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December 12, 2023

VIA ELECTRONIC FILING

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

**RE: Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's
Submission of Jointly-Prepared Pre-Filed Materials for Technical
Conference
Docket Nos. E-100, Sub 179; E-7, Sub 1032; and E-2, Sub 931**

Dear Ms. Dunston:

I am writing on behalf of Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP" and together with DEC, the "Companies") with respect to the technical conference scheduled for December 18, 2023, in the above-referenced dockets. Enclosed for filing are two written summaries which provide an overview of (i) the existing DSM/EE Mechanisms (including a detailed history of the same) and (ii) the DSM/EE Mechanisms Stakeholder Engagement that has occurred in the review process to date.

As stated in the Companies' filing in the above-referenced dockets, dated December 11, 2023, the parties¹ have jointly prepared these written materials for the Commission's reference in advance of the conference due to the time constraints of the technical conference and the broad range of potential topics.² These filings cover topics outlined in the Order Granting Public Staff's Motion for Procedural Relief and Scheduling Technical Conference issued October 30, 2023, in the above-referenced dockets, and are provided to maximize time for meaningful discussion at the technical conference. For ease of reference, the Companies will also distribute copies of these pre-filed materials to the Commissioners and staff at the technical conference.

¹ Public Staff, the North Carolina Attorney General's Office, the Carolina Industrial Group for Fair Utility Rates, the Carolina Utility Customers Association, the North Carolina Sustainable Energy Association, the Southern Environmental Law Center, and Walmart Inc.

² Although these materials were jointly-prepared, each party reserves the right to assert their own respective legal, policy and factual positions in this and other related dockets and shall not be bound by the contents of these materials.

Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack E. Jirak". The signature is written in a cursive style with a large initial "J" and "E".

Jack E. Jirak

Enclosures

c: Parties of Record

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Submission of Jointly-Prepared Pre-Filed Materials for Technical Conference, in Docket Nos. E-100, Sub 179; E-7, Sub 1032 & E-2, Sub 931, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid, to parties of record.

This the 12th day of December, 2023.



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Overview of Mechanisms

Duke Energy’s Demand-Side Management and Energy Efficiency Cost-Recovery Mechanisms Review

The following contains the historical context of the mechanisms by which Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”) recover all reasonable and prudent costs incurred and utility incentives earned for adopting and implementing new demand-side management (“DSM”) and energy efficiency (“EE”) measures in accordance with N.C.G.S. § 62-133.9 (the “Mechanisms” or “DSM/EE Mechanisms”), which was enacted in 2007 as part of S.L. 2007-397 (“Senate Bill 3” or “SB 3”).¹

I. Introduction

To begin with, the history of DSM and EE in North Carolina precedes the enactment of N.C.G.S. § 62-133.9 in 2007. In 1975, the North Carolina Utilities Commission (“Commission”) ordered North Carolina utilities to file for approval of time-of-use (“TOU”) rates and load control procedures. Over the next fifteen years, each of the utilities received approval to implement not only TOU rates and load control programs, but also low interest loans to homeowners for weatherization upgrades, and discounted rates for dwellings meeting certain insulation standards. Non-residential customers received energy audits upon request, as well as options for demand reduction.

In 1988, the Commission adopted rules defining a framework for least cost integrated resource planning (“LCIRP”) for electric utilities in North Carolina. Initial LCIRPs were filed by the utilities in April 1989. The LCIRP process placed more explicit emphasis on DSM and EE programs as a means for utilities to meet resource needs. The Commission, in its Final Order, accepted stipulations entered into between the Public Staff and each individual electric utility, which, among others things, required the utilities to treat DSM/EE as an explicit resource and allow it to be evaluated on a head-to-head basis with supply side resources, focus more on end-use forecasting and trends, conduct a comprehensive DSM/EE assessment for their service areas, expand the use of cost-benefit tests for resource decisions, and properly account for DSM/EE program costs.

The LCIRP rules adopted by the Commission in 1988 and rule modifications in subsequent years continue to impact how the utilities conduct resource planning, including the treatment of DSM/EE programs and program evaluation.

¹ DSM and EE were defined in N.C. Gen. Stat. § 62-133.8. as follows: “(2) ‘Demand-side management’ means activities, programs, or initiatives undertaken by an electric power supplier or its customers to shift the timing of electricity use from peak to nonpeak demand periods. ‘Demand-side management’ includes, but is not limited to, load management, electric system equipment and operating controls, direct load control, and interruptible load.” and “(4) ‘Energy efficiency measure’ means an equipment, physical, or program change implemented after January 1, 2007, that results in less energy used to perform the same function. ‘Energy efficiency measure’ includes, but is not limited to, energy produced from a combined heat and power system that uses nonrenewable energy resources. ‘Energy efficiency measure’ does not include demand-side management.”

In 1991, as part of DEC's general rate case in Docket No. E-7, Sub 487, and pursuant to the Commission order in Docket No. E-100, Sub 58, DEC and the Public Staff entered into a stipulation which allowed DEC, beginning January 1, 1992, to defer certain DSM/EE program costs with return, which were to be included and amortized over a period of three to five years in DEC's next general case. Rewards for program achievements were also allowed to be included in the deferred account, along with a recognition of net lost revenues ("NLR"), offset by any found revenues. DEC's next general rate case did not occur until 2007, with new rates effective January 1, 2008. At that time, an Existing DSM Program Rider, or EDPR, was established to recover the DSM/EE deferral account balance that had been in place since the 1991 Sub 487 rate case.

On May 7, 2007, DEC filed an Energy Efficiency Plan in Docket No. E-7, Sub 831. In this plan, DEC sought approval of a new regulatory approach to EE programs (which DEC referred to as its "Save-a-Watt" approach), as well as an EE rider to implement the approach for company-sponsored EE programs and a portfolio of EE programs proposed by the company. According to DEC, the Save-a-Watt approach recognized EE as a reliable, valuable resource – or a "fifth fuel" – that should be part of the portfolio available to meet customers' growing need for electricity along with coal, nuclear, natural gas, or renewable energy by helping customers meet their energy needs with less electricity, less cost, and less environmental impact. DEC stated that it possessed the expertise, infrastructure, and customer relationships to produce EE and to make it a significant part of its resource mix. By filing its Energy Efficiency Plan, DEC stated that it accepted the challenge to develop, implement, adjust as needed, and verify the results of innovative EE programs for the benefit of its customers. DEC further explained that the company would be compensated similarly for meeting customer demand, whether through saving a watt or producing a watt, and requested authorization to recover the amortization of and a return on 90% of the costs avoided by producing Save-a-Watts. DEC proposed that the Commission approve an EE rider (to be adjusted annually based upon updated projections of results and actual results achieved) that would compensate and reward the company for delivering verified EE results. DEC stated that this Save-a-Watt proposal would provide the company with appropriate regulatory incentives to aggressively pursue expansion of EE programs in North Carolina while simultaneously reducing overall air emissions and providing more options to customers to control their energy bills.

Senate Bill 3 was passed later in 2007, in which the General Assembly provided the Commission with express authority to consider and grant the relief requested by DEC's Energy Efficiency Plan. More specifically, SB 3 declared as policy of the State to promote the development of EE and required that each electric power supplier shall implement DSM and EE measures to establish the least cost mix of demand reduction that meet the electricity needs of its customer. In furtherance of this policy, the General Assembly authorized the "Commission to approve an annual rider, outside of a general rate case, for recovery of reasonable and prudent costs incurred in the adoption and implementation of new DSM and EE measures, as well as appropriate rewards for adopting and implementing those measures. § 62-133.9.

As a result of the enactment of SB 3, the Commission paused its consideration of DEC's Energy Efficiency Plan and opened a rulemaking docket, Docket No. E-100, Sub 113, for purposes of implementing SB 3, ultimately adopting new rules and amendments in February 2008. As a

result of this rulemaking proceeding, Commission Rules R8-68 and R8-69 expressly provide that the Commission will review and evaluate, as a package, proposed DSM and EE programs, cost recovery, net lost revenue, and management incentive mechanisms.

The Commission's consideration of DEC's Energy Efficiency Plan application resumed shortly after the conclusion of the rulemaking proceeding. On February 26, 2009, after an evidentiary hearing in June 2008, the Commission issued its Order Resolving Certain Issues, Requesting Information on Unsettled Matters, and Allowing Proposed Rider to Become Effective Subject to Refund. The parties filed additional information and comments in accordance with the Commission's directives and, on June 12, 2009, Duke Energy; the Southern Alliance for Clean Energy ("SACE"), the Environmental Defense Fund ("EDF"), the Natural Resources Defense Council ("NRDC"), and the Southern Environmental Law Center ("SELC"), together; and the Public Staff filed an Agreement and Joint Stipulation of Settlement. An evidentiary hearing concerning the joint stipulation took place on August 19, 2009.

