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April 11, 2022

VIA ELECTRONIC FILING

Ms. A. Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

**Re: Memorandum of Understanding with Guidehouse, Inc.
Docket Nos. E-7, Subs 1187, 1213, and 1214 and E-2, Subs 1193 and
1219**

Dear Ms. Dunston:

Pursuant to the Commission's March 10, 2022 *Order Granting Time Limited Waiver of Code of Conduct Provisions with Conditions*, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC entered into the enclosed Memorandum of Understanding with Guidehouse, Inc. ("Guidehouse") specifying that Guidehouse will be the initial recipient and gatekeeper of the Duke Customer Information.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Kathleen H. Richard

/s/ Brady Allen
Allen Law Office, PLLC
4030 Wake Forest Road, Suite 115
Raleigh, NC 27609

Enclosure

cc: Parties of Record

OFFICIAL COPY

Apr 11 2022

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Memorandum of Understanding with Guidehouse, in Docket Nos. E-7, Subs 1187, 1213 and 1214 and E-2, Subs 1193 and 1219, has been served on all parties of record either by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid.

This the 11th day of April, 2022.



Kathleen H. Richard
Counsel
Duke Energy Corporation
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Raleigh, North Carolina 27602
Tel: 919.546.6776
Kendrick.Fentress@duke-energy.com

**Disclosure of Aggregated Residential Customer Information to Certain Low-Income
Affordability Collaborative Participants**

Memorandum of Understanding

This Memorandum of Understanding (“MOU”) is entered into effective this ____ day of April 2022 (“the Effective Date”) by and between Duke Energy Carolinas, LLC, Duke Energy Progress, LLC (collectively, “Duke Energy”) and Guidehouse Inc. (“Guidehouse”) (collectively, the “Parties”).

RECITALS

WHEREAS, in order to assist the Low-Income Affordability Collaborative (“LIAC”) in meeting its goals as outlined by the Commission in Docket Nos. E-7, Sub 1214 and E-2, Sub 1219, Duke Energy filed on January 14, 2022, a petition with the North Carolina Utilities Commission (“Commission”) requesting a time-limited waiver of certain provisions of its Code of Conduct that restrict the Companies’ disclosure of certain non-public customer information (“Duke Customer Information”) with the participants of the LIAC.; and

WHEREAS, on March 10, 2022, the Commission issued its Order Granting Time Limited Waiver of Code of Conduct Provisions with Conditions (“the Order”), limiting disclosure of certain Duke Customer information to the 19 members of the LIAC Customer Challenges sub-team participating in the LIAC as of the date of the Order (“LIAC Customer Challenges sub-team”); and

WHEREAS, pursuant to the terms contained herein, Duke Energy agrees to provide a limited anonymized sub-set of Duke Customer Information (“Anonymized Customer Information”) to Guidehouse, and Guidehouse agrees to be the initial recipient and gatekeeper of the Anonymized Customer Information as provided herein.

NOW THEREFORE, in consideration of the premises and mutual promises and covenants hereinafter set forth, the Parties, intending to be legally bound, agree as follows:

AGREEMENT

1. Duke Energy agrees to provide Anonymized Customer Information to Guidehouse in the form of a computer-generated file through a secured file transfer process for access by specific, identified Guidehouse individuals as agreed upon by Guidehouse and Duke Energy. “Anonymized Customer Information” is defined as aggregated and anonymous non-public data by zip code where a zip code has no fewer than 15 residential customer accounts, including nonpublic energy usage and billing information, which may be overlaid with other data that is not Duke Customer Information, such as information available from other sources. Duke Energy agrees and acknowledges that it will not provide any other Duke Customer Information to Guidehouse.

