



**NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION**

November 15, 2023

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

Re: Docket No. E-2, Sub 1322 – Application of Duke Energy Progress, LLC, for Approval of Demand-Side Management and Energy Efficiency Cost Recovery Rider Pursuant to N.C. Gen. Stat. § 62-133.9 and Commission Rule R8-69

Dear Ms. Dunston:

Attached for filing on behalf of the Public Staff in the above-referenced docket is the Partial Proposed Order of the Public Staff concerning the contested issue in this proceeding, submitted in compliance with the Commission's October 16, 2023 Notice. Under separate cover, Duke Energy Progress, LLC (the Company), is submitting a Joint Proposed Order on behalf of the Company and the Public Staff addressing all remaining matters.

By copy of this letter, we are forwarding a copy of this Partial Proposed Order to all parties of record by electronic delivery.

Sincerely,

Electronically submitted
/s/ Anne M. Keyworth
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/s/ Nadia L. Luhr
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CERTIFICATE OF SERVICE

I certify that a copy of this Partial Proposed Order has been served on all parties of record or their attorneys, or both, in accordance with Commission Rule R1-39, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 15th day of November, 2023.

Electronically submitted
/s/ Anne M. Keyworth
Staff Attorney

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1322

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Duke Energy Progress, LLC,) PROPOSED ORDER
for Approval of Demand-Side Management) THE PUBLIC STAFF
and Energy Efficiency Cost Recovery Rider) APPROVING DSM/EE RIDER
Pursuant to N.C. Gen. Stat. § 62-133.9 and) AND REQUIRING FILING OF
Commission Rule R8-69) PROPOSED CUSTOMER
) NOTICE

HEARD: On Tuesday, September 19, 2023, at 9:18 a.m. in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner ToNola D. Brown-Bland, Presiding; Chair Charlotte A. Mitchell and Commissioners Daniel G. Clodfelter, Kimberly W. Duffley, Jeffrey A. Hughes, Floyd B. McKissick, Jr., and Karen M. Kemerait

APPEARANCES:

For Duke Energy Progress, LLC:

Ladawn Toon, Associate General Counsel, Duke Energy Corporation, NCRH 20/Post Office Box 1551, Raleigh, North Carolina 27602-1551¹

Marion "Will" Middleton, III, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, 2235 Gateway Access Point, Suite 2020, Raleigh, North Carolina 27607

For the Carolina Utility Customers Association:

Amanda Hawkins, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, Suite 1700, Wells Fargo Capitol Center Raleigh, North Carolina 27601

¹ The Commission granted Ladawn Toon's motion to appear pro hac vice in this proceeding via *Order Granting Motion for Limited Appearance*, issued in this docket on September 11, 2023.

For the Carolina Industrial Group for Fair Utility Rates II:

Douglas D.C. Conant, Bailey & Dixon, LLP, 434 Fayetteville Street,
Suite 2500, North Carolina 27601

For the Using and Consuming Public:

Anne M. Keyworth and Nadia L. Luhr, Staff Attorneys, Public Staff –
North Carolina Utilities Commission, 4326 Mail Service Center,
Raleigh, North Carolina 27699-4300

Based upon the foregoing and the entire record in this proceeding, the Commission makes the following:

FINDINGS OF FACT

1. It is appropriate to apply a Non-Participant Spillover (NPSO) net savings value of 12.95% in this proceeding;

2. It is reasonable and appropriate to require that future NPSO evaluation reports clearly state how net program savings are calculated for each service territory and to clearly disclose the magnitude of the estimated net program savings in the main body of the report;

3. It is reasonable and appropriate to require that the method applied in future evaluations that leverage vendor survey responses to estimate NPSO ensures that projects are not double counted and are, instead, apportioned to the respective DEC and DEP service territories in a manner that reflects the best available information;

4. It is reasonable and appropriate to require that future evaluations that leverage vendor survey responses to estimate NPSO include a method to ensure that projects appropriately weight the savings by measure and project type;

5. It is reasonable and appropriate to require that future evaluations of NPSO for any program type, regardless of the method used, include a reasonableness check to assess whether the results are overly sensitive to a small

number of data points, and that this reasonableness check is discussed in the report to provide the Commission with confidence that the results are not overly influenced by outlier data points;

6. It is reasonable and appropriate to require that future evaluations that leverage vendor survey responses to estimate NPSO ensure that projects that were ineligible for the program and projects completed by customers who were ineligible to participate are removed from the calculation of NPSO; and

7. It is reasonable and appropriate to require that future evaluations of NPSO for any program type, regardless of the method used, include a benchmarking analysis of the results of the NPSO in comparison to other programs of similar type (e.g., non-residential custom and non-residential prescriptive), and that the results of this benchmarking analysis be discussed in the report with an explanation provided where an evaluation estimates NPSO to be substantially greater than the benchmarking analysis.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-7

Summary of the Evidence

The evidence supporting these findings of fact is found in the Company's application (Application); the direct and supplemental testimony and exhibits of Company witnesses Casey Fields and Carolyn Miller and Public Staff witnesses Warren Hirons and Michelle Boswell; the rebuttal testimony of Company witnesses Fields, Miller, and Lark Lee; and the entire record in this proceeding.

DEP Direct and Supplemental Testimony

As part of its Application, DEP filed a 2018-2019 Evaluation Report (Report) concerning the Company's Non-Residential Smart \$aver Custom Program (Program), filed in this proceeding as Exhibit E to witness Fields' direct testimony. The Report was created by Nexant (now known as Resource Innovations) in partnership with Tetra Tech (together with Nexant, the Evaluator) for DEP and Duke Energy Carolinas, LLC (DEC and, together with DEP, Duke Energy). The Report includes, among other things, a Net-to-Gross (NTG) analysis of the energy savings attributable to the Program and an explanation of the method utilized by the Evaluator in determining the NTG savings.

According to the Report, calculations are performed for free-ridership (an estimate of the proportion of the Program's savings that would have happened in the absence of the Program) and spillover (an estimate of savings resulting from the installation of energy-efficient projects completed without a program incentive but that still was influenced by the Program) and the results, when combined, produce the Program-level NTG ratio. Notably, the Report differentiates between participant spillover (PSO), which the Report described as the attribution of savings to the Program for equipment that participants installed without the incentive that was influenced by the Program; and nonparticipant spillover (NPSO), which the Report describes as the attribution of savings to the Program for equipment contractors install for customers without a Duke Energy incentive that was influenced by the Program. The NTG ratio is then multiplied by the gross verified

energy savings resulting from the impact evaluation activities to determine the Program's net verified energy savings. Fields Exhibit E, 50-68.

The Report describes the sampling for the Program, which included 1,187 records (780 for DEC and 407 for DEP). According to the Report, the tracking data was aggregated to the sector, or measure-category level, summing incentive amounts and kilowatt-hour (kWh) savings, using the Unique Project ID variable. The detailed measure descriptions were retained for reference in the participant survey, and after aggregation, the Carolina territories sample frame included 834 measure-level records (544 for DEC and 390 for DEP), all of which were included in the study's sample. The Report indicates that a total of 283 unique customer contacts were associated with the 834 projects included in the sample. The Evaluator conducted surveys with 92 customer respondents (65 DEC customers and 27 DEP customers, with two respondents being customers of both utilities) who completed 236 different projects in the DEC and DEP territories. *Id.*

The body of the Report shows, among other things, NTG NPSO evaluation results of 12.54% for DEC and 24.03% for DEP, with a combined Duke Energy result of 12.95%. *Id.*

Public Staff Direct Testimony

In direct testimony, Public Staff witness Hirons emphasized the importance of correctly capturing net program savings given that they are used in rider calculations to determine net lost revenues (NLRs) and performance incentives.

Nonetheless, according to witness Hirons, the Report provided incomplete, misleading, and at times contradictory information concerning the magnitude of net program savings. More specifically, witness Hirons explained that, while Tables 1-1 and 1-4 of the Report provide the respective DEC- and DEP-reported and verified gross savings, the main body of the report does not provide a corresponding table or other explanation of the study results showing the *net* savings for each utility or how the gross verified savings for each utility are multiplied by the NTG ratios to determine program-level net savings. In addition, witness Hirons testified that he found the Report to be misleading or contradictory regarding whether Program-level net savings are estimated using an overall NTG ratio or a utility-specific NTG ratio. Although Appendices A and B to the Report indicate that utility-specific NTG ratios were used to determine Program-level net savings for each utility, the NTG ratio in Figure 5-3 of the body of the Report implies that a combined NTG ratio was used as listed in Table 1-7 of the Report. Thus, witness Hirons explained that the main body of the Report did not provide pertinent information concerning utility-specific Program-level net savings. Tr., 187-99.

Witness Hirons listed numerous additional concerns regarding the adequacy of the Evaluator's net Program savings analysis contained in the Report. First, witness Hirons testified that the analysis contains double-counting of projects included in response to one of the Evaluator's survey questions. More specifically, witness Hirons explained that five vendors had customer bases that included both DEC and DEP territories. The Evaluator applied the results of these five survey responses (DEC and DEP combined) in their entirety for each individual utility-

specific NPSO calculation and, as such, did not attempt to apportion these projects between the two utilities. According to witness Hirons, the Evaluator's double-counting of projects is a flaw in the calculation of utility specific NPSO and creates an extraordinary level of uncertainty. Witness Hirons further explained that two of the five vendor responses with customer bases in both DEC and DEP were responsible for 23.9% and 82.0% of the total number of projects incentivized by the program respectively for DEC and DEP, and were responsible for 48.4% and 86.7% of the total number of unincentivized projects influenced by the program respectively for DEC and DEP. Witness Hirons testified that, ultimately, the Evaluator incorrectly assigned full value of the responses to the relevant survey question to both DEC and DEP. Tr. at 199-202.

Next, witness Hirons explained that the Evaluator failed to appropriately weight the savings by measure and project type. According to witness Hirons, the evaluation plan provided by Duke Energy to the Public Staff in November of 2020 (2020 Plan) indicated that NPSO savings would be weighted using stratum-level and record-level weights and noted that Duke Energy would use the Pennsylvania Evaluation Framework (Pennsylvania Framework), which provides sampling requirements if using NPSO, to evaluate NTG. However, witness Hirons testified that the Report did not follow the method discussed in the 2020 Plan and did not follow the guidance provided by the Pennsylvania Framework, which calls for appropriately weighting data based on the type of equipment sold (e.g., lighting or non-lighting) and total program savings (e.g., project size). Instead of following the 2020 Plan, the Evaluator weighted each project equally, implying that each project

is an average project characterized as having the mean of the gross savings across all projects. However, the projects had vastly different savings based upon whether the measure was lighting or non-lighting and whether the strata was small or large. As such, witness Hirons testified that the disparity in project size by measure and in project numbers, in conjunction with the failure to identify which measures and project sizes were associated with each vendor response in the NPSO survey, created highly uncertain results and rendered them inappropriate for use in the analysis. Tr., 202-06.

In addition, witness Hirons testified that the results of the analysis are highly sensitive to only a few data points. According to witness Hirons, the Report shows that 67 of 199 participating contractors completed surveys, and that only ten of those 67 responses had an NPSO of greater than zero. Of those ten responses, two account for over 90% of DEC's NPSO (with one of these two being a contractor that served both DEC and DEP and had its responses double counted) and one accounts for nearly 87% of DEP's NPSO. Although the 2020 Plan called for weighting by measure type and project size to limit the impact of any single vendor response, witness Hirons explained that the Evaluator only considered the number of projects, leading to a result inappropriately influenced by only two vendor responses. Tr., 206-08.

Moreover, witness Hirons explained that the analysis contained in the Report credits NPSO to projects which were likely to have been ineligible for the Program, as well as to projects that were likely to have been installed by opt-out

customers that were ineligible for the Program. According to witness Hirons, five DEC survey responses and one DEP survey response indicated that the main reason for not pursuing an incentive was either that the projects were not eligible or the customers were opted out of payment for the DSM/EE rider and participation in the DSM/EE rider programs. Witness Hirons testified that an opted-out customer should be marked as an ineligible project and not have the ability to influence the NPSO. Otherwise, according to witness Hirons, customers paying the DSM/EE rider are reimbursing Duke Energy for lost revenues attributable to opted-out customers who are not paying for the rider and whose sales are not included in calculations of savings or NLR, thereby creating a cross-subsidy from opted-in customers to opted-out customers. Tr., 208-12.

Finally, witness Hirons testified that the NPSO estimates contained in the Report were substantially greater than results from similar evaluations in other states, with the highest non-Duke Energy estimate in the benchmarking analysis at 3.9%. According to witness Hirons, the NPSO results for Duke Energy are significantly out of line with other recent NPSO estimates, thereby calling the Report's NPSO estimate into question. Tr., 212-14.

As a result of these concerns, witness Hirons testified that the Report's evaluation of NPSO was speculative at best and should not be accepted. Instead, witness Hirons recommended that Duke Energy be required to remove the NPSO savings from the analysis entirely and submit a revised evaluation report reflecting the removal of NPSO savings. In addition, witness Hirons made a number of

recommendations to strengthen the results of future evaluations of the Program's NPSO, including that future NPSO evaluation reports should (1) state how net program savings are calculated for each service territory and clearly disclose the magnitude of the estimated net program savings in the main body of the report; (2) include a method to ensure that projects are not double counted and are, instead, apportioned to the respective DEC and DEP service-territories in a manner which reflects the best available information if they leverage vendor survey responses to estimate NPSO; (3) include a method to ensure that projects appropriately weight the savings by measure and project type if they leverage vendor survey responses to estimate NPSO; (4) include a reasonableness check to assess whether the results are overly sensitive to a small number of data points, and this reasonableness check should be discussed in the report to help provide the Commission with confidence that the results are not overly influenced by outlier data points; (5) include a method to ensure that projects that were ineligible for the program and projects completed by customers who were ineligible to participate are removed from the calculation of NPSO if they leverage vendor survey responses to estimate NPSO; and (6) include a benchmarking analysis of the results of the NPSO in comparison to other programs of similar type (e.g., non-residential custom or non-residential prescriptive), and the results of this benchmarking analysis should be discussed in the report with an explanation provided if an evaluation estimates NPSO to be substantially greater than the benchmarking analysis. Tr., 214-16.

DEP Rebuttal Testimony

In rebuttal testimony, Company witness Lee stated her disagreement with Public Staff witness Hirons' contention that the NPSO contained double-counting, stating that the methodology utilized to calculate NPSO was based on each contractor's activity and reported number of projects, with only one instance of a contractor that reported unincentivized projects influenced by the programs who had overlapping program activity in both DEC and DEP territories. Witness Lee testified that the Evaluator did not intend for the territory-specific NTG values in Appendix A of the Report to be utilized. Witness Lee further testified that the Evaluator recommended to the Company that the Program's net savings be revised using the combined NTG value of 12.95%, instead of DEP's 24.03%. Tr., 102-03.

Concerning witness Hiron's assertion that NPSO should be excluded from the Program's net savings in this proceeding, witness Lee disagreed on the basis that generating additional energy savings by influencing contractor practices is foundational to Duke Energy's EE programs' theories and activities. In her view, the Evaluator reliably measured the Program's influence on contractor practices outside the programs utilizing an industry-standard, transparent NPSO methodology known as the Pennsylvania Framework, which provides free ridership and spillover estimation. Witness Lee testified that the Evaluator implemented the methodology with robust sampling, data collection, and analysis to reliably calculate NPSO. Tr., 104.

With regard to witness Hiron's contention that NPSO results were not weighted correctly, witness Lee testified that the NPSO results were based on a census sample of the contractor population and were then weighted by contractor size, which she describes as the most appropriate method for custom projects. Witness Lee explained that the Evaluator both sampled the complete participating contractor population and achieved survey completely representative of the target population and determined that stratum weighting was not needed based on the representation across stratum proportional to representation in the total population. Witness Lee further explained that the Evaluator weighted by project size for participant free ridership and participant-like spillover estimates, which aligns with the portion of the Evaluator's 2020 Evaluation Plan. Witness Lee agreed with witness Hiron's that weighting NPSO by project size may be appropriate for deemed or partially deemed prescriptive project savings but cautioned that weighting NPSO by contractor size is the most appropriate method for custom projects where project size tends to be atypical. According to witness Lee, the Evaluator used expert judgment to weight by trade ally size using the number of projects reported by each contractor given that the measures in the Program are comprised of custom projects. Tr., 104-06.

Witness Lee further testified that customer eligibility is not a criterion to estimate NPSO pursuant to the Pennsylvania Framework, and that the survey questions employed by the Evaluator properly asked about projects similar to what was done through the program to solicit responses about projects that save energy in accordance with the Pennsylvania Framework. Therefore, witness Lee testified

that the NPSO estimate in the Report did not incorrectly include ineligible customers, as witness Hirons stated. Tr., 106-08.

Concerning the utilization of benchmarking from other jurisdictions, witness Lee testified that the Evaluator regularly includes benchmarking results in its evaluation studies to provide context of how specific program results compare to other programs. However, witness Lee explained that the Evaluator does not adjust primary data results based upon benchmarking results on the basis that primary data is the most accurate tool to understand unique marketplaces and specific program impacts in those markets, not to mention the vastly different policy and regulatory contexts at play in different states affecting program design and delivery and resulting market effects such as NPSO. Tr., 108-09.

Witness Lee noted that opportunities for continuous improvement should always be explored, not only in program design and delivery, but also in EM&V. Witness Lee agreed with witness Hirons that future evaluation reports should clearly state how net program savings are calculated for each service territory and clearly disclose the magnitude of the estimated program net savings in the main body of the report to ensure that the methodology is transparent and to make external review easier. To address contractors with overlapping projects across Duke Energy's territories, witness Lee recommended that, in the future, the contractor-specific NPSO estimate be apportioned to DEP and DEC based on the percentage of projects incentivized through the programs within each territory. From research conducted to date, witness Lee noted that it is often difficult for

contractors to accurately indicate which territory the sales were in given the proximity between the DEC and DEP territories and the fact that some contractors work across both. Tr., 109-10.

Witness Lee emphasized that the Evaluator's analysis resulted in a reliable NPSO estimate, consistent with industry standard NPSO methodologies that the Evaluator implemented with robust sampling and survey techniques. Witness Lee testified that the Evaluator carefully employed the Pennsylvania Framework NPSO methodology to both collect and analyze survey response data, utilized a census sample including all 199 participating contractors. Survey techniques resulted in 67 contractor surveys, a 33.7% response rate, which is higher than what is typically achieved in other evaluation trade ally research. Furthermore, witness Lee testified that the contractors who completed the survey were representative of the population. According to witness Lee, the Evaluator achieved a confidence interval with greater precision than industry standard (8.1% precision level in this instance, as compared to the industry-accepted 10% precision level). With respect to witness Hirons' concern that two contractors' responses account for much of the data, witness Lee testified that contractor variations reflect levels of engagement with the programs and overall sales volume and that, based on the Evaluator's extensive experience with trade ally research, it expects results to reflect varying trade ally sizes and activity in the marketplace. According to witness Lee, such diversity was reflected in the data and resulting analysis, and high contractor-specific NPSO does not mean an invalid response. Tr., 108-10.

DEP Witness Fields testified that witness Hiron's application of his findings for the gross verified kWh retrospectively is a departure from the method outlined in the most recently approved cost recovery mechanism in Docket No. E-2, Sub 931, which, according to witness Fields, prohibits such retroactive application. In addition, witness Fields testified that NPSO savings from non-participants are not a cross subsidy and are, instead, an indication of the additional system benefits recognized by all customers regardless of opt-out status arising from operating effective programs. Because the standardized EM&V process evaluates how EE programs influence the energy consumption of both participants and nonparticipants and is consistent with the method that the Company has used historically, witness Fields testified that the impacts resulting from the influence of the Company's programs have on opted-out customers should not be ignored. Tr., 94-95.

Witness Fields testified that the net effect of witness Lee's recommended updated NPSO savings is an increase of approximately \$6,662 to the total revenue requirement. Witness Miller testified that this adjustment does not impact the rates requested in the Company's supplemental filing. Tr., 48, 93.

Testimony Presented at the Expert Witness Hearing

At the expert witness hearing, Company witness Lee testified that she agreed with Public Staff witness Hiron's recommendations 1, 2, and 4, as listed in his direct testimony. When asked about the Pennsylvania Framework and whether industrial customers have the option to opt-out in Pennsylvania, witness Lee

testified that this policy difference between North Carolina and Pennsylvania was not relevant to the Evaluator's analysis and that the Evaluator applied the survey questions and analysis contained in the Pennsylvania Framework. Tr., 116-17.

Witness Miller testified that there was no impact to Rider C or Rider CE based on the Company's position in rebuttal, and that the impact of the Public Staff's recommendation to remove the NPSO in this proceeding would be a \$20,000 increase in the revenue requirement, resulting in an increase in Rider C and Rider CE to nonresidential DSM rates by \$0.0001 per kWh. Tr., 131.

Company witness Fields admitted that, with regard to NPSO, opted-in industrial customers pay for savings attributable to opted-out industrial customers. When asked for clarity concerning his statement in rebuttal testimony that the EM&V process utilized by the Company in this proceeding was "consistent with the method that the Company has used historically," and whether his statement was intended to indicate that previous custom reports have similarly included NPSO in the analysis, witness Fields testified that he did not recall whether previous custom EM&V reports have in fact included NPSO and agreed, subject to check, that prior custom EM&V reports did not include NPSO. Tr., 119-20.

Public Staff witness Boswell testified that, due to the fact that application of the Public Staff's recommendation as set forth in its direct testimony would result in an increase in rates when applying the PPI floor created by Paragraph 78 of the Mechanism and the PRI floor created by Paragraph 89(d) of the Mechanism, the Public Staff was withdrawing its recommendation to remove NPSO savings

entirely, although the Public Staff still did not agree with the Company's calculation of net savings provided in the Company's rebuttal due to its concerns with the methodology applied. Witness Boswell noted that the reduced savings contained in the Company's rebuttal ensured that rates would not increase. Tr., 217-18.

Public Staff witness Hirons testified that, with regard to witness Lee's contention that customer eligibility is not a criteria of the Pennsylvania Framework for determining NPSO, a review of the survey questionnaire demonstrates that project eligibility is the foundation of the NPSO calculations. In addition, although witness Lee testified that policy differences between North Carolina and Pennsylvania concerning the ability of industrial customers to opt-out are not relevant, witness Hirons explained that this difference is important given that industrial customers in Pennsylvania are not permitted to opt out, as they are in North Carolina. In addition, witness Hirons testified that the method utilized in this Report was not consistent with all of the other nonresidential program evaluation reports that have been filed and that other reports have a qualification question that screens out opted-out industrial customers. Witness Hirons also explained his view that the failure to screen out industrial customers which have opted out constitutes cross subsidization is based on the fact that if a program's revenue is lost because of participation by an opted-out customer, that customer's rates do not change, and the customers who are paying for the rider have to foot that bill for NLRs. Witness Boswell testified the Public Staff intends to address this issue in the 2023 Mechanism Review occurring in Docket No. E-2, Sub 931. Tr., 219-25.

Witness Hirons emphasized the importance of aligning the Company's EM&V methods with best practices, cautioning that there could be consequences in future rider proceedings if the methods allow substantial NPSO that either is being calculated incorrectly or inconsistently. Although it is a moot point from a dollar perspective in this proceeding, witness Hirons testified that it is important to correct the methods going forward and testified that this is a conversation the Public Staff is willing and ready to engage in going forward. Tr., 226-27.

Witness Hirons further testified that, for the 2020 and 2023 evaluation reports for the prescriptive program, ineligible projects were explicitly removed from the analysis by the Evaluator. Tr., 228-29.

Discussion and Conclusions

NPSO Savings

With respect to the amount of NPSO savings to include in this rider proceeding, the Commission approves the use of the savings calculations reflected in the Company's rebuttal testimony and agreed to by the Public Staff. Despite the concerns raised by the Public Staff with regard to the method utilized by the Evaluator in calculating these savings, it is undisputed that removing the NPSO savings from this rider entirely would result in an increase in rates. This increase, however, would be solely based on the application of the PPI floor in the DEP Mechanism, and the Commission notes that, but for this provision of the DEP Mechanism, removing savings would typically result in a decrease in rates. Based

on the application of the DEP Mechanism and the fact that removing NPSO savings would result in an increase in rates, the Commission finds it appropriate to utilize the combined savings reflected in the Companies' rebuttal testimony for purposes of setting rates in this proceeding.

Recommendations for Future EM&V Reports on NPSO

Based upon DEP's agreement with Public Staff witness Hiron's recommendations 1, 2, and 4, the Commission is persuaded that each of these recommendations constitutes good practice and has value in ensuring the confidence of future evaluators' NPSO savings estimates. As such, each of these recommendations shall be implemented in future evaluation reports as they pertain to NPSO.

With regard to witness Hiron's remaining recommendations, the Commission gives weight to the concerns expressed by witness Hiron with respect to the methods applied by the Evaluator in calculating NPSO savings. With regard to witness Hiron's recommendation 3 – that, if future evaluations leverage vendor survey responses to estimate NPSO, Duke Energy's evaluator should include a method to ensure that projects appropriately weight the savings by measure and project type – the Commission is persuaded that the savings per project is highly variable based on whether the project is lighting or non-lighting and whether the project is considered large or small. While weighting projects equally could be reasonable if most projects were of equal size as it relates to a savings per project metric, the DEP projects in this Report have vastly different

savings based on whether the measure is lighting or non-lighting and whether the strata is small or large, as demonstrated in Table 9 of witness Hiron's direct testimony. Weighting projects in this manner is also consistent with the Pennsylvania Framework, which both DEP and the Public Staff agreed was a credible framework to apply for purposes of determining NPSO savings. In addition, the Commission is not persuaded by the Companies' position that weighting NPSO by contractor size is appropriate, and DEP did not point to anything in the 2020 Plan or in the Pennsylvania Framework that states that NPSO should be weighted by the number of projects. As DEP witness Lee noted on cross-examination, the Evaluator only has confidence in the project savings numbers for projects that were completed by participants, but not for non-participants. Lacking that confidence, the Evaluator must find another way to develop a reasonable estimate of NPSO savings, if possible. Going forward, future NPSO evaluations that leverage vendor survey responses should include a method which appropriately weights the savings by project measure and project type, consistent with the Pennsylvania Framework.

Concerning witness Hiron's recommendation 5 as set forth in his direct testimony – that if future evaluations leverage vendor survey responses to estimate NPSO, Duke Energy's evaluator should include a method to ensure that projects that were ineligible for the program and projects completed by customers who were ineligible to participate are removed from the calculation of NPSO – the Commission agrees with the Public Staff that this issue is best addressed in the 2023 Mechanism Review where it can be more fully discussed and considered by

all interested parties, including those that did not weigh in on the NPSO issues in this proceeding. As such, the Commission declines to rule on this recommendation in this proceeding.

Finally, with regard to witness Hiron's recommendation 6 – that future evaluations of NPSO for any program type, regardless of the method used, should include a benchmarking analysis of the results of the NPSO in comparison to other programs of similar type (e.g., non-residential custom, non-residential prescriptive, etc.), and the results of this benchmarking analysis should be discussed in the report with an explanation provided where an evaluation estimates NPSO to be substantially greater than the benchmarking analysis – the Commission notes the vast difference in the NPSO estimates provided by the Evaluator and those provided for in other non-residential custom programs, as demonstrated in Table 15 of witness Hiron's direct testimony. The Commission concludes that the inclusion of benchmarking information would ensure transparency to parties advocating for ratepayer interests and would assist the Commission in making its determination as to the appropriateness of the NPSO savings claimed by the Company. As such, the Commission accepts this recommendation.

IT IS, THEREFORE, ORDERED as follows:

1. That a NPSO net value of 12.95% shall be applied for purposes of this proceeding;

2. That future NPSO evaluation reports shall clearly state how net program savings are calculated for each service territory and should clearly disclose the magnitude of the estimated net program savings in the main body of the report;

3. That, if future evaluations leverage vendor survey responses to estimate NPSO, the method shall ensure that projects are not double counted and are, instead, apportioned to the respective DEC and DEP service-territories in a manner which reflects the best available information;

4. That, if future evaluations leverage vendor survey responses to estimate NPSO, Duke Energy's evaluator shall include a method to ensure that projects appropriately weight the savings by measure and project type;

5. That future evaluations of NPSO for any program type, regardless of the method used, shall include a reasonableness check to assess whether the results are overly sensitive to a small number of data points, and this reasonableness check should be discussed in the report to help provide the Commission with confidence that the results are not overly influenced by outlier data points;

6. That, if future evaluations leverage vendor survey responses to estimate NPSO, Duke Energy's evaluator shall include a method to ensure that projects that were ineligible for the program and projects completed by customers who were ineligible to participate are removed from the calculation of NPSO; and

7. That future evaluations of NPSO for any program type, regardless of the method used, shall include a benchmarking analysis of the results of the NPSO in comparison to other programs of similar type (e.g., non-residential custom, non-residential prescriptive, etc.), and the results of this benchmarking analysis should be discussed in the report with an explanation provided where an evaluation estimates NPSO to be substantially different from the benchmarking analysis.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of December, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk