

IN THE SUPREME COURT OF NORTH CAROLINA

No. 68A09

FILED: 11 DECEMBER 2009

STATE OF NORTH CAROLINA ex rel. UTILITIES COMMISSION and VIRGINIA ELECTRIC AND POWER COMPANY d/b/a DOMINION NORTH CAROLINA POWER, Complainants,

and

PUBLIC STAFF - NORTH CAROLINA UTILITIES COMMISSION, Intervenor

v.

TOWN OF KILL DEVIL HILLS, Intervenor

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 670 N.C. App. 341, 670 S.E.2d 341 (2009), affirming an order entered 18 September 2007 by the Utilities Commission, Docket No. E-22, Sub 437, in Raleigh, North Carolina. Heard in the Supreme Court 16 November 2009.

*McGuireWoods LLP, by Mark E. Anderson, Edgar M. Roach, Jr., and Monica E. Webb; and by Stephen H. Watts, II, E. Duncan Getchell, Jr., and Kristian Mark Dahl, pro hac vice, for complainant-appellee Virginia Electric and Power Company d/b/a Dominion North Carolina Power.*

*Antoinette R. Wike, Chief Counsel, and Robert S. Gillam, Staff Attorney, for intervenor-appellee Public Staff - North Carolina Utilities Commission.*

*Williams Mullen, by M. Keith Kapp, Kevin Benedict, and Jennifer A. Morgan, for intervenor-appellant Town of Kill Devil Hills.*

*North Carolina League of Municipalities, by Andrew L. Romanet, Jr., NCLM General Counsel; Gregory F. Schwitzgebel, III, NCLM Senior Assistant General Counsel; and Daniel F. McLawhorn, Associate City Attorney, City of Raleigh; and North Carolina Association of County Commissioners, by James B. Blackburn, III, amici curiae.*

*Allen Law Offices, PLLC, by Dwight W. Allen and Britton H. Allen, for Duke Energy Carolinas, LLC and Carolina*

*Power and Light d/b/a Progress Energy of the Carolinas, Inc., amici curiae.*

*Vandeventer Black LLP, by Norman W. Shearin, Jr. and David P. Ferrell, for North Carolina Association of Electric Cooperatives, Inc. and Cape Hatteras Electric Membership Corporation, amici curiae.*

PER CURIAM.

AFFIRMED.