2. Guidehouse agrees to receive Anonymized Customer Information and acknowledges that the Anonymized Customer Information provided to it by Duke Energy is confidential. Guidehouse commits that it will use reasonable diligence to protect against the disclosure of the Anonymized Customer Information to any person other than the LIAC Customer Challenges sub-team and that

it will return the original and all copies of Anonymized Customer Information in Guidehouse's possession to Duke Energy on or before the earlier of July 29, 2022, or the date that Duke Energy and the Public Staff of the North Carolina Utilities Commission ("Public Staff") file the final LIAC report through secured file transfer process ("Return Date").

3. Guidehouse's reasonable diligence to protect against the possibility of the Duke Customer Information being disclosed to any person other than the LIAC Customer Challenges Team shall include the following:

- a. Guidehouse agrees to store the Anonymized Customer Information on a secure server encrypted at rest.
- b. Guidehouse will make the files available to one (1) designated individual member of the LIAC Customer Challenges sub-team through a secure file transfer protocol, provided the Non-Disclosure Agreement, defined below, has been executed. The authorized individual from the LIAC Customer Challenges sub-team will be permitted a three (3) day timeframe within which to download the file.

4. Prior to receiving access to Anonymized Customer Information, the LIAC Customer Challenges sub-team and the one (1) designated individual member of the LIAC Customer Challenges sub-team must execute a Non-Disclosure and Restricted Use Agreement ("Non-Disclosure Agreement"), which is attached as Exhibit 1 and incorporated herein, stating, among other things, that the Anonymized Customer Information shall be used solely by the individual and their organization to fulfill their respective obligations in furtherance of the LIAC and neither the individual nor their organization shall use the Anonymized Customer Information for any other purposes; the individual and their organization shall keep Anonymized Customer Information strictly confidential and shall not disclose any Anonymized Customer Information to any party except for employees of the organization who have a need to receive Anonymized Customer Information in order to further the goals of the LIAC; and the individual and their organization will not retain any Anonymized Customer Information upon the expiration of the waiver. In addition, the Non-Disclosure Agreement shall require each LIAC Customer Challenges sub team to indemnify and hold Duke Energy and Guidehouse harmless from any claims arising from any disclosure of the Anonymized Customer Information in violation of the terms of the Order or of the Non-Disclosure Agreement, and to provide a certification to Duke Energy and Guidehouse prior to the Return Date certifying that each member has securely deleted the Anonymized Customer Data.

5. Upon expiration of the waiver, Guidehouse shall return or destroy the original and any copies of Anonymized Customer Information in Guidehouse's possession that have been provided by Duke Energy.

6. In the event Guidehouse is aware of any improper disclosure or use of Anonymized Customer Information by Guidehouse, individuals, or organizations, Guidehouse will inform Duke Energy of such disclosure as soon as possible for Duke Energy to promptly report to the Commission any misuse or unauthorized disclosures.

7. This MOU is in effect until the time that the waiver expires in accordance with the Order,

unless the parties agree additional time is needed to finalize the return or destruction of Anonymized Customer Information.

8. Guidehouse shall not be held responsible or liable for an improper disclosure or use of the Anonymized Customer Information by the LIAC Customer Challenges sub-team if Guidehouse has used reasonable diligence to prevent any such improper disclosure or use.

9. This MOU shall be governed and construed in accordance with the laws of the State of North Carolina without regard to the principles of conflict of laws thereof.

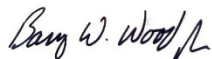
10. The undersigned individuals represent that they have been authorized to sign this MOU on behalf of their respective employers.

11. The Parties hereto have executed this MOU, or caused this MOU to be executed on their behalf, all as of the day and year first above written.

Guidehouse, Inc.

Print Name: Barry W. (Chip) Wood, Jr.