II. How We Got to the Mechanisms

A. DEC:

On February 9, 2010, in Docket No. E-7, Sub 831, DEC's first DSM/EE rider proceeding, the Commission issued an Order approving, with certain modifications, the Agreement and Joint Stipulation of Settlement among DEC, the Public Staff, and environmental and clean energy intervenors (the SELC, SACE, EDF, and NRDC), which described the modified Save-A-Watt mechanism ("2010 DEC Mechanism"). DEC used the 2010 DEC Mechanism, approved as a pilot with a four-year term ending December 31, 2013, to calculate for the period from June 1, 2009, until December 31, 2013, the revenue requirements underlying its DSM/EE riders based on percentages of avoided costs, plus compensation for NLR resulting from EE programs only. In approving the 2010 DEC Mechanism, the Commission stated:

[T]he decision on the issue of incentives is by nature a balancing act. The incentives should not be excessive, but they must be sufficient to motivate [DEC] to deploy DSM and EE programs effectively and aggressively. The . . . modified save-a-watt approach strikes the right balance between incentivizing [DEC] to pursue DSM and EE and protecting customers' interests in fair rates. Moreover, the Agreement provides increased energy savings for customers, while offering a fair earnings opportunity for investments in DSM and EE. Further, the Agreement creates greater transparency to [DEC]'s earnings opportunity by making lost revenues a direct recovery component of the rider and true-up calculations. Finally, there are performance targets tied to earnings caps that will ensure [DEC]'s profits are just and reasonable.

Order dated February 9, 2010, in Docket No. E-7, Sub 831, at p. 45. The approved stipulation included utility energy efficiency target savings levels for each of the four years of the pilot, calculated as a percentage of retail sales, which were more ambitious than the savings targets initially proposed by the Company. *Id.* at p. 8. The initial savings target was 0.31% of retail sales

in the first year of the program and stepped up each year to 0.75% of retail sales by Vintage Year 4. The Company's earnings potential depended on actual energy savings that it obtained on behalf of its customers. In addition, this initial mechanism included a tiered earnings cap, which allowed Duke to earn more the closer it came to meeting each year's energy savings target. *Id.* at p. 17.

On April 6, 2010, in Docket E-7, Sub 938, and in response to a DEC filing requesting certain waivers intended to make opting into DEC's DSM/EE riders more attractive to industrial and large commercial customers who were eligible to opt out of the rider, the Commission issued an Order approving in part the requested waiver of R8-69(d)(3) and denying DEC's requested waiver of the definitions of "rate period" and "test period."

On June 3, 2010, the Commission issued an Order in response to DEC's motion seeking clarification or reconsideration of the prior Order, granting DEC's motion and aligning the rate period for Rider EE with the 12-month calendar year vintage concept utilized in the approved Save-A-Watt approach (in effect, the calendar year following the Commission order in each annual DSM/EE cost recovery proceeding), and providing that the test period for Rider EE would be the most recently completed vintage year at the time of DEC's Rider EE cost recovery application filing date.

On February 8, 2011, in Docket No. E-7, Sub 831, the Commission issued an Order adopting a "Decision Tree" to identify, categorize, and net possible found revenues against the NLR created by DEC's EE programs and requiring reporting in DSM/EE cost recovery filings.

On November 8, 2011, in Docket No. E-7, Sub 979, the Commission issued an Order approving the Evaluation, Measurement, and Verification ("EM&V") Agreement ("EM&V Agreement") entered into among DEC, the Public Staff and SACE (represented by the SELC).

On July 16, 2012, the Commission issued an Order approving a joint proposal by DEC, the Public Staff, and SACE regarding revisions to the program flexibility requirements ("Flexibility Guidelines") with the most significant changes requiring Commission approval prior to implementation, less extensive changes requiring advance notice prior to being made, and minor changes being reported on a quarterly basis to the Commission.

On October 29, 2013, in Docket No. E-7, Sub 1032, the Commission issued its Order approving a stipulation of settlement among DEC, the Public Staff, and clean energy and environmental intervenors (the North Carolina Sustainable Energy Association ("NCSEA"), EDF, SACE, South Carolina Coastal Conservation League ("SCCCL"), NRDC, and Sierra Club) and approving a new cost recovery and incentive mechanism for DSM/EE programs ("2013 DEC Mechanism") and a portfolio of DSM/EE programs effective January 1, 2014, to replace the cost recovery mechanism and portfolio of DSM/EE programs approved in Docket No. E-7, Sub 831. As explained by DEC Witness Duff in that proceeding, the 2013 DEC Mechanism provided for recovery of program costs, NLR for 36 months, and a Portfolio Performance Incentive ("PPI") in the form of a shared savings utility incentive. The 2013 DEC Mechanism allowed DEC to recover all reasonable and prudent costs incurred for adopting and implementing DSM/EE measures and, through the PPI, rewarded DEC for adopting and implementing DSM/EE measures and programs based upon the sharing of net savings achieved by those measures and programs. The 2013 DEC

Mechanism was to be reviewed in four years. The 2013 DEC Mechanism also included provisions related to the use of the Flexibility Guidelines for program modifications, the treatment of opted-out and opted-in customers, the continued use of the EM&V Agreement to govern the application of EM&V results; and the determination of found revenues using the previously approved Decision Tree.

On August 23, 2017, in Docket No. E-7, Sub 1130, the Commission issued an Order that, among other things, revised the 2013 DEC Mechanism, effective January 1, 2018 (“2017 DEC Mechanism”). In the 2017 DEC Mechanism, Paragraph 69 of the 2013 DEC Mechanism, which describes how avoided costs are determined for purposes of calculating the PPI, was revised to provide that, for Vintage 2019 and beyond, the program-specific avoided capacity benefits and avoided energy benefits would be derived from the underlying resource plan, production cost model, and cost inputs that generated the avoided capacity and avoided energy credits reflected in the most recent Commission-approved Biennial Determination of Avoided Cost Rates as of December 31 of the year immediately preceding the annual DSM/EE rider filing date. For the calculation of the underlying avoided energy credits used to derive the program-specific avoided energy benefits, the calculations are based on the projected EE portfolio hourly shape, rather than the assumed 24x7 100-megawatt (“MW”) reduction typically used to represent a qualifying facility (“QF”). Paragraph 19 of the 2013 DEC Mechanism was also revised to specify that the avoided costs used for purposes of program approval filings would also be determined using the method outlined in revised Paragraph 69. The specific Biennial Determination of Avoided Cost Rates used for each program approval filing are derived from the rates most recently approved by the Commission as of December 31 of the year immediately preceding the annual DSM/EE filing date. Finally, Paragraph 23 of the 2013 DEC Mechanism was revised, and Paragraphs 23A-D were added, to specify which avoided costs are used for determining the continuing cost-effectiveness of programs and actions to be taken based on the results of those tests.

On October 20, 2020, in Docket No. E-7, Sub 1032, the Commission issued an Order approving a revised prospective Mechanism (“2020 DEC Mechanism”), effective on and after January 1, 2022. The 2020 DEC Mechanism was the product of extensive negotiations and agreement among DEC, the Public Staff, Attorney General’s Office, NRDC, SACE, Sierra Club, SCCCL, and the NCSEA. The revised mechanism made several substantive changes to the 2017 DEC Mechanism applicable to DEC, including the addition of a Program Return Incentive (“PRI”), an incentive to encourage DEC to pursue savings from existing and new low-income DSM/EE programs, and to maintain and increase the cost-effectiveness of these programs, and the use of the Utility Cost Test (“UCT”)² to determine the cost-effectiveness of new and ongoing programs. Other substantive changes include reduction of the PPI to 10.60%; addition of a cap and floor on the PPI with a maximum margin of 19.50% for Vintage Year 2022 and afterward, and a minimum margin over aggregate pre-tax program costs for PPI eligible programs of 10% for Vintage Year 2022, 6% for Vintage Year 2023, and 2.50% for Vintage Year 2024 and afterward; an assessment of whether it is appropriate to use non-energy benefits in the determination of cost-

² The purpose of the UCT is to compare the costs and benefits of energy efficiency programs with supply-side resources (for example, a new power plant). A positive UCT score indicates that energy efficiency programs are lower-cost approaches to meeting load growth than new generation resources.

effectiveness under the Total Resource Cost (“TRC”) Test; clarification that bundled measures must be consistent with and related to the measure technologies or delivery channels of a program; a review of Avoided Transmission and Distribution (T&D) Costs no later than December 31, 2021; and the addition of an “Other Incentive,” separate and distinct from PPI, designed to promote DEC for achievement or penalize DEC for lack of achievement of specific performance targets. The Other Incentive provides for a “bonus” of \$500,000 if DEC achieves annual energy savings of 1.0% of the prior year’s system retail electricity sales in any year during 2022 through 2025, and a penalty of a \$500,000 reduction in its EE revenue requirement if DEC fails to achieve annual energy savings of 0.5% of retail sales, net of sales associated with customers opting out of DEC’s EE programs.

B. DEP:

On June 15, 2009, in Docket No. E-2, Sub 931, DEP’s first DSM/EE rider proceeding, the Commission issued an Order, approving, with certain modifications, an Agreement and Stipulation of Partial Settlement among DEP, the Public Staff, and Walmart, which set forth the terms and conditions for approval of DSM/EE measures and the annual DSM/EE rider proceedings pursuant to statute and Commission rules. The Stipulation included a Cost Recovery and Incentive Mechanism for DSM and EE Programs (“2009 DEP Mechanism”), which was modified by the Commission in its Order dated June 15, 2009, and subsequently in its Order on reconsideration issued on November 25, 2009, in the same docket. The approved 2009 DEP Mechanism allowed DEP to recover all reasonable and prudent costs incurred for adopting and implementing new DSM/EE measures in accordance with applicable law. The allowable incentives included both NLR and the PPI, i.e., a payment to DEP for adopting and implementing new EE or DSM measures based on the sharing of savings achieved by those DSM and EE measures. In approving the 2009 DEP Mechanism, the Commission stated the following:

[T]he decision on the issue of incentives is by nature a balancing act. The incentives should not be excessive, but they must be sufficient to motivate [DEP] to deploy DSM/EE programs effectively and aggressively. . . . [S]tate law mandates that utilities pursue DSM and EE. . . . [T]he overall package of incentives proposed by the Stipulating Parties, in addition to the creation of an annual rider with a true-up, and the authority for [DEP] to defer and amortize its DSM/EE costs with a return, is very generous and should be sufficient to properly motivate [DEP]. However, . . . there is no empirical method to precisely determine the exact performance incentives that should be established for a particular utility. To a large extent, it requires the exercise of sound judgment based on the information available and experience over time. . . . [T]here is no standard design for performance incentives and that performance incentives are likely to vary from state to state and perhaps even from utility to utility.

Order dated June 15, 2009, in Docket E-2, Sub 931, at pp. 24-25.

On January 20, 2015, in Docket No. E-2, Sub 931, the Commission issued an Order, approving an agreement among DEP, the Public Staff, SACE, and NRDC proposing revisions to the 2009 DEP Mechanism, generally effective January 1, 2016 (“2015 DEP Mechanism”).

On November 27, 2017, in Docket No. E-2, Sub 1145, the Commission issued an Order approving an agreement between DEP and the Public Staff to revise certain provisions of the 2015 DEP Mechanism concerning the determination of applicable avoided costs on a going-forward basis, effective January 1, 2018 (“2017 DEP Mechanism”). In the 2017 DEP Mechanism, Paragraph 70 of the 2015 DEP Mechanism was revised so that the most recent Commission-approved Biennial Determination of Avoided Cost Rates as of December 31 of the year immediately preceding the annual DSM/EE Rider filing date (“Biennial Determination”) are used to derive both the PPI-focused avoided capacity and energy costs (hereinafter, the “PURPA method”) effective for Vintage Year 2019 and thereafter. Paragraph 18 of the 2015 DEP Mechanism was likewise revised to specifically require use of the PURPA method for the purpose of program approval filings. The specific Biennial Determination used for each program approval filing is the one most recently approved by the Commission as of the date of the program approval filing. Further, Paragraph 22A was added to require the use of the PURPA method for determining the avoided costs used in the determination of continued cost-effectiveness for each program and to specify that the PPI-focused avoided capacity and energy costs are derived from the avoided costs underlying the most recent Biennial Determination. Paragraphs 22B through 22D were also added to address the steps to be taken if specific DSM/EE programs continue to produce TRC Test results less than 1.00 for an extended period.

On October 20, 2020, in Docket Nos. E-2, Sub 931, the Commission issued an Order approving a revised prospective Mechanism (“2020 DEP Mechanism”), agreed to by DEP, the Public Staff, the Attorney General’s Office, SACE, NRDC, Sierra Club, SCCCL, and NCSEA, effective on and after January 1, 2022. The 2020 DEP Mechanism included substantive changes to the 2017 DEP Mechanism that are applicable to DEP, including addition of a PRI, an incentive to encourage DEP to pursue savings from existing and new low-income DSM/EE programs, and to maintain and increase the cost-effectiveness of these programs, and the use of the UCT to determine the cost-effectiveness of new and ongoing programs. Other substantive changes include reduction of the PPI to 10.60%; addition of a cap and floor on the PPI with a maximum margin of 19.50% for Vintage Year 2022 and afterward, and a minimum margin over aggregate pre-tax program costs for PPI eligible programs of 10% for Vintage Year 2022, 6% for Vintage Year 2023, and 2.50% for Vintage Year 2024 and afterward; an assessment of whether it is appropriate to use non-energy benefits in the determination of cost-effectiveness under the TRC; clarification that bundled measures must be consistent with and related to the measure technologies or delivery channels of a program; a review of Avoided Transmission and Distribution (T&D) Costs no later than December 31, 2021; and the addition of an “Other Incentive,” separate and distinct from PPI, designed to promote DEP for achievement or penalize DEP for lack of achievement of specific performance targets. The Other Incentive provides for a “bonus” of \$500,000 if DEP achieves annual energy savings of 1.0% of the prior year’s system retail electricity sales in any year during 2022 through 2025, and a penalty of a \$500,000 reduction in its EE revenue requirement if DEP

fails to achieve annual energy savings of 0.5% of retail sales, net of sales associated with customers opting out of DEP's EE programs.

III. How We Use the Mechanisms

N.C. Gen. Stat. § 62-133.9, along with Commission Rules R8-68 and R8-69, establish a procedure whereby an electric public utility files an application in a unique docket for the Commission's approval of an annual rider for recovery of reasonable and prudent costs of approved DSM and EE programs. Specifically, Commission Rule R8-68 provides, among other things, that reasonable and prudent costs of new DSM/EE programs approved by the Commission shall be recovered through the annual rider described in N.C. Gen. Stat. § 62-133.9 and Commission Rule R8-69; and Commission Rule R8-69(b) provides that every year the Commission will conduct a proceeding for each electric public utility to establish an annual DSM/EE rider to recover the reasonable and prudent costs incurred in adopting and implementing new DSM/EE measures previously approved by the Commission pursuant to Commission Rule R8-68. Commission Rule R8-69(a)(2) defines a DSM/EE rider as "a charge or rate established by the Commission annually pursuant to N.C. Gen. Stat. § 62-133.9(d) to allow the electric public utility to recover all reasonable and prudent costs incurred in adopting and implementing new demand-side management and energy efficiency measures after August 20, 2007, as well as, if appropriate, utility incentives, including net lost revenues." The Commission may also consider in the annual rider proceeding whether to approve any utility incentive, including, but not limited to, appropriate rewards based on (1) the sharing of savings achieved by the DSM and EE measures (2) the capitalization of a percentage of avoided costs achieved by the measures, and/or (3) any other incentives that the Commission determines to be appropriate. Commission Rule R8-69(c) allows the utility to request the inclusion of utility incentives, including NLR, in the DSM/EE rider and the DSM/EE Experience Modification Factor ("EMF") rider.

The annual DSM/EE Riders for DEC and DEP are determined by application of the respective Mechanism. The terms of the Mechanisms are to be reviewed by the Commission every four years unless otherwise ordered by the Commission.

IV. The Purpose of the Mechanisms

The reason to have a cost-recovery mechanism is to encourage the utility to pursue cost-effective energy efficiency and demand side management programs that will result in lower long-term costs to ratepayers. The Mechanism encourages the achievement of those goals by allowing for advanced cost-recovery of program costs and providing for certain financial incentives to the utility for achieving savings from its DSM and EE programs. In its October 29, 2013 Order, the Commission stated that the purpose of the 2013 DEC Mechanism was (1) to allow DEC to recover all reasonable and prudent costs incurred for adopting and implementing new DSM/EE measures and programs in accordance with applicable law; (2) to establish certain requirements, in addition to those of Commission Rule R8-68, for requests by DEC for Commission approval of DSM/EE programs; and (3) to establish the terms and conditions for the recovery of NLR and for a PPI to reward DEC for adopting and implementing new DSM/EE measures and programs based on the sharing of dollar savings achieved by those measures and programs, and for an additional bonus incentive to reward exceptional EE achievement, if the Commission deems such recovery and

reward appropriate. *See* Finding of Fact #15 in October 29, 2013 Order in Docket E-7, Sub 1032. The 2020 DEC Mechanism maintains this purpose and clarifies that the “additional incentive” is “to further encourage kilowatt-hour (kWh) savings achievements.” *See* Attachment A to Order dated October 20, 2020, in Docket No. E-7 Sub 1032.

