NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION

April 1, 2024

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

Re: Docket Nos. E-2, Sub 931; E-7, Sub 1032; and E-100, Sub 179
Public Staff's Reply Comments

Dear Ms. Dunston:

Attached for filing on behalf of the Public Staff in the above-referenced dockets is the Public Staff's Reply Comments for the 2023 Mechanism Review.

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

Sincerely,

Electronically submitted,
/s/ Anne M. Keyworth
Staff Attorney
anne.keyworth@psncuc.nc.gov

cc: Parties of Record

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	)	**PUBLIC STAFF'S REPLY COMMENTS**

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Public Staff), by and through its Executive Director, Christopher J. Ayers, and pursuant to the Commission's December 30, 2022 *Order Adopting Initial Carbon Plan and Providing Direction for Future Direction* in Docket No. E-100, Sub 179 (Carbon Plan Order), and the Commission's October 30, 2023 *Order Granting Public Staff's Motion for Procedural Relief and Scheduling Technical Conference* in the above-captioned dockets, and respectfully requests that the Commission consider the following reply comments.

I. BACKGROUND

On January 26, 2024, the following parties filed initial comments in the above-captioned dockets related to the review of the cost recovery mechanisms currently in place (Mechanism(s)) for Duke Energy Carolinas, LLC's (DEC) and Duke Energy Progress, LLC's (DEP and, together with DEC, Duke or the Companies) annual demand-side management (DSM) and energy efficiency (EE) rider proceedings (Mechanism Review): the Attorney General's Office; the Carolina Industrial Group for Fair Utility Rates II and III (together, CIGFUR); the Carolina Utility Customers Association (CUCA); Duke; the Southern Alliance for Clean Energy, the Natural Resources Defense Council, the South Carolina Coastal Conservation League, the Sierra Club, the North Carolina Justice Center, the North Carolina Housing Coalition, and the North Carolina Sustainable Energy Association (together, Efficiency Advocates); WalMart, Inc.; and the Public Staff (collectively, the Active Parties).

Since initial comments were filed, the Active Parties have met formally on three occasions in topical discussions and a stakeholder meeting to discuss the ideas set forth in initial comments and to reach additional consensus where possible.

II. RESOLVED ITEMS[1]

a) System Inputs

System inputs are the costs of capacity, energy, and carbon emissions that DSM/EE will allow Duke to avoid. Setting these values correctly helps determine the system benefits for implementing DSM/EE programs, which determines the cost effectiveness and, indirectly, the incentive Duke collects from these programs. Since the parties filed initial comments, Duke and the Public Staff have reached consensus (and other parties have not objected) on how to calculate system benefits. Concerning avoided capacity, Duke and the Public Staff agree that avoided capacity should be based upon the levelized costs of a dispatchable capacity resource that has been designated as a resource likely to be built by the Companies in the most recent Commission approved resource plan. The levelized costs will include fixed operations and maintenance costs and interstate fuel transportation costs. For purposes of this Mechanism Review, a simple cycle advanced class combustion turbine will serve as this capacity resource. During

[1] The Public Staff's representation of the parties' positions throughout these comments is based on the Public Staff's information and belief. Any misrepresentations are inadvertent.

DSM/EE program evaluations, the system capacity benefits will be allocated to each season based on loss of load risk.

With regard to avoided energy, Duke and the Public Staff have agreed to a methodology which utilizes the Production Tax Credit (PTC) as a proxy value to estimate a carbon-free benefits adder to apply to DSM/EE. Duke will use the credit without domestic content or energy community adders but will include the wage and apprenticeship bonus. The PTC starts at about $33 per megawatt-hour (MWh) with escalation at the rate of inflation and lasts for ten years. Levelization of that payment over 35 years yields a clean energy proxy value (CEPV) of about $20/MWh which will be added to the avoided energy benefit based on Duke's Carbon Plan Integrated Resource Plan (CPIRP) in Docket No. E-100, Sub 190, with no renewables removed, as was originally proposed.

The system input methods described above are reasonable and avoid the debate of deciding what resources, if any, to remove from the dispatch stack in valuing DSM and EE. These methods are also based on publicly available information and the calculation is simple and repeatable. Finally, the total avoided energy cost (avoided energy plus the CEPV adder) will likely be about $60/MWh, which is reasonable when considering the benefits of an around-the-clock clean energy resource.