Title: Partner



Signature: _____

Duke Energy

Print Name: Kathleen H. Richard

Title: Counsel



Signature: _____

EXHIBIT 1

**Non-Disclosure
and Restricted Use Agreement**

OFFICIAL COPY

Apr 11 2022

Non-Disclosure and Restricted Use Agreement

This Non-Disclosure and Restricted Use Agreement (“**Agreement**”), dated April __, 2022 (“**Effective Date**”) is by and among _____ (“**Recipient**”) and Duke Energy (“**Duke Energy**”) and Guidehouse Inc. (“**Guidehouse**”) as follows:

WHEREAS, in order to assist the Low-Income Affordability Collaborative (“**LIAC**”) in meeting its goals as outlined by the State of North Carolina Utilities Commission (“**Commission**”) in Docket Nos. E-7, Sub 1214 and E-2, Sub 1219, Duke Energy filed on January 14, 2022, a petition with the Commission requesting a time-limited waiver of certain provisions of its Code of Conduct that restrict the Companies’ disclosure of certain non-public customer information (“**Duke Customer Information**”) with the participants of the LIAC.; and

WHEREAS, on March 10, 2022, the Commission issued its Order Granting Time Limited Waiver of Code of Conduct Provisions with Conditions (“**the Order**”), limiting disclosure of certain Duke Customer information to the 19 members of the LIAC Customer Challenges sub-team participating in the LIAC as of the date of the Order (“**LIAC Customer Challenges sub-team**”); and

WHEREAS, pursuant to Order, Duke Energy is providing a limited anonymized sub-set of Duke Customer Information (“**Anonymized Customer Information**”) to Guidehouse so that Guidehouse may manage providing the Anonymized Customer Information to Recipient, as provided herein.

NOW THEREFORE, in consideration of the premises and mutual promises and covenants hereinafter set forth, the parties, intending to be legally bound, agree as follows:

1. Definitions

1.1 **Definitions.** The following capitalized terms, wherever used in this Agreement, mean:

- (a) “**Anonymized Customer Information**” means the anonymized Duke Energy customer information consisting of non-public data by zip code where a zip code has no fewer than 15 residential customer accounts, including nonpublic energy usage and billing information, which may be overlaid with other data that is not Duke Customer Information, such as information available from other sources, together with all analyses, evaluations, compilations, notes, studies or other documents prepared by the Recipient or its employees, officers, directors, advisors, containing or based upon such information, but shall not include:
- (i) information which is or becomes available to the public, other than as a result of disclosure by Recipient;
 - (ii) information which Recipient can prove was, at the time of disclosure, already in the possession of Recipient on a non-confidential and lawful basis;
 - (iii) information that Recipient can demonstrate was independently developed by it or for it and that was not obtained, in whole or in part, from the Anonymized Customer Information disclosed to Recipient; or
 - (iv) information that is rightfully received by Recipient from a third party, without Recipient’s knowledge, after due inquiry, of a breach of confidentiality agreement or other obligation of secrecy by such third party, provided that Recipient agrees

that the fact all or any portion of Anonymized Customer Information may be in the public domain does not constitute disclosure of Anonymized Customer Information to the public by Duke Energy or Guidehouse.

- (b) **"Indemnitees"** means Duke Energy and Guidehouse, and each of their respective officers, directors, attorneys and employees.
- (c) **"Purpose"** means fulfilling Recipient's obligations in furtherance of the goals of LIAC

2. Confidentiality and Non-Disclosure

- 2.1 **Provision of Anonymized Customer Information.** Guidehouse shall provide Anonymized Customer Information to Recipient in connection with the Purpose, subject to the terms and conditions contained herein. Guidehouse will make the Anonymized Customer Information available to one (1) designated individual member of Recipient, identified below, through a secure file transfer protocol, provided Recipient has executed this Agreement. The authorized individual from the LIAC Customer Challenges sub-team will be permitted a three (3) day timeframe within which to download the file. The authorized individual from Recipient is identified as follows:

Name of Authorized Individual: _____
Email Address: _____

- 2.2 **Non-Disclosure.** Recipient shall ensure it receives and maintains the Anonymized Customer Information in the strictest confidence and shall not:
- (a) disclose the Anonymized Customer Information to any third party in any manner whatsoever, in whole or in part; or
 - (b) use the Anonymized Customer Information, directly or indirectly for any purpose other than in connection with the Purpose.
- 2.3 **Exempt Disclosure.** Notwithstanding any other provision of the Agreement, Recipient is entitled to disclose any Anonymized Customer Information to the extent necessary:
- (a) to its employees, officers and directors who have a need to know the Anonymized Customer Information in connection with the Purpose, and who have been informed of the confidential nature of such Anonymized Customer Information and agree to abide by the terms of this Agreement; or
 - (b) to comply with legal proceedings or requirements under applicable Law.
- 2.4 **Disclosure Required by Law.** In the event that the Recipient is required by Law to disclose any of the Anonymized Customer Information, the Recipient shall provide Duke Energy and Guidehouse with prompt written notice of same so that Duke Energy may advise the Commission if appropriate and may seek a protective order or other appropriate remedy. In the event that such protective order or other appropriate remedy is not obtained, the Recipient will furnish only that portion of the Anonymized Customer Information which in the reasonable opinion of its legal counsel is legally required and will exercise its reasonable efforts (not including any financial obligation) to obtain reliable assurance that the Anonymized Customer Information so disclosed will be accorded confidential treatment.
- 2.5 **Third Party Disclosure.** The Recipient shall not provide Anonymized Customer Information to

any third party without prior written consent from both Duke Energy and Guidehouse, which consent is within the sole discretion of Duke Energy and Guidehouse. In the event both Duke Energy and Guidehouse provide the Recipient with their consent, the Recipient agrees to be jointly and severally responsible for any breach of this Agreement by a third party to whom it has provided the Anonymized Customer Information, and prior to disclosure such third party shall execute an agreement in form and substance acceptable to Duke Energy and Guidehouse. The Recipient agrees to make best efforts to safeguard Anonymized Customer Information from disclosure by such third party to anyone other than as permitted hereby and to ensure that the terms and conditions of this Agreement are binding upon such third party.

- 2.6 **No License.** It is understood that neither this Agreement nor disclosure of any Anonymized Customer Information to the Recipient shall be construed as granting to the Recipient any license or rights in respect of all or any part of the Anonymized Customer Information except as otherwise explicitly granted in writing.
- 2.7 **No Representations.** Unless otherwise provided in writing, Duke Energy and Guidehouse do not make, nor shall be deemed to have made, any representation or warranty as to the accuracy or completeness of all or any part of the Anonymized Customer Information.
- 2.8 **Destruction.** All Anonymized Customer Information shall be and remain the sole and exclusive property of Duke Energy. The Recipient shall securely destroy the Anonymized Customer Information and any copies thereof, including without limitation, all notes, memoranda, reports, correspondence, documents or other records of any nature or kind whatsoever, including all copies, reproductions or extracts thereof, then in the possession of the Recipient, either furnished in connection with the Purpose or prepared by the Recipient based on Anonymized Customer Information furnished by Guidehouse in connection with the Purpose. Such destruction shall occur on or before the earlier of July 29, 2022, or the date that Duke Energy and the Public Staff of the Commission ("Public Staff") file the final LIAC report through secured file transfer process ("**Return Date**"). Upon destruction, the Recipient will promptly send a certification to Duke Energy and Guidehouse, certifying that all such materials constituting the Anonymized Customer Information held by the Recipient have been securely destroyed and include the date and method of destruction used. Such certification shall be signed by the Designated Individual, or if not available, by an officer or director of Recipient.
- 2.9 **Liability and Indemnity.** Without limitation and in addition to any of Duke Energy's and Guidehouse's rights against Recipient arising by reason of any breach hereof, the Recipient shall:
- (a) be liable to the Indemnitees for all claims which the Indemnitees may sustain, suffer, pay or incur, including any penalties or fines and attorneys' fees and costs; and
 - (b) indemnify the Indemnitees against all claims which may be brought against or suffered by the Indemnitees or which the Indemnitees may sustain, suffer, pay or incur,

as a result of or in connection with, arising out of or incidental to a breach of this Agreement or Recipient's unauthorized use or disclosure of all or any part of the Anonymized Customer Information.