Similarly, the 2015 DEP Mechanism stated its purpose as follows: (1) to allow DEP to recover all reasonable and prudent costs incurred for adopting and implementing new DSM/EE measures in accordance with applicable law; (2) to establish the terms, conditions, and methodology to be used for the recovery of NLR and a PPI to reward DEP for adopting and implementing DSM/EE measures and programs, based on the sharing of dollar savings achieved by those measures and programs if the Commission deems such recovery and reward appropriate; (3) to provide for an additional incentive to further encourage kWh savings achievements; and (4) to establish certain terms, requirements, and guidelines that will govern and/or guide (a) requests by DEP for Commission approval of DSM/EE programs, (b) program management and modifications, (c) EM&V of programs, (d) procedural matters and the general structure of the DSM/EE and DSM/EE EMF riders, (e) regulatory reporting requirements, and (f) DEP’s Stakeholder Collaborative.³

V. The Fundamental Provisions & Concepts of the Mechanisms:

Program Approval, Management, and Modifications

In evaluating potential DSM/EE measures and programs for selection and implementation, DEC and DEP will first perform a qualitative measure screening and then a further screen for cost-effectiveness. Except for low-income programs and certain other programs as approved by the Commission, all programs submitted for approval will have an estimated UCT result greater than 1.00. Except for measures included in Low-Income Programs or certain other programs, a DSM/EE measure with a UCT result less than 1.0 will not be considered further, unless the measure can be bundled into a DSM/EE program to enhance the overall cost-effectiveness of that program. Except for Low-Income Programs, all DEP DSM/EE measures associated with an end-use that can be served by natural gas must pass the UCT.

In each annual DSM/EE cost recovery filing, DEC and DEP must (a) perform prospective cost-effective test evaluations for each of its approved DSM/EE programs, (b) perform prospective aggregated portfolio-level cost-effectiveness test evaluations for its approved DSM/EE programs, and (c) include these prospective cost-effectiveness test results in its DSM/EE rider application. For any program that initially demonstrates a UCT of less than 1.00, DEC and DEP must include in its annual DSM/EE rider filing a discussion of the actions being taken to maintain or improve cost-effectiveness, or alternatively, its plans to terminate the program. If a program demonstrates a prospective UCT of less than 1.00 in a second DSM/EE rider proceeding, DEC and DEP must include a discussion of what actions they have taken to improve cost-effectiveness. If a program demonstrates a prospective UCT of less than 1.00 in a third DSM/EE rider proceeding, DEC or DEP must terminate the program effective at the end of the year following the DSM/EE rider order.

³ For more information on the Stakeholder Collaborative, see discussion on pages 10-11.

Modifications to Commission-approved DSM/EE programs may be made using the Flexibility Guidelines. If Commission approval of a modification is required, DEC or DEP must file a petition prior to the implementation of the program change no later than 30 days prior to the proposed effective date. Modifications filed with the Commission for approval will be evaluated under the same guidelines and parameters used in DEC's or DEP's most recently filed DSM/EE rider proceeding. If advance notice is required, DEC or DEP must file all program changes no later than 45 days prior to the proposed effective date of the change using the Advance Notice Program Modifications Reporting Template. On a quarterly basis, DEC and DEP will file with the Commission, using the Program Modifications Reporting Template, a notification of all program changes that have been made without Commission approval or advance notice.

Vintage Year Reconciliations

The annual DSM/EE/Rider has two components, a projection for the following vintage year (the 2024 annual DSM/EE Rider will project Vintage 2025) and a reconciliation of prior vintage years. The reconciliation component of the rider trues up the projection of the vintage year for actual results. The true-up recognizes any new programs and measures approved and added, actual program expenditures, actual program participation and energy savings per participant based on EM&V. The true-up of a vintage year does not reflect any changes in the system benefit input values (avoided energy, capacity and transmission and distribution) used in the calculation of cost effectiveness as these values are established at the time of the vintage year projection to enable portfolio planning.

Evaluation, Measurement, and Verification (EM&V)

With the exception of DEP's Distribution System Demand Response Program,⁴ EM&V of programs is conducted by an independent third-party using a nationally recognized protocol to ensure that programs remain cost-effective. This protocol may be modified with approval of the Commission to reflect the evolution of best practices. Except for DEC's Non-Residential SmartSaver Custom Rebate Program, initial EM&V results are applied retrospectively to replace initial estimates of impacts. For the purposes of the vintage true-ups, these initial EM&V results are considered actual results for a program until the next EM&V results are received. The new EM&V results are then considered actual results going forward and applied prospectively for the purposes of truing up vintages from the first day of the month immediately following the month in which the study participation sample for the EM&V was completed. This EM&V will continue to apply and will be considered the actual kWh/kW per unit reductions until it is superseded by new EM&V results. EM&V for the DEC's Non-Residential SmartSaver Custom Rebate Program does not apply retrospectively, and this program is trued up based on the actual participants and projects undertaken.

Opt-Outs

N.C.G.S. § 62-133.9(f) provides in pertinent part:

⁴ EM&V of DEP's DSDR Program will be conducted by DEP.

None of the costs of new demand-side management or energy efficiency measures of an electric power supplier shall be assigned to any industrial customer that notifies the industrial customer's electric power supplier that, at the industrial customer's own expense, the industrial customer has implemented at any time in the past or, in accordance with stated, quantified goals for demand-side management and energy efficiency, will implement alternative demand-side management and energy efficiency measures and that the industrial customer elects not to participate in demand-side management or energy-efficiency measures under this section.

Commercial customers with annual consumption of 1,000,000 kWh or greater in the billing months of the prior calendar year and all industrial customers that have implemented or, in accordance with stated, quantifiable goals, will implement alternative DSM/EE Measures may elect not to participate in any utility-offered DSM/EE Measures and, after written notification to the utility, will not be subject to the DSM/EE rider and DSM/EE EMF rider. Under N.C.G.S. § 62-133.9(f), the DEP, DEC, the Public Staff, or the Commission on its own motion, may initiate a complaint proceeding before the Commission to challenge the validity of the notification of nonparticipation.

Stakeholder Collaborative

DEC and DEP conduct collaborative stakeholder meetings at least every other month (six times per year) to collaborate on new program ideas, review modifications to existing programs, ensure an accurate public understanding of the programs and funding, review the EM&V process, give periodic status reports on program progress, help set EM&V priorities, provide recommendations for the submission of applications to revise or extend programs and rate structures, and guide efforts to expand cost-effective programs for low-income customers. DEC and DEP must provide information related to the development of DSM/EE to stakeholders in a transparent manner, and both utilities have agreed to disclose program-related data at a level of detail similar to that which it has disclosed in other states or as disclosed by other regulated utilities in the Carolinas. DEC and DEP will share all aspects of the development and evaluation of programs, including the EM&V process.

Cost Recovery

In general, DEC and DEP may recover, through the DSM/EE rider, all reasonable and prudent program costs reasonably and appropriately estimated to be incurred in expenses during the current rate period for approved DSM/EE Programs. The DSM/EE EMF rider reflects the difference between the reasonable and prudent costs incurred during the applicable test period (vintage year) and the revenues actually realized during such test period under the DSM/EE rider then in effect.

Beginning with Vintage Year 2022 and extending through a Vintage Year as identified in a future Mechanism review, DEP may recover all Program Costs previously recovered through amortization periods exceeding three years over amortization periods of no less than three years. With regard to O&M program costs incurred on and subsequent to January 1, 2016, but prior to

January 1, 2022, DEP may recover those costs using the amortization rates existing as of December 31, 2021, until such time that those deferred costs are recovered in their entirety through the DSM/EE cost recovery clause.

Net Lost Revenues (NLR)

The Commission has the discretion to allow DEC and DEP to recover, through the DSM/EE and DSM/EE EMF riders, NLR associated with the implementation of approved DSM/EE measurement units. The North Carolina retail kWh sales reductions that result from an approved measurement unit installed in a given vintage year are eligible for use in calculating NLR eligible for recovery only for the first 36 months after the installation of the measurement unit. Thereafter, such kWh sales reductions are not eligible for calculating recoverable NLR for that or any other vintage year. Programs or measures with the primary purpose of promoting general awareness and education of DSM/EE activities as well as research and development activities are ineligible for the recovery of NLR. Notwithstanding the allowance of 36 months' NLR associated with eligible kWh sales reductions, the kWh sales reductions that result from measurement units installed cease being eligible for use in calculating NLR as of the effective date of (a) a Commission-approved alternative recovery mechanism that accounts for the eligible NLR associated with eligible kWh sales reductions, or (b) the implementation of new rates approved by the Commission in a general rate case or comparable proceeding to the extent the rates set in the general rate case or comparable proceeding are set to explicitly or implicitly recover the NLR associated with those kWh sales reductions. Recoverable NLR are calculated in a manner that appropriately reflects the incremental revenue losses suffered by DEC or DEP, net of avoided fuel and non-fuel variable O&M expenses. Total NLR as measured for the 36-month period must be reduced by Net Found Revenues during the same periods.

Beginning in 2024, as DEC and DEP implement their multi-year rate plans and performance base rate mechanisms, the Companies' residential customers will be subject to a revenue decoupling. The decoupling mechanism will true-up any difference between actual residential revenue per customer, excluding variable costs, and the target residential revenue per customer established and approved in the multi-year rate plans. To ensure that there is no double recovery of the NLR collected from residential customers through the Companies' Demand Side Management/Energy Efficiency ("DSM/EE") riders, any NLR collected through that are subtracted from this decoupling mechanism balance. In other words, the NLR collected from residential customers are credited back to customers in the revenue decoupling mechanism.

Portfolio Performance Incentive (PPI) & Program Return Incentive ("PRI")⁵

As an incentive to pursue cost-effective energy efficiency and demand-side management programs, DEC and DEP may collect a PPI and PRI, as each is applicable, for their DSM/EE portfolio for each year. These incentives are based on a shared savings model under which customers retain the bulk of the savings.

⁵ DEP's DSDR Program is not eligible for recovery of a PPI.

The PPI is based on net dollar savings for DEC's or DEP's DSM/EE portfolio, as calculated using the UCT. Beginning for Vintage Year 2022, the amount of the pre-income-tax PPI initially to be recovered for the entire DSM/EE portfolio for a vintage year is equal to 10.60% multiplied by the present value of the estimated net dollar savings associated with the DSM/EE portfolio installed in that vintage year, calculated by DSM/EE program using the UCT. Beginning with Vintage Year 2022, the dollar amount of the pre-tax PPI ultimately allowed for each vintage year, after true-up, can be no greater than the dollar amount that produces a 19.50% margin over the aggregate pre-tax program costs for the vintage year of those programs in the Portfolio that are eligible for the PPI. Likewise, the dollar amount of the pre-tax PPI ultimately allowed for each vintage year after true-up can be no less than the dollar amount that produces the following margins over the aggregate pre-tax program costs for the vintage year of those programs in the Portfolio that are eligible for the PPI: 10% for Vintage Year 2022; 6% for Vintage Year 2023; 2.5% for Vintage Year 2024; and 2.5% for Vintage Year 2025 and thereafter until completion of the next Mechanism review.

The PRI is designed to provide an appropriate financial incentive to the Companies associated with DSM/EE programs that are approved by the Commission despite not projecting to be cost effective, like the Companies programs targeting low-income customers. Since the net benefit from non-cost-effective programs is negative, the PRI is based on the gross avoided costs of those programs eligible for the PRI. Beginning for Vintage Year 2022, the amount of the pre-income-tax PRI initially to be recovered for low-income programs and other specified societal programs not eligible for a PPI is a percentage multiplied by the present value of the estimated gross dollar avoided cost savings associated with the applicable DSM/EE programs installed in that vintage year, used in determination of the UCT. The percentage used to determine the estimated PRI for each vintage year is 10.60%. This percentage will be multiplied by the vintage year avoided costs projected to be generated by each approved PRI-eligible program.

The PPI and PRI are separable into Residential, Non-Residential DSM, and Non-Residential EE categories, and into a Lighting category for DEP. Programs or measures with the primary purpose of promoting general awareness of and education about DSM/EE activities, as well as research and development activities, are ineligible to be included in the portfolio for purposes of the PPI or PRI calculations. Unless (a) the Commission approves DEC's or DEP's specific request that a pilot program or measure be eligible for PPI or PRI inclusion when DEC or DEP seeks approval of that program or measure, and (b) the pilot is ultimately commercialized, pilot programs or measures are ineligible for and the benefits and costs associated with those pilots will not be factored into the calculation of the PPI or PRI. Low-Income programs and other specified societal programs approved with expected UCT results less than 1.00 and other non-cost-effective programs with similar societal benefits as approved by the Commission are not included in the portfolio for purposes of the PPI calculation until they demonstrate UCT results greater than 1.00. However, if approved, such programs are eligible for the PRI until they demonstrate UCT results greater than 1.00.

Other Incentives

As further incentive to motivate aggressive pursuit of savings from cost-effective EE and DSM Programs, if DEC or DEP achieves annual energy savings of 1.0% of their prior year's system retail electricity sales in any year during the four-year 2022-2025 period, DEC or DEP will receive an additional incentive of \$500,000 for that year. During that same period, if DEC or DEP fails to achieve annual energy savings of 0.5% of retail sales net of sales associated with customers opting out of EE programs, DEC or DEP will reduce its EE revenue requirement by \$500,000.

Review of the Mechanisms

The terms and conditions of the Mechanisms are reviewed by the Commission every four years unless otherwise ordered by the Commission. Parties are directed to submit proposed changes to the Mechanisms to the Commission for approval at the time of the respective annual DSM/EE rider filings. During the time of review, the Mechanisms remain in effect until the Commission issues an order revising the terms of the Mechanisms or takes such other action as it may deem appropriate.

VI. How the Mechanism Review was Initiated

On May 16, 2022, Duke Energy Carolinas, LLC, and Duke Energy Progress, LLC (together, Duke or the Companies), filed their proposed Carbon Plan in Docket No. E-100, Sub 179, which included, in relevant part, a request that the Commission adopt four enablers that would allow them to maximize their energy savings from energy efficiency (EE) and demand-side management (DSM) and to attain annual energy savings of one percent of eligible retail sales. These proposed enablers included: (1) updating the inputs underlying the cost benefit test in the Companies' cost recovery mechanisms; (2) using an as-found baseline for EE measures; (3) broadening the definition of low-income customer; and (4) developing guidelines for expedited regulatory approval of DSM/EE programs (collectively, the "Proposed Enablers").

After extensive testimony about the Proposed Enablers at the Carbon Plan expert witness hearing, on December 30, 2022, in Docket No. E-100, Sub 179, the Commission issued its Order Adopting Initial Carbon Plan and Providing Direction for Future Planning ("Initial Carbon Plan Order"). In this Order, the Commission acknowledged that DEC and DEP had identified certain enablers that would allow it to achieve greater load reduction through its Grid Edge programs and that DEC's and DEP's proposal to reduce load through Grid Edge programs, including DSM/EE, was a reasonable step towards achieving reductions in carbon dioxide emissions as required by N.C.G.S. § 62-110.9. Although the Commission encouraged DEC and DEP to utilize their Grid Edge programs, the Commission was persuaded by the Public Staff that "any modifications to individual components of the Mechanisms," including the Proposed Enablers, "must take place in the context of a full, formal review of the entire Mechanisms, so that any impacts of other components of the Mechanisms can be analyzed at the same time." Initial Carbon Plan Order at pp. 109-10.

On April 27, 2023, DEC and DEP sent a letter to the Commission to commence the above-referenced review, noting that "this targeted review will focus upon how DEC's and DEP's

DSM/EE cost recovery mechanisms . . . should be revised to incorporate the four specific enablers” DEC and DEP indicated that, in connection with the review, they would solicit stakeholder feedback on the Proposed Enablers, with an initial stakeholder meeting expected to take place no later than the end of June 2023. DEC and DEP further indicated that, after receiving stakeholder input, they would propose updated Mechanisms to the Commission in time to allow for Commission review and to receive the approvals necessary to implement the updated Mechanisms no later than January 1, 2024.

By letter dated May 11, 2023, the Public Staff informed the Commission of its position that the Commission did not conclude in its Carbon Plan Order that these Proposed Enablers should be implemented in the Mechanisms, but rather, that the Proposed Enablers should be considered in the Mechanism review. The Public Staff further noted that the Carbon Plan Order requires a “full, formal review of the entire Mechanisms” rather than a “targeted review.”

On June 29, 2023, DEC and DEP hosted the first stakeholder meeting concerning the Proposed Enablers and Mechanism review and the targeted changes they wished to make to the existing Mechanisms related to the Proposed Enablers. Other stakeholders, including the Public Staff, indicated their interest in a more comprehensive review of the Mechanisms, including but not limited to consideration of the Proposed Enablers.

On September 7, 2023, the Public Staff filed a motion requesting that the Commission issue a scheduling order in the existing Mechanism dockets calling for parties, including DEC and DEP, to file initial comments concerning the Proposed Enablers and the full Mechanism review on or before January 26, 2024, with reply comments due by March 29, 2024.

VII. Where We Go From Here

By order dated October 30, 2023, the Commission granted the Public Staff’s request for a scheduling order and required that initial comments be filed in the respective Mechanism dockets by January 26, 2024, and reply comments by March 29, 2024, on the following issues:

- a. The Proposed Enablers;
- b. The appropriateness of continuing to allow the Companies to collect net lost revenues in light of HB 951 and the Initial Carbon Plan Order;
- c. What actions, if any, justify a utility incentive, as well as whether there should be limits imposed upon utility incentives, whether there should be a required savings threshold that must be met before incentives are earned, what metrics should be utilized in awarding incentives, whether the Mechanisms should contain both incentives and penalties like Performance Incentive Mechanisms, and the efficacy of incentive mechanisms in other jurisdictions;
- d. How savings and benefits should be calculated and valued, including whether non-energy benefits should be included in particular cost-effectiveness tests, whether carbon reduction benefits should be separately accounted for, and the extent to which differential value to the system should be reflected, if at all, when quantifying anticipated costs and benefits of EE/DSM measures, among other issues;

- e. Definitional changes, including how to define “low income” customers, different program types, cost effectiveness, and measure baselines;
- f. Whether the same cost-effectiveness measures should be applied to all programs;
- g. Financial reporting requirements;
- h. How to most effectively encourage industrial and commercial participation in EE/DSM programs, given that the right of industrial and large commercial customers to opt-out of ratepayer-funded EE/DSM measures is codified at N.C.G.S. § 62-133.9(f), and whether to change the threshold for a “large commercial customer” under Rule R8-69 that can opt-out;
- i. Current EM&V practices;
- j. Cost recovery issues such as the splitting of vintage years, whether vintage years should be considered complete after a certain period of time for purposes of cost recovery, amortization, deferral, allocations, and recovery of indirect costs (e.g., administrative, marketing, and education);
- k. Composition and role of the DSM/EE Stakeholder Collaborative, including whether attorneys should be allowed to participate;
- l. Identify Mechanism changes that would prioritize persistent, cumulative savings measures and reduce reliance on the achievement of short-lived behavioral measures;
- m. A one-time, non-precedential reconciliation procedure to allow Vintage 2025 projections to be filed in the 2025 DSM/EE rider proceedings and then trued-up to reflect actual costs and results during the 2026 annual DSM/EE cost recovery proceedings;
- n. Any other relevant issues; and
- o. Any issues directed by the Commission to be considered.

The Commission further ordered a technical conference be held on Monday, December 18, 2023, for the purpose of receiving oral presentations from the parties, with an opportunity for Commissioners to ask questions, on the following topics:

- a. The existing Mechanisms; and
- b. A summary of the work of the DSM/EE Mechanism Review stakeholder process.

Summary of the Formal Stakeholder Engagement Duke Energy’s Demand-Side Management and Energy Efficiency Cost-Recovery Mechanisms Review

This summary report details the status and efforts of interested parties on the collaboration and engagement of the Demand Side Management (“DSM”) and Energy Efficiency (“EE”) Cost Recovery Mechanisms Update (the “Mechanisms” or “DSM/EE Mechanisms”).

1. Initiation and Composition of the DSM/EE Mechanisms Formal Stakeholder Engagement

On May 16, 2022, Duke Energy Carolinas (“DEC”) and Duke Energy Progress (“DEP”) (together, “Duke Energy” or the “Companies”) filed its proposed Carbon Plan in Docket No. E-100, Sub 179, which included, in relevant part, a request that the North Carolina Utilities Commission (“NCUC” or the “Commission”) adopt four enablers that would allow the Companies to maximize their energy savings from EE and DSM and to attain annual energy savings of one percent of eligible retail sales. These proposed enablers included: (1) updating the inputs underlying the cost benefit test in the Companies’ Mechanisms; (2) using an as-found baseline for EE measures; (3) broadening the definition of low-income customer; and (4) developing guidelines for expedited regulatory approval of DSM/EE programs (collectively, the “Proposed Enablers”).

After receiving testimony on the Proposed Enablers at the Carbon Plan expert witness hearing, the Commission stated in its Order Adopting Initial Carbon Plan and Providing Direction for Future Planning issued on December 30, 2022, in Docket No. E-100 Sub 179 (“Carbon Plan Order”) that it was persuaded that “any modifications to individual components of the Mechanisms,” including the Proposed Enablers, “must take place in the context of a full, formal review of the entire Mechanisms, so that any impacts of other components of the Mechanisms can be analyzed at the same time.” Carbon Plan Order at 109-10. As a result, the Commission, directed Duke Energy “to initiate a review of DEC’s and DEP’s DSM/EE Mechanisms within 120 days of the issuance of this Order.” Carbon Plan Order at 110.

On April 27, 2023, in accordance with the Carbon Plan Order, Duke Energy filed a letter to commence the Commission-directed review of the DSM/EE Mechanisms in compliance with the Carbon Plan Order. The DSM/EE Mechanisms formal stakeholder engagement was comprised of interested stakeholder organizations from across the state (listed in *Table 1*). This engagement was hosted by Duke Energy and began on June 29, 2023, when the Companies set forth the targeted changes they wished to make to the existing DSM/EE Mechanisms resulting from the Proposed Enablers in Ordering Paragraph 31 of the Carbon Plan Order.

Table 1.

List of Organizations Invited to Participate in the Stakeholder Engagement Process

North Carolina DSM/EE Cost-Recovery Mechanisms

- Appalachian Voices
- Avangrid Renewables
- Broad River Energy, LLC
- Carolina Industrial Group for Fair Utility Rates (“CIGFUR”)
- Carolinas Clean Energy Business Association
- Carolinas Utility Consumer Association (“CUCA”)
- City of Asheville and Buncombe County
- City of Charlotte
- Clean Energy Buyers Association
- Clean Power Suppliers
- Council of Churches
- Energy United
- Environmental Working Group
- Fayetteville Public Works Commission
- National Resource Defense Council (“NRDC”)
- North Carolina Attorney General’s Office (“AGO”)
- North Carolina Electric Membership Corporation (“NCEMC”)
- North Carolina Justice Center (“NCJC”)
- North Carolina Pork Council
- North Carolina Sustainable Energy Association (“NCSEA”)
- Public Staff - North Carolina Utilities Commission (“Public Staff”)
- Sierra Club
- Southeast Energy Efficiency Alliance (“SEEA”)
- Southern Alliance for Clean Energy (“SACE”)
- Southern Environmental Law Center (“SELC”)
- South Carolina Coastal Conservation League (“SCCCL”)

North Carolina DSM/EE Cost-Recovery Mechanisms

- Walmart Inc.

2. Overview of Formal Stakeholder Engagements and Focused Topical Discussions

To initiate the formal stakeholder engagement process relating to the DSM/EE Mechanisms, the Companies kicked off the discussion with interested parties on June 29, 2023, primarily seeking feedback on how to incorporate the Proposed Enablers into the DSM/EE Mechanisms. Duke Energy requested feedback and comments on the Proposed Enablers and the DSM/EE Mechanisms overall. Other interested parties also provided topics and items for review during this process.

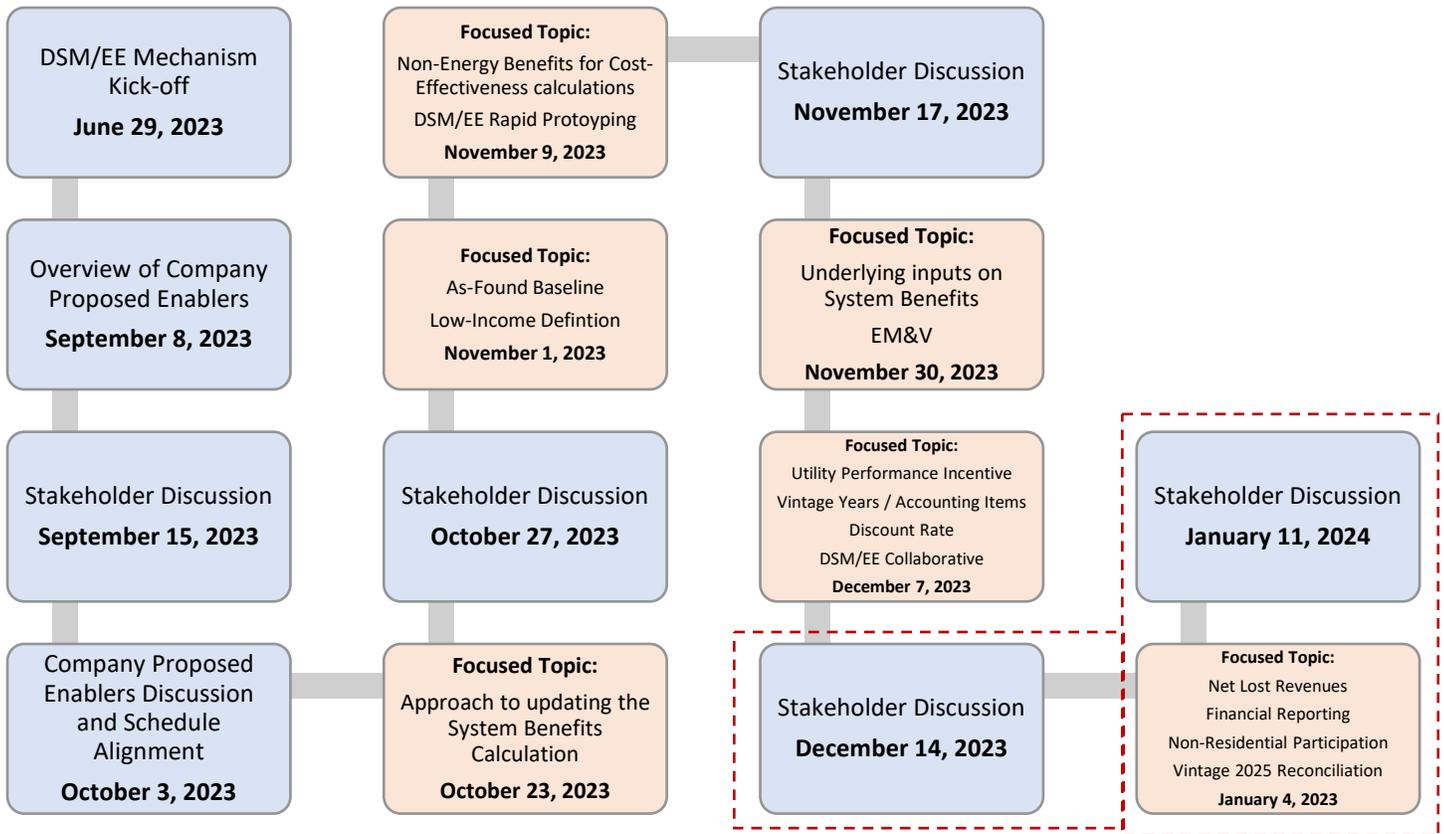
In its Motion for Procedural Relief dated September 7, 2023 (“Motion”), Public Staff requested consideration of the following: (1) the appropriateness of continuing to allow the Companies to collect net lost revenues in light of HB 951 and the Carbon Plan Order; (2) what actions, if any, justify a utility incentive, as well as whether there should be limits imposed upon utility incentives, whether there should be a required savings threshold that must be met before incentives are earned, what metrics should be utilized in awarding incentives, whether the Mechanisms should contain both incentives and penalties like Performance Incentive Mechanisms, and the efficacy of incentive mechanisms in other jurisdictions; (3) how savings and benefits should be calculated and valued, including whether non-energy benefits should be included in particular cost-effectiveness tests, whether carbon reduction benefits should be separately accounted for, and the extent to which differential value to the system should be reflected, if at all, when quantifying anticipated costs and benefits of DSM/EE measures, among other issues; (4) definitional changes, including how to define “low income” customers, different program types, cost effectiveness, and measure baselines; (5) whether the same cost-effectiveness measures should be applied to all programs; (6) financial reporting requirements; (7) how to most effectively encourage industrial and commercial participation in DSM/EE programs, given that the right of industrial and large commercial customers to opt-out of ratepayer-funded EE/DSM measures is codified at G.S. 62-133.9(f) and whether to change the threshold for a “large commercial customer” under Rule R8-69 that can opt-out; (8) current Evaluation, Measurement, and Verification practices; (9) cost recovery issues such as the splitting of vintage years, whether vintage years should be considered complete after a certain period of time for purposes of cost recovery, amortization, deferral, allocations, and recovery of indirect costs (e.g., administrative, marketing, and education); (10) composition and role of the Stakeholder Collaborative; (11) identify mechanism changes that would prioritize persistent, cumulative savings measures and reduce reliance on the achievement of short-lived behavioral measures; and (12) any other relevant issues.

In its Response in Support of the Public Staff’s Motion and Request for Further Relief, dated September 15, 2023, CIGFUR requested, among other things, that attorneys be allowed to participate in the EE/DSM Collaborative; and in their Response in Support of Public Staff’s Motion and Request for Further Relief, dated September 20, 2023, DEC and DEP requested a one-time, non-precedent setting reconciliation or “true-up” of Vintage 2025 to reflect all Commission-approved changes to the Mechanisms resulting from the Mechanisms review.

At the second stakeholder meeting on October 3, 2023, Duke Energy highlighted the topics received from Public Staff and interested parties and provided a schedule for a full stakeholder engagement discussion virtually and in-person. In addition, a series of bi-weekly, one-and-a-half-hour meetings for additional discussions in advance of the scheduled stakeholder meetings was introduced to allow the opportunity for Duke Energy, Public Staff, and interested parties to have focused discussions on each discrete topic identified by parties regarding the DSM/EE Mechanisms.

As illustrated in *Figure 2.1*, this resulted in a total of eight formal stakeholder engagement meetings. The first meeting was held on June 29, 2023, and the remaining meetings are scheduled for December 14, 2023, and January 11, 2024. Additionally, as illustrated by *Figure 2.1*, six additional “Focused Topic” discussions were scheduled to focus on individual topics requested by interested parties. These focused discussions allow for a more detailed discussion on specific changes to the DSM/EE Mechanisms.

Figure 2.1



3. Schedule and Content of Formal Stakeholder Engagement

3.1 Stakeholder Engagement Meeting No. 1 (June 29, 2023)

Duke Energy hosted the first stakeholder engagement discussion with Public Staff and interested parties. The primary objective of the initial stakeholder engagement was for the Companies to discuss the proposed edits to the DSM/EE Mechanisms that would advance the Proposed Enablers. Duke Energy requested that interested parties provide (i) feedback to those edits and (ii) recommendations for the full DSM/EE Mechanisms review by August 15, 2023, for the next stakeholder engagement meeting scheduled on September 8, 2023.

3.2 Stakeholder Engagement Meeting No. 2 (September 8, 2023)

The objective of the stakeholder engagement meeting was to discuss Public Staff’s motion for procedural relief filed on September 7, 2023, and next steps in the continued engagement on the DSM/EE Mechanisms.

3.3 Stakeholder Engagement Meeting No. 3 (September 15, 2023)

The objective of the stakeholder engagement meeting focused on understanding stakeholder concerns regarding the timing of the Proposed Enablers as well as the timing on the Companies’ request for a non-precedential, one-time Vintage 2025 reconciliation.

The Companies requested feedback on the Proposed Enablers and the overall DSM/EE Mechanisms from interested parties by September 27, 2023, for the next stakeholder engagement meeting scheduled on October 3, 2023.

3.4 Stakeholder Engagement Meeting No. 4 (October 3, 2023)

The objective of the stakeholder engagement meeting was to discuss the feedback received from SELC on behalf of SACE, SCCCL, NRDC, and Sierra Club. SELC also conferred with NCSEA and NCJC in preparing the comments and the feedback provided.

The comments provided focused on (1) updating inputs underlying the cost benefit tests in the DSM/EE Mechanisms, (2) using the as-found baseline for EE measures, (3) changing the definition of low-income customers and (4) developing guidelines for expedited regulatory approval of DSM/EE pilot programs.

Duke Energy addressed the comments and feedback provided by SACE and other stakeholders. In addition, the Companies highlighted the mechanism review topics identified by Public Staff and the scheduled formal stakeholder engagement meetings remaining in 2023. In addition, the Companies proposed a series of bi-weekly, one-and-a-half-hour meetings for additional discussions to allow Duke Energy, Public Staff, and interested parties to focus on specific topics within the review.

The Companies requested feedback from interested parties on focused topics for discussion as well as comments on the proposed changes to the DSM/EE Mechanisms.

In response to the questions and feedback received during this meeting, a follow-up meeting was scheduled with Duke Energy's Integrated Resource Planning ("IRP") team to discuss the underlying calculation of the system benefits inputs.

3.5 Focused Topic Discussion No. 1 (October 23, 2023)

The objective of the focused topic discussion was for the Companies' IRP Subject Matter Expert ("SME") to discuss the approach to updating the valuations and modernizing the current framework. The Companies' IRP SME addressed the inputs into the determination of the utility system benefits and addressed questions from all interested parties on the call.

3.6 Stakeholder Engagement Meeting No. 5 (October 27, 2023)

The objective of the stakeholder engagement meeting was to discuss the comments received from Public Staff on the suggested topics for the one and a half hour focused topics discussion as well as feedback and questions on (1) updating the source inputs or system benefits, (2) using the as-found baseline, (3) definition of low-income customer, (4) developing guidelines for expedited regulatory approval of DSM/EE pilot programs, (5) utility incentive structure, and (6) financial reporting.

The Companies also laid out dates for bi-weekly engagement meetings designed to focus on identified topics for discussion with the understanding that the scheduled topics may change based on the progress made during the stakeholder meetings.

On October 30, 2023, the Companies shared the proposed language for the as-found baselines and a definition of low-income customers that incorporates much of the feedback and comments received from interested parties from the stakeholder engagements thus far.

Feedback was requested in advance of the next focused topic discussion scheduled for November 2, 2023.

3.7 Focused Topic Discussion No. 2 (November 1, 2023)

The objective of the focused topic discussion was to discuss feedback received from Public Staff and SELC regarding the proposed language provided by Duke Energy for as-found baselines and the definition of low-income customer. Duke Energy addressed all the comments, questions, feedback, and input received on the call regarding language and placement for as-found baselines and the definition of the low-income customer.

On November 3, 2023, Duke Energy sent a follow-up email advising stakeholders and interested parties of the next scheduled focused topic engagement meeting to discuss (1) DSM/EE rapid prototyping (“Energy Innovation Program”) initiative and (2) non-energy benefits for the cost-effectiveness calculation. Feedback or changes to the proposed language was requested by November 7, 2023.

3.8 Focused Topic Discussion No. 3 (November 9, 2023)

The objective of the focused topic discussion was to discuss feedback received from Public Staff and SELC regarding the proposed language provided by Duke Energy on the (1) DSM/EE rapid prototyping (“Energy Innovation Program”) initiative and (2) non-energy benefits for cost-effectiveness calculations. SELC also provided feedback on the definition of the marginal capacity resource and the definition for the avoided capacity value for the cost-effectiveness calculation that was scheduled for discussion on November 30, 2023.

On November 14, 2023, the Companies provided revised language for the DSM/EE Mechanisms that incorporated the Companies’ proposed language to date. That language incorporated much of the comments, feedback, and proposals received from stakeholders and interested parties over the last few stakeholder engagement meetings on the topics of (1) low-income programs or low-income measures, (2) Non-Energy Benefits, (3) Total Resource Cost (“TRC”) Test, (4) System Benefits Language, (4) As-Found Baseline Language, and (5) the Energy Innovation Program.

3.9 Stakeholder Engagement Meeting No. 6 (November 17, 2023)

The objective of the stakeholder engagement meeting was to discuss the updated language provided by Duke Energy that incorporated the feedback, comments, and proposals received from stakeholders and interested parties. The Companies walked through specific paragraphs that highlighted updates to (1) the definition of low-income programs or low-income measures, (2) the definition of TRC to include the non-energy benefits calculation for illustrative purposes, (3) the definition of the System Benefits language, (4) language for As-Found Baseline, and (5) the DSM/EE Energy Innovation Program language.

The Companies, Public Staff, and interested parties provided comments and feedback on the updated language.

3.10 **Focused Topic Discussion No. 4** (November 30, 2023)

The objective of the focused topic discussion was to discuss feedback received from stakeholders on the underlying inputs and the appropriate unit type for determining value to the system benefits as well as a review of Evaluation, Measurement and Verification (EM&V) considerations for opted out customers and opportunities for interested parties to review EM&V plans and changes

The Companies' IRP SME provided more information on the details and information regarding the marginal capacity resource and the definition for the system benefit capacity value for the cost-effectiveness calculation. The Companies' IRP SME also addressed all the questions, comments, and feedback from the stakeholders and interested parties regarding the proposed language for system benefits. In addition, Duke Energy provided comments and feedback regarding EM&V considerations.

On December 1, 2023, Duke Energy requested feedback from interested stakeholders by December 5, 2023, for the next focused topic engagement discussion. The topics for discussion on December 7, 2023, are vintage years, accounting items and utility performance incentives.

3.11 **Focused Topic Discussion No. 5** (December 7, 2023)

On December 5, 2023, the Companies received feedback from Public Staff on accounting items and utility performance incentives. Additionally, Public Staff requested to review additional topics for the next stakeholder engagement discussions. The additional items requested for review were discount rate, attorney engagement in the DSM/EE Carolinas Collaborative (the advisory group created in 2009 for stakeholder engagement on DSM/EE activities), encouragement of non-residential participation and definition of large non-residential customer and a discussion on the Companies' request for a one-time, non-precedential Vintage 2025 reconciliation. The requested topics were included by the Companies on December 7, 2023, for discount rate and attorney engagement in the DSM/EE Collaborative. The next focused topic discussion scheduled on January 4, 2024, will include topics for encouragement of non-residential customer participation and definition of large non-residential customer as well as a discussion on the Companies' request for a one-time, non-precedential Vintage 2025 reconciliation.

The objective of the focused topic discussion on December 7, 2023, was to discuss feedback received from Public Staff on accounting items and options for utility performance incentives as well as an over-all discussion with interested parties on the discount rate and attorney engagement in the DSM/EE Collaborative.

The Companies provided comments and input on Public Staff's feedback regarding accounting items specifically the vintage years and amortization. The Companies and interested parties also discussed the options provided by Public Staff for potential utility performance incentive structures and an initial discussion on the potential utilization of an alternative low risk discount rate. Additionally, CIGFUR and Walmart provided feedback on attorney engagement in

the DSM/EE Collaborative. Finally, SELC and NCSEA provided additional input and related to updating the Other Incentive in the mechanism to provide utility incentives for low-income participation as well as introducing the concept of incentive opportunities for active load management.

4. Ongoing Stakeholder Engagement Activities

The Companies, interested parties, and stakeholders are committed to a robust and inclusive stakeholder engagement process that provides opportunities for everyone to provide their comments, feedback, and proposals to update the DSM/EE Mechanisms. The Companies and stakeholders continue to discuss the topics detailed in the Commission’s Scheduling Order. At a minimum, the Companies and stakeholders arrived at a consensus for the as-found language in the DSM/EE Mechanism, and substantial progress has been made on the consideration of non-energy benefits, DSM/EE energy innovation prototype program language and how to serve low-income customers. In response to the Companies’ request for additional mechanism related topics for discussion, SELC, AGO and CIGFUR have a list of topics for discussion at one of the remaining stakeholder meetings. The Companies have solicited stakeholders provide additional feedback by December 11, 2023, on suggested topics for discussion in the next three stakeholder meetings. Feedback provided by stakeholders may lead to additional topics for discussion beyond what is described below.

The next formal stakeholder engagement meeting is scheduled for December 14, 2023, and will seek to discuss items and portions of the mechanism where a consensus has not yet been reached and are still in dispute. The objective of the meeting on December 14, is an overall stakeholder engagement that will review the proposals, comments, and feedback that resulted in corresponding edits to the DSM/EE Mechanisms thus far.

There final two formal meetings are scheduled for January 2024. The first meeting scheduled on January 4, 2024, is a focused topic discussion that will seek to discuss net lost revenues, financial reporting requirements, encouragement of non-residential customer participation and the definition of large non-residential customer as well as a discussion on the Companies’ request for a one-time, non-precedential Vintage 2025 reconciliation. Duke Energy will continue to request feedback and comments on topics that have been received and additional topics for discussion from the DSM/EE Mechanisms to allow for a robust engagement. The second and final formal stakeholder engagement meeting is scheduled for January 11, 2024. The overarching goal of the parties’ for these final meetings are to achieve as much consensus on the proposed language to the DSM/EE Mechanisms as possible in anticipation of the initial comments for the DSM/EE Mechanisms due to be filed on January 26, 2024.
