

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH
DOCKET NO. E-2, SUB 931
DOCKET NO. E-7, SUB 1032
DOCKET NO. E-100, SUB 179

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 931)
)
In the Matter of Application by Carolina Power)
& Light Company, d/b/a Progress Energy)
Carolinas, Inc., for Approval of Demand-Side)
Management and Energy Efficiency Cost)
Recovery Rider Pursuant to G.S. 62-133.9 and)
Commission Rule R8-69)
)
DOCKET NO. E-7, SUB 1032)
)
In the Matter of Application of Duke)
Energy Carolinas, LLC, for Approval of)
New Cost Recovery Mechanism and)
Portfolio of Demand-Side Management)
and Energy Efficiency Programs)
)
DOCKET NO. E-100, SUB 179)
)
In the Matter of Duke Energy Progress,)
LLC, and Duke Energy Carolinas, LLC,)
2022 Biennial Integrated Resource Plans)
and Carbon Plan)
)
)
)

INITIAL COMMENTS OF
WALMART INC.

Pursuant to the North Carolina Utilities Commission's ("Commission") October 30, 2023, Order in the above-referenced matters, Walmart Inc. ("Walmart") submits the following Initial Comments to address certain topics identified in that Order and states as follows:

COMMENTS

1. On August 6, 2008, Walmart filed a petition to intervene in Docket E-2, Sub 931, which was granted by Commission Order dated August 13, 2008.

2. On May 9, 2022, Walmart filed a petition to intervene in Docket E-100, Sub 179, which was granted by Commission Order dated May 11, 2022.

3. On April 27, 2023, Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") (collectively "Duke" or "Companies") filed a document entitled, "Initiation of Commission-Directed Review of DSM/EE Cost Recovery Mechanism," as directed by the Commission's December 30, 2022, Final Order in the Companies inaugural Carbon Plan ("Carbon Plan Order"), Docket No. E-100, Sub 179. The purpose of the review was to consider modifications to the Companies' demand-side management ("DSM") and energy efficiency ("EE") (collectively, "DSM/EE") cost recovery mechanism ("DSM/EE Mechanism") in an effort to facilitate increased adoption of DSM/EE measures in the Companies' service territories.

4. On September 7, 2023, Public Staff filed a Motion for Procedural Relief, asking the Commission to establish a procedural schedule for the filing of Initial Comments on January 26, 2024, and Reply Comments on March 29, 2024. *See* Public Staff's Motion, ¶ 8.

5. The Commission's October 30, 2023, Order granted Public Staff's requests and identified 15 topics upon which comments could be submitted. *See* October 30, 2023, Order at ¶¶ 1(a)-(o).

6. Both prior to and after the Commission's October 30, 2023, Order, numerous stakeholder meetings were held between the Companies, Public Staff, and interested parties to discuss proposed changes to the DSM/EE Mechanism. The outcome of those meetings, including areas where consensus has been reached or the scope of disagreement narrowed or clarified are set

forth in the Companies' contemporaneous filing in the above-referenced dockets.

7. Walmart was an active participant in these stakeholder meetings and appreciated the parties' collective efforts to address reasonable and appropriate changes to the DSM/EE Mechanism.

8. On December 18, 2023, Walmart, through Steve Chriss, its Senior Director of Utility Partnerships, also participated in a Commission-initiated Technical Conference concerning the DSM/EE Mechanism and related revisions to provide the perspective of a large commercial customers with operations throughout the Companies' footprint.

9. In large measure, Walmart either supports or does not oppose much of the language proposed to revise the DSM/EE Mechanism. Any areas where Walmart's position differs from the revisions set forth in the Companies' filing are set forth below. Additionally, Walmart provides feedback to the Commission on certain of the topics identified in its October 30, 2023, Order, which are relevant to the Commission's consideration of revisions to the Mechanism.

A. Ordering Paragraph 1(h): Encouraging Industrial and Commercial Participation in Utility-Sponsored DSM/EE

10. North Carolina law codified at N.C.G.S. § 62-133.9(f) and further explained in Commission Rule R8-69(d), statutorily authorizes large commercial and industrial ("C&I") customers to opt-out of utility-sponsored DSM/EE, provided they self-implement DSM/EE measures. When HB 951 was enacted in 2021 setting North Carolina's largest electric utility on a carbon-free path, the North Carolina legislature stated expressly that "[e]xisting law *shall* apply with respect to energy efficiency measures and demand-side management." N.C.G.S. § 62-110.9 (emphasis added).

11. Walmart currently participates in the statutory opt-out, pursuant to which Walmart has invested substantial dollars, without recovery or cost sharing from other utility ratepayers, in

DSM/EE for its North Carolina facilities. During the Technical Conference, Mr. Chriss explained that Walmart has grown in DEC's territory from 54 retail sites and one distribution center in 2007 using a 251,000 MWh, to 79 retail sites and three distribution centers in 2022 that only use 271,000 MWh. *See* Technical Conference Transcript ("Tr."), p. 142, line 20 to p. 143, line 1. Over a 15-year period, Walmart increased its store footprint by 46 percent but only increased its energy usage by 8 percent due largely to Walmart's commitment to DSM/EE. *Id.*, p. 143, lines 2-8. Thus, there has been significant economic development from Walmart in DEC's territory without an equal increase in energy needs, which decreases costs for other customers by avoiding the need for DEC to reserve additional capacity to serve Walmart's increased operations.

12. Walmart has historically opted out of all utility-sponsored DSM/EE in Duke's service territories in large measure because the costs of participation as compared to the potential benefits are simply too high. Under Commission rules, when an opted-out customer elects to participate in a new DSM or EE program, they lose the right to be exempt from the rider (recovering DSM/EE costs) for a period of five years. *See* Commission Rule R8-69(d)(3). When the value of a given measure is compared to the costs of participation in the DSM/EE Rider, the costs are orders of magnitude higher than the benefits. The Mechanism revisions proposed in these proceedings are intended to address this cost/benefit issue by, among other things, enabling the Companies to develop and propose DSM/EE programs that are more likely to attract large C&I customer participation. Walmart supports these efforts and believes increasing the incentives will encourage larger C&I customer participation, even further reducing the load on the Companies' system, which will "shrink the challenge" of reaching the ambitious carbon-free goals of HB 951.

13. During the Technical Conference, Mr. Chriss explained the material differences from Walmart's perspective between utility-sponsored EE measures and utility-sponsored DSM.

Unlike demand response and DSM measures, which typically target more local or regional issues, EE is not location specific and is considered and adopted by Walmart on a Company-wide basis. Due to the fact Walmart has operations throughout the United States (as well as globally), which span all 50 states and the District of Columbia, across numerous utility service territories, it is practically impossible to implement EE measures through utility-sponsored programs. The array of EE measures offered by these dozens of different entities across the country are equally as diverse in terms of program offerings, timing, and requirements. Thus, regardless of any changes to the DSM/EE Mechanism, Walmart anticipates that it will continue to opt-out of new EE measures in the Companies' service territories. Walmart will – as it always has – continue to evaluate and invest in cost-effective EE measures for all of its operations, not just those located in the Companies' service territories. It will do so because it makes good business sense to invest in measures that reduce energy usage, and by virtue of North Carolina's statutory opt-out, it will make those investments on its own dime, benefiting other ratepayers without burdening them with the costs of those investments.

14. By contrast, Walmart sees substantial opportunity for well-designed DSM programs to attract C&I participation. Indeed, Walmart presently participates in a number of demand response programs throughout the country. *See* Appendix A.¹

15. From Walmart's perspective, there are two key elements that must be present for Walmart (and likely other similarly situated commercial customers) to participate in utility-sponsored DSM in North Carolina: (1) the programs must be economically viable, meaning there

¹ Appendix A is being provided as a follow-up to Commissioner questions from the December 18, 2023, Technical Conference. Because of different state policy, law, or applicable rules, Walmart is obligated to participate in utility-sponsored DSM in some of the jurisdictions set forth in Appendix A. By contrast, Walmart participates in other of these programs set forth in Appendix A voluntarily, particularly those where Walmart is able to work with an aggregator, by choice.

is the potential to earn back more than the costs of participating in the program; and (2) the programs must recognize Walmart's operational limitations. The first issue can be addressed through revisions to the DSM/EE Mechanism such as those proposed in this proceeding. The second is addressed through sound program design.²

16. With respect to the economic viability of a DSM program, Walmart does not seek a **guarantee** that benefits will exceed costs. Rather, Walmart seeks a program structure that would allow a participant to earn benefits in excess of costs through proper management and participation in the program. In numerous proceedings before state regulatory proceedings around the country, Walmart has expressed a similar sentiment with respect to evaluating clean energy opportunities with utilities; Walmart wants a "value proposition [that] allows the customer to receive any potential benefits brought about by taking on the risk of being served by that resource...."³ By largely agreeing to the proposed revisions to the DSM/EE Mechanism, Walmart is hopeful that the increased flexibility enabled by these changes will permit the Companies to consider, propose, and implement DSM programs that are likely to attract participation from opt-out eligible large C&I customers.

17. DSM that is attractive to C&I customers eligible for the opt-out must also be flexible. The large C&I customer category is not homogenous. Some customers may be willing to participate in economic demand-type programs whereas others may only agree to participate on an emergency basis. Further some customers have larger amounts of load at a single site whereas

² During the Technical Conference, Walmart indicated that it is best able to leverage demand response capabilities when it can aggregate the available load shedding capabilities of the stores in a given footprint because individually a single store often cannot shed load for the duration of a load shed event. Technical Conference Tr., p. 146, line 22 to p. 147, line 18. This is why Walmart often participates in demand response programs using aggregators. *Id.*, p. 147, line 23 to p. 148, line 13.

³ See e.g., *In re S.C. Code Ann. Section 58-37-60 Independent Study to Evaluate the Integration of Renewable Energy and Emerging Energy Technologies into the Electric Grid for the Public Interest*, Public Service Commission of South Carolina Docket No. 2023-369-E, Direct Testimony of Lisa V. Perry (filed Jan. 24, 2024), p. 7, lines 7-10.

a customer like Walmart will have smaller amounts that can be aggregated. Similarly, the length of time in which certain customers can curtail their load will also differ by customer. Walmart believes the changes to the Mechanism will help the Companies offer programs that can address each of these varied use cases.

18. On January 9, 2024, Walmart announced a corporate goal to bring 10 GW of new clean energy projects online by the end of 2030, including 1 GW of new on-site solar plus storage, and enabling 2 GW of new community solar projects.⁴ While specific project sites have not yet been selected and/or announced, Walmart anticipates that it will be considering such projects in the Companies' service territories. During the Technical Conference, CIGFUR's witness also testified that many industrial customers also have on-site resources. A way to attract C&I customer participation in DSM is to develop programs beyond mere load reduction, or traditional demand response, programs, that recognize the value of these on-site generation and storage resources. For example, programs focusing on how the grid can utilize these resources and the value customers with these resources are providing should be considered.

B. Ordering Paragraphs 1(b) (c): Net Lost Revenues and Utility Incentives

19. In addition to ensuring adequate incentives to secure customer participation, Walmart also believes that it is necessary to ensure adequate compensation levels for the Companies to incentivize their investment in DSM in lieu of other capital expenditures. The key is striking the appropriate balance. On the one hand, it is reasonable to compensate the Companies in recognition of the fact that DSM/EE is replacing other utility investments for which it can earn a return. On the other hand, the level of such compensation must recognize that the Companies must pursue an "all of the above approach" to comply with the mandates of HB 951 and should

⁴ https://tech.walmart.com/content/dam/walmart-global-tech/documents/Walmart%20CES%20Keynote%20Script%20Transcript_1.9.24.pdf

not be so high as to offset the benefits to customers.

20. During the stakeholder process, the issue of utility compensation was discussed. While consensus has not yet been reached, those discussions are ongoing, and Walmart remains hopeful that consensus can be reached.

C. Ordering Paragraph 1(k): The DSM/EE Stakeholder Collaborative

21. Parties have supported changes to the language within the Mechanism related to the Carolinas EE Collaborative. *See* DEP Mechanism at new Paragraph 28. Walmart does not oppose these changes even though they will continue to prohibit attorney participation in the Carolinas EE Collaborative.

22. Walmart believes that the revisions to Paragraph 28 improve the status quo in terms of ensuring that parties are given advance notice of upcoming meetings in order to participate as well as a forum for it, through its attorney, to address issues after a Collaborative meeting. Although Walmart is a sophisticated energy user with a dedicated team of in-house energy experts, its team is relatively small. Moreover, because Walmart has operations across the United States and is active in dockets around the country, many of which are also dealing with energy transition-type legislation and mandates, its resources are stretched thin. Walmart believes there is substantial value in participating in collaboratives and makes every effort to do so, but as these types of forums increase around the country, time and resources can limit Walmart's ability to participate. Walmart is hopeful that these changes will allow Walmart to meaningfully participate in the Carolinas EE Collaborative moving forward.

D. Ordering Paragraph 1(a): The Proposed Enablers

23. Throughout the DSM/EE Mechanism, particularly related to the calculation of avoided energy and capacity, the Companies propose to use "the 20-year levelized costs of a dispatchable clean-energy pure capacity resource." *See e.g.*, DEP Mechanism at new ¶¶ 21A, 25A,

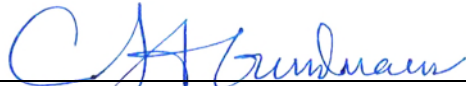
and 85. It is Walmart's understanding that rather than a 20-year useful life, Public Staff proposes that the Mechanism reflect "the approved operational life" of the selected resource. Walmart largely agrees with the language changes proposed by the Companies in these three paragraphs but supports Public Staff's language on the useful life of the resource as it will allow greater flexibility as the Mechanism is implemented.

CONCLUSION

Walmart thanks the Commission for the opportunity to provide these initial comments in these dockets and looks forward to further participation in this matter.

Respectfully submitted,

SPILMAN THOMAS & BATTLE, PLLC

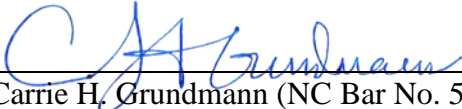
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Counsel to Walmart Inc.

Dated: January 26, 2024

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Initial Comments of Walmart Inc. has been served this day upon the parties of record in this proceeding by electronic mail.



Carrie H. Grundmann (NC Bar No. 52711)

Dated: January 26, 2024