- 2.10 **Further Relief.** It is understood that a breach of any of the promises or provisions contained in this Agreement may cause the Indemnitees to suffer a loss for which it could not be adequately compensated by damages. In addition to claiming damages or an indemnity, Duke Energy and Guidehouse shall be entitled as a matter of right to seek an injunction and enforce the terms and provisions of this Agreement. The Recipient agrees the Indemnitees will suffer irreparable harm as a result of a breach of any of the promises or provisions contained in this Agreement and the

or any court of competent jurisdiction. The foregoing rights shall be cumulative and be in addition to any other remedies which may be available to Duke Energy and Guidehouse.

3. General Matters

3.1 **Expiry.** Duke Energy and Guidehouse and Recipient agree that except as otherwise noted herein, this Agreement, including the obligations of Recipient under this Agreement, shall expire six (6) months from date of this Agreement.

3.2 **Notices.** With regard to any notice to be given pursuant to the Agreement, such notice shall be given in writing and shall be addressed to the individual referred to in this Article in accordance with the particulars set forth below:

Duke Energy:

Guidehouse:

Recipient:

3.3 **Delivery of Notice.** A notice may be:

- (a) delivered personally or by courier (if given, at the time of delivery, to the person to whose attention such notice is addressed, or to a responsible person at the address of the recipient party); or
- (b) transmitted via electronic communication.

3.4 **Receipt of Notice.** A notice shall be deemed to be received by the recipient, at the following times:

- (a) if delivered personally or by courier: 2 hours after such delivery, except that, if such time period is not within the hours during which business is normally conducted by the recipient party, then such notice shall be deemed received at the commencement of business on the next day that business is normally conducted by the recipient party; or
- (b) if transmitted via electronic communication: 2 hours following the time of transmission as stated on the notice, except that, if such time period is not within the hours during which business is normally conducted by the recipient party, then such notice shall be deemed received at the commencement of business on the next day that business is normally conducted by the recipient party.

3.5 **Governing Law.** This Agreement shall be governed by and construed in accordance with the Laws of the State of North Carolina and the parties agree for any dispute arising in connection with this Agreement to accept and submit to the exclusive jurisdiction of the courts of the State of North Carolina.

3.6 **Severability.** If any term, covenant or condition of the Agreement, or the application to any Person or circumstance, to any extent, is invalid or unenforceable, the remainder of the Agreement or the application of such provision to Persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected and each remaining term, covenant

or condition of the Agreement shall be separately valid and shall be enforceable to the fullest extent permitted by law.

3.7 **Assignment.** This Agreement shall not be assigned by the Recipient.

3.8 **Amendments.** No amendment to the Agreement shall be binding on Duke Energy, Guidehouse and the Recipient, unless made in writing and signed by the authorized representatives of all parties.

3.9 **Entire Agreement.** The Agreement constitutes the entire agreement between the parties and shall supersede and replace any and all prior agreements between the parties with respect to the disclosure of Anonymized Customer Information.

3.10 **No Waiver.** No party to the Agreement, by any act, delay, omission or otherwise shall be deemed to have expressly or impliedly waived any of its rights, powers or remedies, or any one or more of them, unless such waiver is in writing and signed by an authorized signatory of such party. Any such waiver shall be enforceable only to the extent specifically set forth in the waiver.

3.11 **Execution of Agreement.** This Agreement may be executed in counterparts that together shall be deemed to constitute one valid and binding Agreement and delivery of the counterparts may be effected by means of electronic communication with the same effect as if original copies had been delivered.

TO EVIDENCE THEIR AGREEMENT the parties have executed this Agreement, by their duly authorized representatives, effective as of the Effective Date, first noted above:

Duke Energy

Recipient [full name]

By:

By:

Name:

Name:

Title:

Title:

Date:

Date:

Guidehouse Inc.

By:

Name:

Title: