then the trucks would proceed out, and then
19 they're weighed to make sure that they're in spec.
20 on the weight. And then they go off on the road
21 towards Georgia.

22 [Reference: Presentation Slide 11]

23 Of course, here's the route that we take,
24 which is primarily Interstate highway.

25 The company worked closely with Waste

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Management, South Carolina DOT, and local municipal officials to determine the best route, or the best combination of haul routes, that would present the least impact to the local public.

Obtaining meaningful community input was important to us, because we realized we'd be putting a lot of trucks on local roads as they left the station. So we met with community leaders, developed targeted messages for those neighbors, providing them updates about our plans. You know, we sent over 5000 letters to them through the mail and hosted community meetings where we had our project managers and subject-matter experts available to answer any of their questions. We also support a website, so interested parties can get the latest information about that project. You know, the information that we were able to get was invaluable to us, as we have to determine what the best routes to go from out of the – from leaving the station.

[Reference: Presentation Slide 12]

Okay, let's turn to discuss the other basins at the site. Recall on December 18, 2014, Duke Energy communicated to DHEC its closure strategy for the remaining ash, for the primary and

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secondary basins and the structural fill.

Now, based upon the results of that site-specific engineering work, the company decided, at that time, to excavate the ash from those two areas, as well, and to relocate them in a fully lined landfill. That analysis also explored options for disposing of this remaining ash at the Lee site. Duke Energy submitted a Conceptual Closure Plan for these areas on December 15, 2015, and that plan also included a design for a potential on-site, lined landfill.

Currently, we are looking to site that landfill on the footprint of the existing secondary basin. Landfill siting studies are currently underway and we anticipate submitting a Landfill Permit Application to DHEC in October of this year.

[Reference: Presentation Slide 13]

All right. Here is a drawing of what we had in that proposed – in that Closure Plan. You can see the outline of the primary basin, secondary basin, and the structural fill. Now, our plans would be to drain the water out of the secondary basin, which is in the upper left-hand corner, and then what little ash was in there – because that secondary basin doesn't contain much ash – remove

1 that ash, put it in the primary basin, and then we
2 would reconfigure that footprint to make it
3 suitable for a landfill, and then line it, and then
4 remove all the ash from the primary basin and that
5 structural fill into that secondary basin
6 footprint, and then cap it and close it.

7 [Reference: Presentation Slide 14]

8 So what are the advantages of the proposed
9 closure strategy? Well, first and foremost, it
10 eliminates the existing impoundments. Second, it
11 consolidates the ash in a fully lined and capped
12 location in close proximity to those existing ash
13 management units, minimizing ash handling, and it
14 also reduces community impacts. Third, groundwater
15 is protected. That landfill will be lined and
16 capped, leachate will be collected, and we will
17 continue to perform groundwater monitoring to
18 ensure that these controls function as designed.
19 And, finally, we are eliminating the use of public
20 roads for hauling ash once that landfill is
21 operational. This is very important for our plant
22 neighbors.

23 [Reference: Presentation Slide 15]

24 Now, let's take a look at the Robinson Plant.
25 The Robinson coal unit was built in 1960 and

1 retired in September of 2012. The second Robinson
2 unit is a 710 megawatt nuclear unit that continues
3 to operate. The Robinson ash management facility
4 includes a single-celled ash basin and what we are
5 calling the 1960 fill area. That area's located
6 just to the west of Units 1 and 2. The entire site
7 contains about 4.2 million tons of ash.

8 [Reference: Presentation Slide 16]

9 And here's an aerial view of the site. Just
10 to reorient you, the plant proper is down here –
11 here's the plant proper, right down here
12 [indicating]. The ash basin is up here
13 [indicating] in this footprint. Here is Lake
14 Robinson and the dam [indicating]. And the 1960
15 fill area – and I'll have another drawing to kind
16 of highlight it – is in this area right here
17 [indicating]. This part right here [indicating] is
18 the footprint for the Darlington County CT site.

19 That 72-acre ash basin is comprised of a 49-
20 acre basin, itself, and then a 23-acre dry storage
21 area located just to the western part of that
22 basin. Ash thickness ranges anywhere between 11 to
23 53 feet. The surface of that ash basin is dry and
24 has been dry for several years.

25 [Reference: Presentation Slide 17]

1 The 1960 fill area was created when the plant
2 started operating, and it received ash from Unit 1
3 until the current ash basin was constructed in the
4 mid-'70s. Duke Energy contracted with an outside
5 engineering firm in late 2013 to evaluate the
6 extent and volume of the ash stored in that area.
7 We've determined that this area covers
8 approximately 25 acres and holds an estimated
9 330,000 tons of ash.

10 Duke Energy entered into an agreement with
11 DHEC on July 17, 2015, to excavate the ash from
12 that area and relocate it to a proposed lined
13 landfill to be built on-site. Landfill siting
14 studies are currently underway for that landfill,
15 and we anticipate submitting a Class 3 Landfill
16 Permit Application to DHEC by April 1st.

17 The agreement we signed with DHEC requires us
18 to complete the excavation and removal of all ash
19 from this area within eight years.

20 [Reference: Presentation Slide 18]

21 Okay. And here's that extra drawing I was
22 showing you, zooming in on the plant a little bit.
23 It's a little bit faint, but you can get an idea of
24 where the boundary of that 1960 fill area is, right
25 underneath part of the transmission corridor there.

1 [Reference: Presentation Slide 19]

2 So let's now take a look at the active basin
3 at Robinson. We conducted a number of geotechnical
4 studies in and around that basin and concluded,
5 again, that the best closure strategy would be to
6 excavate the ash from that area and relocate it to
7 a lined solution. That decision was communicated
8 to DHEC on April 30, 2015. A Conceptual Closure
9 Plan was submitted to the agency on November 13th,
10 and our plans are to dispose of this ash in the
11 same landfill that's being constructed for the 1960
12 ash-fill ash.

13 [Reference: Presentation Slide 20]

14 The location of the proposed landfill's on
15 Duke-Energy-owned land, on that adjacent Darlington
16 County combustion turbine site. You can see, the
17 square up there is the footprint of where we
18 propose to put the landfill.

19 [Reference: Presentation Slide 21]

20 The advantages of this proposed closure
21 strategy are very similar to those for W.S. Lee.
22 First, it eliminates the existing impoundment and
23 fill area. Second, it consolidates the ash on-site
24 in a fully lined, capped location that's in close
25 proximity to the existing ash management units.

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Third, groundwater is protected. Ash will be removed and placed in an engineered landfill, segregated from groundwater. Leachate, again, will be collected, and we will perform groundwater monitoring to ensure that these controls function as designed. Finally, we'll be keeping ash trucks off of public roads. We're looking into the possibility of building either internal roads or possibly a conveyor system to get ash from those two areas to this new landfill.

[Reference: Presentation Slide 22]

As at W.S. Lee, we actively engaged the local community and our plant neighbors to obtain feedback about our site plans. We hosted community meetings there, as well, making our project leaders and subject-matter experts available to answer any questions. At Robinson, we sent out almost 1000 letters to plant neighbors, providing them information about the project. And like at Lee, we have a public website that provides the most current information about the project.

Our employees live in that community also, so, you know, it's important to us to have all of our plant neighbors be knowledgeable and comfortable with the plans that we have at the site.

1 [Reference: Presentation Slide 23]

2 So, in conclusion, Duke Energy is committed to
3 closing our ash basis. We will do this safely and
4 in a manner that protects the environment,
5 particularly groundwater. We will do it in a way
6 that minimizes the impacts to our communities, and
7 we will continue to work with our neighbors to keep
8 them informed on what we are doing. We will manage
9 these projects in a manner that controls cost.
10 And, finally, we will continue to work with DHEC to
11 ensure that we meet all of our – all required
12 regulatory standards.

13 Thank you, so much, for your time.

14 [Reference: Presentation Slide 24]

15 **CHAIRMAN HALL:** Thank you, Mr. Ruhe.

16 Commissioners, questions? Commissioner
17 Hamilton.

18 **COMMISSIONER HAMILTON:** Thank you, Madam
19 Chair.

20 Happy to have you with us, today, sir, and we
21 certainly appreciate the update. At this present
22 time, are you on schedule with all DHEC
23 requirements and time limits, et cetera?

24 **MIKE RUHE [DUKE ENERGY]:** Yes, sir, we are.

25 **COMMISSIONER HAMILTON:** Have we experienced

1 any fines in South Carolina, at this point?

2 **MIKE RUHE [DUKE ENERGY]:** We have not.

3 **COMMISSIONER HAMILTON:** Okay. So, as far as
4 DHEC is concerned, the project is totally on
5 schedule.

6 **MIKE RUHE [DUKE ENERGY]:** Yes, sir. We – the
7 project team meets with the technical folks over at
8 DHEC monthly, you know, to keep them updated and
9 because everything is really being fast-tracked,
10 you know, in their minds, so we're working very
11 closely with the agency to make sure all the
12 reviews are working on schedule to meet the
13 timeline.

14 **COMMISSIONER HAMILTON:** Thank you, very much.
15 Thank you, Madam Chair.

16 **CHAIRMAN HALL:** Thank you.
17 Commissioner Howard.

18 **COMMISSIONER HOWARD:** Good morning. Explain
19 to me what you mean by: still active as a
20 wastewater treatment system.

21 **MIKE RUHE [DUKE ENERGY]:** The plant has –
22 those ponds are considered NPDES – National
23 Pollutant Discharge System treatment systems, you
24 know, for wastewater, and are regulated by DHEC.
25 And so there are plant systems that still drain

1 water – think floor sumps, that kind of thing, that
2 are still draining there. As part of the overall
3 new permit that we've got, that we're just now
4 getting from DHEC, you know, we will be closing all
5 that down, you know, when we close down the basins,
6 but we have to go over and have the new piping
7 systems all ready to go before we can shut down
8 that existing plant, because Unit 3 is still
9 operating as a natural gas plant.

10 **COMMISSIONER HOWARD:** Okay, thank you.
11 Commissioner Hamilton asked you about any fines in
12 South Carolina. What about fines about coal ash,
13 in general? How many fines have you procured or
14 are threatened with to have now for your coal ash
15 disposal?

16 **MIKE RUHE [DUKE ENERGY]:** There was the EPA
17 fine that was announced early last year for the
18 overall Dan River event. And then, in the press,
19 there was a North Carolina Department of
20 Environmental Quality fine for Dan River, also,
21 that was between \$6-\$7 million, you know, for that
22 event, too.

23 **COMMISSIONER HOWARD:** How much, total, were
24 they?

25 **MIKE RUHE [DUKE ENERGY]:** How much, total?

1 **COMMISSIONER HOWARD:** Yeah, how many total
2 fines do you have?

3 **MIKE RUHE [DUKE ENERGY]:** Off the top of my
4 head, I do not know.

5 **COMMISSIONER HOWARD:** Well, how –

6 **MIKE RUHE [DUKE ENERGY]:** The EPA fine was, I
7 want to say, \$100 million, you know, in that range.

8 **COMMISSIONER HOWARD:** How do you plan cost
9 recovery of these expenses?

10 **MIKE RUHE [DUKE ENERGY]:** I –

11 **COMMISSIONER HOWARD:** In other words, are you
12 planning to put them in rate base or not? That's
13 my question.

14 **MIKE RUHE [DUKE ENERGY]:** Closure of ash
15 basins, you know, since ash basins are part of the
16 NPDES treatment system, we've always viewed
17 eventual – we've always gone to eventual closure of
18 those basins. I'm not the person that's really in
19 a position to address rate questions. We'll have
20 someone else come back, you know, at that time,
21 when the time is right for that.

22 **COMMISSIONER HOWARD:** A hundred miles comes to
23 mind, but how long is the haul from this coal ash
24 at the disposal to the landfill in Homer, Georgia?
25 How long is that route?

1 **MIKE RUHE [DUKE ENERGY]:** I believe it's 75
2 miles.

3 **COMMISSIONER HOWARD:** Thanks, very much.

4 **CHAIRMAN HALL:** Commissioner Whitfield.

5 **VICE CHAIRMAN WHITFIELD:** Thank you, Madam
6 Chair.

7 Thank you for this presentation. Appreciate
8 having you back here again, a year later, to update
9 us, and we appreciate you coming up to keep us
10 informed. And I've got just a couple of quick
11 questions. The Class 3 landfill that you said
12 you'll be submitting the permit application in
13 October of 2016, this year, when would that –
14 assuming you have the application in then, when
15 would that Class 3 landfill be operational at the
16 Lee facility?

17 **MIKE RUHE [DUKE ENERGY]:** It takes DHEC about
18 between three and five years to approve a landfill
19 and get it constructed, so that's why we've got
20 eight years to dispose of – well, we have eight
21 years to dispose of the ash from that one area.

22 **VICE CHAIRMAN WHITFIELD:** So three to five
23 years permitting, and another few years to –

24 **MIKE RUHE [DUKE ENERGY]:** And –

25 **VICE CHAIRMAN WHITFIELD:** – construct, so a

1 total of roughly eight years, is –

2 **MIKE RUHE [DUKE ENERGY]:** That's correct.

3 **VICE CHAIRMAN WHITFIELD:** – what you're
4 looking at, before –

5 **MIKE RUHE [DUKE ENERGY]:** And that's been the
6 target that we've been working with DHEC, to try to
7 get it done in eight years.

8 **VICE CHAIRMAN WHITFIELD:** – before you would
9 have on-site –

10 **MIKE RUHE [DUKE ENERGY]:** Disposal capability.

11 **VICE CHAIRMAN WHITFIELD:** And that's just for
12 the active basins. The others, the inactive and
13 the ash fill pit, all that material is all what's
14 going to Homer, Georgia; is that correct?

15 **MIKE RUHE [DUKE ENERGY]:** At W.S. Lee, that's
16 correct.

17 **VICE CHAIRMAN WHITFIELD:** Okay, those two are
18 what's going to Homer, and the primary and
19 secondary – the active – are the ones that you
20 would be waiting to put in this new landfill on-
21 site.

22 **MIKE RUHE [DUKE ENERGY]:** That's correct.

23 **VICE CHAIRMAN WHITFIELD:** Okay. Now, how
24 about for the Robinson Plant? I see you're going
25 to have that application in here in about a month

1 or so, in April. Is that on the same schedule,
2 again about eight years out?

3 **MIKE RUHE [DUKE ENERGY]:** Yes, sir.

4 **VICE CHAIRMAN WHITFIELD:** Okay. And,
5 obviously, it looks like, at Robinson, of course
6 you're dealing with a lot less tonnage of ash, but
7 you're going to be able to, as you said, do
8 something on-site, maybe even a conveyor belt, and
9 not actually have to put anything on the road, over
10 at the Robinson plant. Is that the way I'm hearing
11 it?

12 **MIKE RUHE [DUKE ENERGY]:** That's what we're
13 looking at. The decisions – the timeline decisions
14 were based upon, you know, working through the
15 investigation with DHEC. At W.S. Lee, there were
16 concerns about, you know, those ash storage areas.
17 The inactive landfill was very close to the river.

18 **VICE CHAIRMAN WHITFIELD:** Right.

19 **MIKE RUHE [DUKE ENERGY]:** And in discussions
20 with them, we did not feel that it was in a stable
21 situation for the long term, to wait until a
22 landfill was sited. So that's why that – that
23 determined the timeline there.

24 Over at Robinson, it's a different situation.
25 That 1960 fill area's not anywhere near the lake

1 and it's a very stable ash placement. So they were
2 comfortable with the timeline of building a
3 landfill on-site.

4 **VICE CHAIRMAN WHITFIELD:** I see what you're
5 saying. The inactive basin is the one that's right
6 adjacent, like closest, to the Saluda River.

7 **MIKE RUHE [DUKE ENERGY]:** Yes, sir. It's
8 right close to the river and the dike is very steep
9 right there. And so, because of the age of that
10 basin, we were not as certain of the long-term
11 stability, you know, until that time. You know, it
12 was all heavily overgrown with trees, and our
13 engineering folks did not think it was a stable
14 configuration, long term, to wait that long.

15 **VICE CHAIRMAN WHITFIELD:** I noticed that the
16 tonnage you expect to move from Lee – I don't have
17 that page right now, but I think it was 1.4 million
18 tons – here it is – and you've moved not quite 20
19 percent, 19-point-something. And it looks like the
20 timeline you're on, you're somewhat on target. Are
21 you under a three-year contract with them to do
22 that? Or is it an annual thing you continue to
23 renew as the work gets done, as the ash gets
24 hauled? Or what obligation are you under, if you
25 could discuss that?

1 **MIKE RUHE [DUKE ENERGY]:** Well, we signed a
2 consent agreement with DHEC, and that set up the
3 timeline to go over and have that ash moved. And
4 so we secured the trucking and everything else to
5 accommodate that. And so, you know, our plans are
6 to get it done within that three years.

7 **VICE CHAIRMAN WHITFIELD:** And, of course, it's
8 early, but it does look like you're somewhat on
9 target –

10 **MIKE RUHE [DUKE ENERGY]:** That's correct.

11 **VICE CHAIRMAN WHITFIELD:** – from your
12 percentages. Well, thank you, Mr. Ruhe. That's
13 all I have.

14 **CHAIRMAN HALL:** Thank you.
15 Commissioner Fleming.

16 **COMMISSIONER FLEMING:** Good morning, Mr. Ruhe.
17 Nice to have you here today.

18 **MIKE RUHE [DUKE ENERGY]:** Thank you.

19 **COMMISSIONER FLEMING:** Commissioner Howard
20 asked several of the questions that I wanted to
21 ask, so – but I did want to go a little farther
22 about how it will be paid for, the cleanup. And
23 you've talked about the tariff has been used in the
24 past, so the consumer would be the one responsible
25 for paying for the cleanup. But what about the

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finer?

MIKE RUHE [DUKE ENERGY]: With all the cleanup, you know, that went with the Dan River – you know, to be honest, I'm a technical person. I've never really dealt with anything with the fines or that, so I don't have an answer for that. Heather, though, evidently does.

[Laughter]

MS. SMITH: Commissioner Fleming, we have stated before, publicly, that we would not seek recovery of those fines associated with the subject matter from ratepayers. And we'd be happy to provide a written statement to that effect, articulating that position, for the Commission, in conjunction with this ex parte presentation.

COMMISSIONER FLEMING: Okay. And do you confirm, though, that you are planning to request the cleanup recovery in tariffs?

MS. SMITH: We would request recovery for our activities, our prudent activities, related to ash disposal – not the fines, but those other activities. And we've publicly stated that, and we can include that language in anything we file with the Commission, as well.

COMMISSIONER FLEMING: So the shareholders

1 will assume the responsibility for any fines.

2 **MS. SMITH:** Yes.

3 **COMMISSIONER FLEMING:** Okay. I know you had a
4 limited timeframe, I believe in North Carolina, to
5 remove the ash.

6 **MIKE RUHE [DUKE ENERGY]:** [Nodding head.]

7 **COMMISSIONER FLEMING:** And as a result of
8 that, you said, as I recall, that that was a reason
9 not to do recycling or reprocess of that ash, that
10 there just wasn't enough time. Am I correct in
11 that?

12 **MIKE RUHE [DUKE ENERGY]:** In this
13 presentation, I didn't say anything –

14 **COMMISSIONER FLEMING:** No, no, no, no. In the
15 past.

16 **MIKE RUHE [DUKE ENERGY]:** The plants that we
17 have in North Carolina are different than the ones
18 we have in South Carolina. You know, our South
19 Carolina plants were older plants. They did not
20 have all of the pollution control agreement;
21 they're not continuing to operate. So, you know,
22 all our ash is sitting in ponds.

23 To make ash suitable for recycling, you know,
24 we would – there would have to be, in many cases,
25 carbon burnout, or this, that – different

1 technologies done to make it suitable. And because
2 our volumes, in the grand scheme of things, are
3 very low at these two plants, economically it's not
4 feasible.

5 Now if you looked to the larger plants that
6 have scrubbers and continue to operate, there are
7 companies out there that will partner with
8 utilities to go over and make ash more amenable to
9 being recycled. But it's more difficult to do with
10 ash that – you know, it's not worth many recyclers'
11 time to set up an operation to do these types of
12 volumes.

13 **COMMISSIONER FLEMING:** So you would not be
14 doing recycling or –

15 **MIKE RUHE [DUKE ENERGY]:** We don't anticipate
16 doing any recycling of this ash.

17 **COMMISSIONER FLEMING:** – or reprocessing,
18 because of the cost factor.

19 **MIKE RUHE [DUKE ENERGY]:** Because of the cost,
20 that's right.

21 **COMMISSIONER FLEMING:** Okay. And I wanted to
22 also go back – could you talk some more about the
23 "active as a wastewater treatment" – and, I mean,
24 because as I understood what you said, there is
25 coal ash in that, as well, correct?

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MIKE RUHE [DUKE ENERGY]: Right.

COMMISSIONER FLEMING: And what are your plans for those that are still active?

MIKE RUHE [DUKE ENERGY]: In South Carolina? Or in North Carolina?

COMMISSIONER FLEMING: South Carolina.

MIKE RUHE [DUKE ENERGY]: Well, I mean, you know, we still have active NPDES permits at both Robinson and W.S. Lee. Both those ash basins are still included in those permits. Part of the Conceptual Closure Plans for those sites are a requirement from DHEC to go over and close those ash management units. That's why we submitted them. And so we're going through closure right now, and then that – and once they're closed, they will be removed from the permit.

COMMISSIONER FLEMING: Okay. So there won't be ash ponds –

MIKE RUHE [DUKE ENERGY]: There'll be no –

COMMISSIONER FLEMING: – once you've –

MIKE RUHE [DUKE ENERGY]: – ash ponds left.

COMMISSIONER FLEMING: – finished this, so they'll –

MIKE RUHE [DUKE ENERGY]: That's correct.

COMMISSIONER FLEMING: – be totally –

1 everything will be totally cleaned up.

2 **MIKE RUHE [DUKE ENERGY]:** They'll be totally
3 cleaned up. In fact, the last step will be, you
4 know, analysis of the ground that's left, and it
5 has to meet the criteria that DHEC sets for us, you
6 know, to say that "You're done."

7 **COMMISSIONER FLEMING:** I guess my confusion is
8 the fact that you can continue to use it – that
9 they continue to be active at the present time.

10 **MIKE RUHE [DUKE ENERGY]:** Well, I mean,
11 they're active until they're removed –

12 **COMMISSIONER FLEMING:** Uh-huh?

13 **MIKE RUHE [DUKE ENERGY]:** – you know, from the
14 permit. And since they're still on the permit,
15 we're still sampling them.

16 **COMMISSIONER FLEMING:** So there's been no
17 contamination, no –

18 **MIKE RUHE [DUKE ENERGY]:** No –

19 **COMMISSIONER FLEMING:** – release, as far as –

20 **MIKE RUHE [DUKE ENERGY]:** You know, as
21 processed water or rainwater or storm water goes
22 into the pond, we do monitor those, and they are
23 released like they were before, as long as they're
24 within the specifications of our permit. But
25 there's been no coal ash going to them for – you

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know, since those plants stopped operating.

COMMISSIONER FLEMING: Okay. And you're saying that both Lake Robinson and the Saluda River are – the measures that you're taking are protecting both of those water sources.

MIKE RUHE [DUKE ENERGY]: Yes, ma'am.

COMMISSIONER FLEMING: Okay.

MIKE RUHE [DUKE ENERGY]: And groundwater, as well.

COMMISSIONER FLEMING: Okay. Thank you.

CHAIRMAN HALL: Commissioner Elam.

COMMISSIONER ELAM: Good morning. Just one question out of curiosity, I guess. On 17 and 18 of the presentation, you were talking about the 1960 fill area.

MIKE RUHE [DUKE ENERGY]: Right.

COMMISSIONER ELAM: And on the picture, you had the fill area where the transmission corridor from the plant went right through it.

MIKE RUHE [DUKE ENERGY]: [Nodding head.]

COMMISSIONER ELAM: When you're excavating that, is that going to impact the operation of the plant? Are you going to have to move the transmission lines to keep the plant running, or...

MIKE RUHE [DUKE ENERGY]: We will have to

1 coordinate that activity with plant operations.
2 And we've had discussions with the agency about
3 that.

4 **COMMISSIONER ELAM:** Okay. I just – it didn't
5 seem like you could dig around it.

6 [Laughter]

7 Okay, thank you.

8 **CHAIRMAN HALL:** Commissioner Whitfield.

9 **VICE CHAIRMAN WHITFIELD:** Thank you, Madam
10 Chairman.

11 Mr. Ruhe, I've just got one quick follow-up on
12 what we were talking about, about the ash that you
13 are removing from the Lee facility and hauling to
14 Homer, Georgia. Now that Ms. Smith has been real
15 clear on what would be paid for by the shareholders
16 and what would be paid for, or sought for payment,
17 by the ratepayers, since you're doing this work
18 kind of, as you would say, proactively, not as a
19 result of any fine or not a fine in effect, and as
20 we talked about the tonnage, you were on a
21 percentage of almost 20 percent right now being
22 hailed out of that facility, I guess what I was
23 getting at when I asked you was the contract under
24 a year, or three years – and if it's a contractual
25 matter and you can't say, just let me know, but my

1 concern is, when you're dealing with a bulk item
2 like ash and as you start to remove it, naturally,
3 you're going to pick up dirt and other particles,
4 and that 1.4 million tons might end up being 1.7
5 million tons or, you know, more than what you're
6 estimating here, and if you find yourself a year or
7 so down the road slipping in that percentage and as
8 you get closer to finishing getting the remaining
9 amounts, cleaning up all of the ash, naturally,
10 that bulk item might be a little bigger than you
11 think it is. And what is your out, I guess, since
12 if you're going to potentially come seek recovery
13 for this one day, what are you doing to manage the
14 costs of this removal and transporting of this ash
15 into Georgia?

16 **MIKE RUHE [DUKE ENERGY]:** The volume of ash
17 that's in that basin is just an estimate. You
18 know, there weren't records really kept in those
19 days to say how much was in there. So we've done
20 geotechnical studies, probing, sticking probes in
21 the ground and then just doing the math to figure
22 out what an estimate of the tonnage would be. The
23 timeline and the closure – the clean closure –
24 requirements, you know, are outlined in the order
25 that we have from DHEC.

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VICE CHAIRMAN WHITFIELD: In the consent order.

MIKE RUHE [DUKE ENERGY]: Yes, in the consent order. So we're going to follow the requirements of that.

VICE CHAIRMAN WHITFIELD: Well, I get –

MIKE RUHE [DUKE ENERGY]: Now, as far as the details of how our contract is set up with Waste Management, I do not know those details.

VICE CHAIRMAN WHITFIELD: Okay. Well, and I get that you have to abide by the DHEC consent order. I just wondered if there were any recourses you have if you see yourself slipping in where you need to be on the removal of that tonnage, or if that tonnage – you said it was an estimated number, 1.4 million tons – if it ends up being more than that, or for whatever reason – you know, I know when you're dealing with a bulk item, it's hard to get your arms around that sometimes. And I just wondered if you had any – if Duke had any management or oversight of that, to kind of manage where you are. And I do see your percentages here and you appear to be on target, but who knows if you're going to stay with that or slip or where you may be in the future, or what your recourse might

1 be if you do.

2 **MIKE RUHE [DUKE ENERGY]:** We've got a
3 dedicated organization that is managing that
4 project and has folks at the site, you know, to
5 follow it. And I think right now we're probably
6 doing 100 trips a day, you know, going back and
7 forth.

8 **VICE CHAIRMAN WHITFIELD:** Right.

9 **MIKE RUHE [DUKE ENERGY]:** We believe that
10 there's enough time in that timeline to go over and
11 get it done within three years, you know, with the
12 give or take. There were even some delays in the
13 timeline just because of the heavy rains, both on
14 our end and those rains hit Homer, Georgia, as
15 well, and the landfills were closed for a week at a
16 time. So, you know, we're working aggressively to
17 go over and stay as close to that schedule as we
18 can.

19 **VICE CHAIRMAN WHITFIELD:** Well, thank you –

20 **MIKE RUHE [DUKE ENERGY]:** And we think we can
21 do it in the three years. We don't want to go back
22 before DHEC and ask for an extension.

23 **VICE CHAIRMAN WHITFIELD:** Well, I guess we'll
24 know more at your next update. Thank you.

25 Thank you, Madam Chair.

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CHAIRMAN HALL: Thank you.

Commissioners, any other questions?

[No response]

Okay. Thank you, so much, for your presentation, Mr. Ruhe, and Ms. Smith, for assuring us that the fines will be absorbed by the shareholders. I think we breathe easier, hearing that.

And if there's nothing else, then we are adjourned.

[WHEREUPON, at 11:20 a.m., the proceedings in the above-entitled matter were adjourned.]

C E R T I F I C A T E

I, Jo Elizabeth M. Wheat, CVR-CM-GNSC, do hereby certify that the foregoing is, to the best of my skill and ability, a true and correct transcript of all the proceedings had in an Allowable Ex Parte Proceeding held before THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA in Columbia, South Carolina, according to my verbatim record of same.

Given under my hand this 10th day of February, 2016.



Jo Elizabeth M. Wheat, CVR-CM/M-GNSC
Court Reporter