If the General Assembly changes House Bill 951 (enacted as S.L. 2021-165) or Congress changes federal law resulting in either the removal or reduction of the CEPV, Duke and the Public Staff have agreed that the CEPV may be revisited, and possibly terminated, prior to a future mechanism review. The Public Staff may also seek revisitation of the CEPV if the Companies do not develop, promote, and deploy DSM/EE programs that leverage the incremental value of the CEPV.

As a result of the agreements described above, the Public Staff supports Duke's latest proposed changes to revised Paragraphs 22(a) – (j) (DEC) and 22, 22A, and 22B (DEP).

b) Net Lost Revenues (Residential)[2]

The recovery of utility incentives for DSM/EE programs is within the Commission's discretion pursuant to N.C.G.S. § 62-133.9(d)(2). Commission Rule R8-69(a)(2) specifically enumerates net lost revenues (NLRs) as a utility incentive eligible for recovery where appropriate. Currently, the Mechanism provides for the recovery of estimated NLRs for a given program/measure for a period of 36 months after a measure is installed or when rates become effective as approved in a general rate case, whichever occurs first. The calculation of residential NLRs in the Mechanism is based upon estimated program savings and assumes that all participants for a given program come from the same portion of the rate classes, and therefore not all rate classes are encompassed in the Companies' assumptions. Thus, the Companies' estimates of NLRs as filed in a DSM/EE rider

[2] As noted in initial comments, the Public Staff does not propose any changes to the treatment of nonresidential NLRs in this Mechanism Review.

proceeding do not include a complete picture of the Companies' actual residential NLRs.

After EM&V has been performed,[3] the Companies then "true-up" the projections that were estimated to reflect the level of savings based on the EM&V sample of participants in the programs. The savings determined in EM&V are based on a sampling of participants, and those savings are assumed for all participants in the program, regardless of actual savings experienced by each customer. Finally, the Companies' make corrections to the NLRs to reflect any errors in calculations or assumptions to arrive at the total calculated NLRs for that particular vintage year.

In initial comments, the Companies proposed to continue utilizing the current methodology of calculating NLRs in the DSM/EE riders and layering an additional step of removing the estimated NLRs calculated in the DSM/EE rider proceedings from the residential decoupling mechanism (RDM). However, given that the RDM is constructed to reflect all factors (with the exception of electric vehicle sales and rates) that impact the overall revenue per customer changes from the baseline established in each company's most recent general rate case, the additional step by the Companies to subtract the estimated NLRs calculated in the DSM/EE riders from the RDM would override the purpose of the RDM. The

[3] There may be intervals of as long as three years between EM&V reports for a program which may impact the true-up of each vintage year differently.

Public Staff has illustrated the multi-step process proposed by the Companies in the below chart.

		Reference	2024	2025	2026	Total
	Part 1		(a)	(b)	(c)	(d)=(a)+(b)+(c)
Line No.	**NLRs in DSM/EE Rider:**					
1	Projected NLRs	included in 2023 rider filing	10			10
2	EM&V True up of Projection	included in 2025 rider filing			(2)	(2)
3	Subsequent EM&V Correction Adjustments	May be includedin 2025 or later filing			1	1
4	Total (Sum of L1 to L3)		10	-	(1)	9
	Part 2					
Line No.	**Duke's Proposal for RDM:**					
5	Approved Base Rate Revenue		1,000	1,000	1,000	3,000
6	Actual Base Rate Revenue		1,050	980	1,200	3,230
7	Gross Decoupling Deferral	L10 - L9	50	(20)	200	230
8	Adjustment of Duke's Assumed NLR Based off EM&V Baseline Usage		8			8
9	Subsequent EM&V Correction Adjustments	L7, Column (c)			1	1
10	Net Decoupling Deferral		42	(20)	199	221
Combined impact from two riders						
11	Net DSM/EE NLRs from the Rider	L8	10	-	(1)	9
12	Net Decoupling Deferral	L14	42	(20)	199	221
13	Total Decoupling Deferral	L15 + L16	52	(20)	198	230

As depicted above, utilizing the current methodology for calculating NLRs in the DSM/EE proceedings includes estimated program savings and an assumption that all participants in a program only come from a portion of the rate classes. For instance, only non-TOU residential customers are used to determine the average per kWh revenue used to determine a given vintage year's lost revenue from residential customers, thereby excluding the TOU customer base from influencing the overall average per kWh rate. Then, the Companies apply the estimated NLR, calculated utilizing EM&V baseline usage and applying any subsequent corrections, to determine the remaining decoupling deferral for residential customers.

Continuing with this methodology when there is now an RDM in place creates an unnecessary and inefficient timing difference between when NLRs are credited to the RDM versus when NLRs are claimed in the DSM/EE rider. As shown in the chart above, if DEC projected $10 of NLRs for recovery in Vintage Year 2024 (2023 filing) for the DSM/EE rider, DEC would not reflect a true-up of ($2) for a total of $8 based on any EM&V until Vintage Year 2026 (2025 filing). However, in the 2024 RDM process, DEC would credit the projected NLR of $10 minus the EM&V true-up of $2 for a total of $8. This timing difference impacts the revenue recognition of the NLRs in the appropriate time periods and creates issues of intergenerational inequity.

In addition to the timing differences, the Companies' proposal creates an issue of not appropriately accounting for a participant's NLRs. As discussed earlier, the methodology the Companies currently utilize to calculate the DSM/EE NLRs includes estimates and assumptions. The Public Staff has prepared the illustrative chart below to depict this issue.

	Baseline Savings per participant per measure (kWh)	Actual Consumption Reduction (kWh)	Net Savings Captured in DSM/EE (kWh)
Home Energy House Call program	104.8	95.7	104.8
$/kWh (1)	0.0762988		
Calculated NLR Amount		7.30	8.00
1. The rate of $0.0762988/kWh was provided in the DEP decoupling supporting files			

The Companies calculate a fixed NLR rate to apply to the baseline savings per the EM&V study sample per participant per measure. For illustrative purposes, the Public Staff has utilized DEP's fixed NLRs, as provided to the Public Staff by DEP, and assumed kWh amounts. The historic methodology would continue to include the estimations and assumptions used to calculate the DSM/EE rider into the RDM by assuming the baseline savings of 104.8 kWh for all participants at the Companies' fixed NLR rate to calculate the Companies' net savings amount of $8. However, should the actual savings vary from the savings derived from the EM&V study's estimate based on a sample of participants, the calculated NLR amount would vary from the $8 estimate used to calculate the RDM should estimated NLRs still be recovered in the DSM/EE rider proceedings, creating a permanent difference that will be embedded in the Companies' respective RDMs. Since the RDM accounts for actual NLRs from all sources other than electric vehicle sales, it is inappropriate to insert unnecessary assumptions and estimations into the calculation as this would perpetuate the use of incorrect values that would be embedded in one year's RDM, which would then be used to calculate the next year's RDM. Fundamentally, the Companies continuing to collect estimated NLRs through the DSM/EE rider proceedings conflicts with the purpose of the RDM, which is intended to make the Companies whole based on actual changes; not assumed or estimated changes.

Accounting for NLRs in the RDM and not in the DSM/EE rider proceedings would simplify the calculation and alleviate the permanent differences discussed above, as well as resolve issues surrounding the appropriate rate classes in the residential customers for which to calculate the NLRs. As shown below, handling NLRs through the RDM eliminates the need of the assumptions and estimations included in the DSM/EE riders and instead relies on use of the actual revenue per customer received.

		Reference	2024	2025	2026	Total
Part 1			(a)	(b)	(c)	(d)=(a)+(b)+(c)
Line No.	NLRs Currently reflected in DSM/EE Rider:					
1	Projected NLRs		-	-	-	-
2	EM&V True up of Projection		-	-	-	-
3	Subsequent EM&V Correction Adjustments		-	-	-	-
4	Total		-	-	-	-
Part 2						
Line No.	Duke's Proposal for RDM:					
5	Approved Base Rate Revenue	L9	1,000	1,000	1,000	3,000
6	Actual Base Rate Revenue	L10	1,050	980	1,200	3,230
7	Net Decoupling Deferral	L23 - L22	50	(20)	200	230

Additionally, the Companies have stated their intent to continue use of PBR in future cases such that handling NLRs through the RDM instead of through the DSM/EE rider proceedings would appropriately and accurately account for NLRs for the foreseeable future. Handling NLRs through the RDM instead of through the DSM/EE riders would also be less burdensome on all parties involved in the review of both the DSM/EE riders and the RDM. Specifically, given that the RDM only allows for a 60-day review from the filing date, and the EM&V studies in the DSM/EE rider proceedings are filed annually and not quarterly like the RDM status reports, subsequent true-ups required if NLRs were handled in the DSM/EE rider proceedings would hinder the Commission's and intervening parties' ability to review and verify the appropriateness of the RDM amounts sought by the Companies. Finally, as the Companies have indicated their intention to merge into one utility, handling NLRs through the DSM/EE rider proceedings would create the need to modify the NLR calculations much sooner since the rate classes and fixed NLR amounts differ between the Companies.

Since the filing of initial comments, the Companies and the Public Staff have agreed to revised Mechanism language to reflect that, beginning with the projection of Vintage Year 2026 in the Companies' 2025 Annual DSM/EE Rider filing, to the extent a RDM is in effect, the recoverable NLR based on kWh sales reductions for the months that align with the RDM shall be implicitly recovered through the RDM and will not be included for recovery in the annual DSM/EE rider filings. Furthermore, the Companies and the Public Staff have agreed that if the RDM is only in effect for a partial DSM/EE vintage year, the parties will engage in good faith discussions to determine the appropriate proceeding in which the respective company will recover residential NLRs. Additionally, the Companies will continue to calculate residential NLRs in a manner consistent with the methodology used in the 2023 DSM/EE rider proceedings and report this information in their annual DSM/EE rider proceedings, which will ensure that parties can track the Companies' estimated NLRs attributable to DSM/EE programs for other purposes, such as understanding the estimated costs related specifically to DSM/EE programs. Finally, the Companies will file projected DSM/EE rates reflecting recovery both with and without NLR for the months and rate schedules subject to the RDM, if an RDM is pending.

Duke has also agreed that the Companies' calculations of residential NLRs for DSM/EE programs will be subject to verification of the calculations and review of the inputs by interested parties. Duke and the Public Staff also agree that NLRs for the DSM/EE programs will be excluded from earnings in the Earnings Sharing Mechanism.

Additionally, the Public Staff recognizes that the current timeline of the Companies proposed merger and subsequent rate case has the potential to leave a short period of time in 2026 for DEP in which there will not be an active PBR, and therefore no active RDM. Due to this potential, the Public Staff and the Companies have agreed to jointly request a one-time waiver of Commission Rule R1-17B(e) for the limited purpose of allowing DEP to continue its RDM for three months after the current PBR period expires (from October 1, 2026, through December 31, 2026) to align with the DSM/EE rider rate period and to facilitate the transition of the residential NLRs to the RDM.

In the event the Companies do not seek to implement a PBR general rate case proceeding at the conclusion of the currently approved PBR periods, then reverting to the historic methodology of calculating the NLRs in the DSM/EE rider proceedings would be appropriate. Furthermore, the Public Staff proposes to work with the Companies going forward to refine the historic NLR calculations utilized in the DSM/EE rider proceedings to reduce the use of estimations and assumptions.

The Public Staff supports and believes the language contained in Duke's latest proposed changes to revised Paragraphs 66(f) – (h) (DEC) and 72(f) – (h) (DEP) – to which the AGO (the only other party speaking to this issue in initial comments) does not object – appropriately and accurately account for NLRs for the foreseeable future and aligns with the purpose of the RDM by making the Companies whole based on actual changes and not assumed or estimated changes.

c) ***Financial Reporting***

In initial comments, Duke stated its intent for DEC to remove the reference to Save-a-Watt cost recovery in its E.S. 1 reporting template. For DEP's E.S. 1 reporting template, Duke stated its intent to include reporting on the program return incentive (PRI) to reflect NLRs being returned to customers through the RDM and to exclude the effects of the PRI from the Companies' North Carolina retail jurisdictional earnings set forth in the supplementary schedules.

The Public Staff noted that the Commission's October 20, 2020 *Order Approving Revisions to Demand-Side Management and Energy Efficiency Cost Recovery Mechanisms* (2020 Mechanism Order) and the currently approved Mechanism require that each company "shall calculate and present its primary North Carolina retail jurisdictional earnings by including all actual EE and DSM program revenues, including PPI and Net Lost Revenue incentives, and costs,"[4] and that although that DEP's E.S. 1 report is currently consistent with the Commission's 2020 Mechanism Order, DEC's E.S. 1 report subtracts NLRs from its operating income, giving the false impression that DEP's DSM/EE programs are considerably more profitable than DEC's. As such, the Public Staff recommended that DEC be ordered to report NLRs in its E.S. 1 reports in the same manner that DEP currently does.

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[4] *See* 2020 Mechanism Order, Attachment A (DEC), p. 21 (para. 88); Attachment B (DEP), p. 61 (para. 94).

Duke and the Public Staff have agreed that, like DEP, DEC will begin reporting NLRs in its E.S. 1 reports beginning in its August 2024 filing and that both Companies will continue to report as such to the extent that DSM/EE NLRs are not accounted for through the RDM. With this agreement, the Public Staff supports Duke's proposed changes (contained in Duke's redlined mechanism versions in its *initial* comments) to revised Paragraphs 92 (DEC) and 97 (DEP).

d) Non-Participant Spillover

Non-participant spillover (NPSO) is the adoption of a DSM/EE measure by a utility customer that does not participate in an approved DSM/EE program but installs the measure(s) being offered through a utility DSM/EE program nonetheless. In initial comments, Duke cites the Pennsylvania Framework as an example of allowing NPSO to be included in the savings being derived from an Evaluation, Measurement, and Verification (EM&V) report. However, unlike North Carolina, Pennsylvania does not allow any customers to opt-out of EE programs, which makes the Pennsylvania framework irrelevant when considering the inclusion of NPSO in North Carolina utility incentives.

To ensure that NPSO is appropriately considered in future EM&V, Duke has agreed to notify and discuss with the Public Staff any proposed EM&V associated with DSM/EE programs targeting non-residential customers that would incorporate an NPSO analysis. Additionally, in advance of initiating EM&V, the Companies have agreed to work with Public Staff to vet the methodology and the appropriateness of including NPSO. If Duke and the Public Staff cannot agree, both parties maintain the right to challenge the inclusion of NPSO benefits in the respective Company's portfolio performance incentive (PPI). The Public Staff believes this approach will allow the Commission to determine the appropriateness of including NPSO in future DSM/EE rider proceedings and supports Duke's latest proposed changes to revised Paragraphs 39 (DEC) and 36 (DEP).

e) Vintage Years

Duke and the Public Staff have agreed (and other parties have not objected) to the Public Staff's new paragraphs added after existing Paragraphs 52 (DEC) and 60 (DEP) as contained in the Public Staff's **Appendices A and B,** respectively, to its initial comments (and consistent with Duke's latest proposed changes to revised Paragraphs 53 (DEC) and 63 (DEP)) with regard to vintage years, which limits true-ups to five years instead of Duke's initially proposed three years and prohibits the splitting of corrections across multiple vintage years.

f) Amortization

In initial comments, Duke proposed that DEP's amortization be eliminated upon a merger with DEC, while the Public Staff proposed that DEP's amortization be eliminated as a result of this Mechanism Review. Since initial comments were filed, Duke has agreed not to seek general amortization for future DSM/EE riders and that, should any special circumstances arise, DEP will discuss with the Public Staff and other interested parties whether it is appropriate to recover any remaining unamortized costs over an amortization period. As a result of this agreement, the

Public Staff supports Duke's latest proposed changes to revised Paragraphs 53 and 82 (DEP).

g) EE Resource Standard

In initial comments, the Efficiency Advocates proposed that the Commission adopt an EE resource standard for the DSM/EE program portfolio. Since initial comments were filed, recognizing the efforts of all parties to find resolution on the remaining issues in this Mechanism Review, it is the Public Staff's understanding that the Efficiency Advocates have withdrawn its request for an EE resource standard.

h) One-Time Reconciliation

In initial comments, Duke requested a one-time, non-precedential reconciliation of Vintage 2025 to reflect the Commission-approved changes made to the Mechanism. Duke explained that, if the Commission issues an order on the proposed revisions to the Mechanisms no later than the second quarter of 2024, the Companies can make the revisions effective for Vintage 2025. According to Duke, a one-time reconciliation "directly supports the Companies' ability to implement new programs and program modifications that are necessary to achieve the EE savings (1% of eligible retail load) and are critical to meeting the Companies' future carbon emission goals." Duke further argued that without the one-time reconciliation, new programs and program modifications that would enable the Companies to achieve their emission goals would not be effective until

2026 at the earliest. Duke's proposed one-time reconciliation is reflected in the Companies' revised Paragraph 82 of the DEC Mechanism and Paragraph 88 of the DEP Mechanism. Duke noted in its comments that SELC, CIGFUR, and NCSEA have all expressed support for the concept of a one-time reconciliation.

The AGO agreed with the Public Staff that a determination on Duke's requested reconciliation is not appropriate at this time. The AGO stated that the Companies' request for a one-time reconciliation is premature and that, while the AGO is "not per se opposed to a future reconciliation, it does not believe that it is in the public interest to agree in advance to impacts that are, at this time, unknown."

At this time, the Public Staff's main concern with the one-time reconciliation is the risk that the Companies will recover increased revenue based on the new system inputs beginning January 1, 2025, even if program modifications which ensure that customers are receiving the benefit of the new system inputs are not yet in place. Since initial comments were filed, Duke has agreed, if granted a one-time reconciliation of VY 2025, to file a consolidated application within 90 days of the Commission's order on this Mechanism Review seeking modifications for each of its approved programs to reflect changes in program rebates or an explanation as to why a change in program rebates for a specific program is not appropriate or applicable. Duke has also agreed to provide the Public Staff, and other parties by request, information necessary[5] to immediately begin a review of the Companies' proposed reconciliation. If the Companies fail to make the consolidated filing within 90 days of the Commission's Mechanism order, or if the filing is inadequate, Duke and the Public Staff have agreed that the Commission shall reconsider the appropriateness of the one-time reconciliation. The Companies have also agreed that they shall file an update with the Commission 30 days prior to the expiration of the 90-day period advising the Commission on the development of the filings.

The Public Staff is satisfied that these additional requirements will ensure that program changes are implemented within a reasonable amount of time of the revised Mechanisms taking effect such that customers will receive the benefit of the new system inputs as closely as possible to the time when the Companies begin recovering revenue based on the new system inputs. The Public Staff therefore supports Duke's one-time reconciliation request under the condition that the Companies be directed to comply with the requirements summarized above and will work with Duke to facilitate a speedy resolution of its proposed modifications by placing all uncontested items on the agenda for the Commission's regular Staff Conference as early as possible. As such, the Public Staff hereby requests that the Commission approve the Companies request for a one-time reconciliation, subject to the requirements detailed above.

[5] Specifically, Duke has agreed to provide the following information in its filing: (1) the current cost effectiveness scores for the respective program; (2) the cost effectiveness of the program after updating system benefits and including program costs; (3) detailed exhibit(s) containing the system benefits for energy, capacity, and transmission and distribution used in the filing; (4) proposed changes to program costs (customer incentives) compared to original program costs (customer incentives); (5) proposed effective date for all program cost and customer incentive changes; and (6) any necessary tariff changes, including redline versions.

III. OUTSTANDING ITEMS

a) *Utility Incentives*

In initial comments, Duke stated that no changes are necessary to the incentive structure to enable additional EE and that the existing incentive structure remains appropriate because it serves to reduce the foregone revenues associated with pursuing DSM/EE instead of the traditional supply-side resources. More specifically, Duke asserted that "[e]liminating or reducing the incentive would unnecessarily penalize the Companies for pursuing more aggressive DSM/EE efforts that are in accordance with state law, conflict with stated policy goals in Senate Bill 3 of 2007 and [House Bill] 951 and damage the regulatory construct that has worked well in advancing DSM/EE in North Carolina." Duke noted that it is open to a performance tiering of the PPI percentage tied to the amount of annual energy savings achieved, to an additional incentive structure that promotes increased energy savings from income qualified programs, and the development and successful implementation of active load management.

The Efficiency Advocates proposed a ten-tier scaled PPI structure, beginning at awarding a 2% PPI where the savings percentage falls below 0.50% of prior year eligible retail sales and going up to 15% where the savings percentage exceeds 1.7% of prior year eligible retail sales with a mid-level PPI range at the status quo of today's Mechanism at 10.6%. According to the Efficiency Advocates, this structure closely matches what Duke currently earns under the existing Mechanism for business-as-usual savings and provides increased potential for

Duke to earn more money for improved performance, which should help drive increased savings as a cornerstone of Duke's carbon emissions reduction plans consistent with least cost planning requirements. To motivate Duke to achieve a smaller portion of its overall efficiency savings from short-lived measures and a greater portion of its savings from longer-lived measures, the Efficiency Advocates also proposed weighting inputs into its scaled PPI proposal such that the savings percentage would determine a certain fraction of the total incentive and a performance metric for longer-lived measures would account for the rest.

The Efficiency Advocates also proposed another incentive for annual savings from the Companies' income-qualified programs, awarding Duke between $200,000 and $600,000 for an increased percentage of savings from income-qualified programs between 6 and 15% as compared to Vintage Year 2024. Throughout the stakeholder process, this proposal changed to awarding Duke between $100,000 and $500,000 for an increased percentage of savings between 6 and 10% as compared to Vintage Year 2024.

The Public Staff proposed a three-tier PPI structure, using each company's weighted average cost of capital (WACC) as the mid-level PPI and the remaining tiers being the respective company's WACC plus or minus 25 basis points. The AGO supported this proposal. In addition, the Public Staff proposed that a bonus be granted upon a specified and meaningful increase in the percentage of savings attributable to long-lived programs in the portfolio but did not provide a specific proposal.

As an initial point, the Public Staff disagrees with the Efficiency Advocates' contention that their proposed PPI would closely match what Duke currently earns under the existing Mechanism. According to the Public Staff's analysis, the changes to system benefits alone (as encompassed in the Companies' latest proposed changes to revised Paragraphs 22(a) – (j) (DEC) and 22, 22A, and 22B (DEP), with which the Public Staff is in agreement) would result in a projected increase of the system benefits by approximately 33.4% for DEC and 31.8% for DEP. This estimate accounts for only one of many inputs into determination of the DSM/EE rider that are likely to change as a result of this proceeding. Utilizing DEC's VY 2024 rider filing as the most recently available information, and increasing the system benefits while also applying a proxy increase to program costs to account for increased rebate potential, an 8.5% "levelized" PPI[6] should recover the same amount of revenue as the 10.6% PPI that is currently in place. This means that, after accounting for the updated system benefits, conducting business as usual would equate to Duke collecting a PPI that is approximately 210 basis points higher than what is currently in place. The Public Staff shared this concept with stakeholders at the most recent stakeholder meeting.[7]

As such, after accounting for the updated system benefits and applying CEPV increase to program costs, the Public Staff believes that the seven-tier PPI

[6] The 8.5% PPI is a function of increasing the avoided costs as well as applying a proxy increase to the program costs to account for the potential for increased rebates for customers.

[7] At the time the Public Staff shared this concept with stakeholders, the Public Staff had calculated an 8% "levelized" PPI. The Public Staff has since updated this figure to 8.5% to reflect the changes to underlying system inputs as well as updated estimates of program costs and participation provided by Duke.

structure, with a 9.5% "baseline" or mid-tier percentage, as reflected in the Companies' latest proposed changes to revised Paragraphs 74 (DEC) and 80 (DEP) – and agreed to by the Efficiency Advocates – is an appropriate middle ground between the Public Staff's initial proposal (including its more recent concept of a "levelized" PPI) and the Efficiency Advocates' ten-tier proposal which applied a 10.6% mid-level PPI. The seven-tier structure provides a meaningful incentive for the Companies to achieve greater savings so that Duke does not fall short of the DSM/EE targets outlined in the Commission's Carbon Plan Order.

In addition, the Companies have agreed to provide a comparative PPI analysis, at least 60 days prior to the commencement of the next formal DSM/EE Mechanism review, between the projected system benefit associated with energy and capacity savings used in the prospective vintage year in the most recently approved DSM/EE rider proceeding as a baseline comparison of any potential future changes in the methodology for determining system benefit from energy and capacity savings considered as part of the next Mechanism review to evaluate the potential impacts of PPI. This will enable Duke, the Public Staff, and other interested parties to work together for discussion purposes to establish a "baseline PPI" early on in the Mechanism review process. The Public Staff supports these proposed changes to revised Paragraphs 93 (DEC) and 98 (DEP).

To maintain the relationship between the PPI and the PRI, the Public Staff also supports the application of the baseline PPI of 9.5% to act as the flat percentage applied to the PRI. This change is reflected in the Companies' latest proposed changes as Paragraphs 79 (DEC) and 85 (DEP).

The Public Staff also supports the Efficiency Advocates' other incentive proposal as revised during the stakeholder process, which awards Duke between $100,000 and $500,000 for an increased percentage of savings from income-qualified programs between 5 and 10% as compared to Vintage Year 2024. This updated proposal is reflected in the Companies' latest proposed changes to revised Paragraphs 90 (DEC) and 96A (DEP).

In light of the difficulty inherent in imposing a cap and floor in a tiered PPI structure, and in response to feedback from intervenors, the Public Staff is no longer pursuing a cap and floor to the DSM/EE riders given that they would deter the Companies from seeking the maximum amount of savings achievable and undermine the Companies' efforts to meet policy goals. If for any reason the tiered structure for PPI changes or is eliminated, the Public Staff will investigate re-instituting a cap and floor.

To incentivize the Companies to shift away from shorter lived measure lives, the parties have agreed to add to the Mechanism a Measure Life Adjustment Factor (MLAF). As shown below, the MLAF applies either an additional reward or penalty structure to the Company's PPI dependent on increasing or decreasing the average measure life. Using a weighted average measure life from Vintage Year 2023 as a baseline, every vintage year will be compared to the baseline to determine the actual performance related toward increasing the average measure life.

Measure Life Adjustment Factor Matrix for PPI						
	Baseline	**PPI Adjustment Thresholds**				
	Weighted Average Measure Life of EE Measures Installed for Vintage 2023	≥10% Decrease in Weighted Average Measure Life	≥5% Decrease in Weighted Average Measure Life	<5% Decrease and <10% Increase in Weighted Average Measure Life	≥10% Increase in Weighted Average Measure Life	≥20% Increase in Weighted Average Measure Life
DEP	**8.03**	7.227	7.6285		8.833	9.636
PPI Multiplier		**0.95**	**0.975**	**1.00**	**1.025**	**1.05**

If the average measure life for a given vintage year is higher than the baseline by 20% or more, then the respective Company will be awarded with a 5% adder to the PPI that is ultimately achieved through the tiered PPI process. For example, if DEC achieves the PPI percentage of 9.5% and increases the average measure life by more than 20%, meeting the criteria for addition of the 5% adder, then the total PPI awarded for that vintage year would be 9.975%. However, if the average measure life decreases by more than 10%, then the respective Company will be penalized with a -5% adder, meaning that under the previous example, the 9.5% PPI would then become 9.025%. The Public Staff supports this proposal as set forth in the Companies' latest proposed changes to revised Paragraphs 14, 75, and 86 (DEC), and 13, 81, and 92 (DEP).

Similar to other existing and proposed Mechanism incentives that are part of this Mechanism Review, all incentive structures should be analyzed in the next mechanism review to determine if the incentive structures are appropriately driving the performance desired.

b) Active Load Management

In initial comments, the Efficiency Advocates proposed a new definition and component to the Mechanism for Active Load Management[8] which would "recognize the potential customer benefits that can be unlocked from enrolling customers in programs that will allow for broader utility devices at the grid edge." As part of this addition, Duke would receive a utility incentive of the net system benefits for its performance of Active Load Management programs. Since initial comments were filed, the Efficiency Advocates and other parties, including Duke, have proposed that the utility incentive amount be 30% of the net system benefits.

It is premature to insert language for a program design/concept into a cost recovery mechanism or to include a utility incentive in the Mechanism that is not consistent with the incentive structure of the Companies' PPI. Active Load Management is currently only a concept with no real quantifiable benefits to determine if a 30% shared savings is justifiable. The Public Staff proposes that individual programs that incorporate Active Load Management should instead be vetted through the EE collaborative, the Companies' pending Innovation Prototyping Process[9] (rapid prototyping) for non-DSM/EE programs, or the currently proposed DSM/EE Innovation Program, which is a DSM/EE version of

[8] Generally speaking, Active Load Management is the process by which a utility can utilize any combination of voluntary DSM programs or measures that allow for the aggregated control or management of distributed energy resources or controllable electrical devices at the grid edge.

[9] *See* Docket Nos. E-2, Sub 1330, and E-7, Sub 1296.

rapid prototyping. The appropriate utility incentive should be considered during the review of a proposed Active Load Management program.

First, savings related to non-peak time DSM activations and their value to the grid are currently unknown. The definition that the Efficiency Advocates and Duke propose to add to the Mechanism on Active Load Management states that Active Load Management will be designed "to enhance or maintain resource adequacy, reduce grid congestion, efficiently manage variable renewable energy output, and shape utility loads at a locational or aggregate level to benefit the utility system." Currently, DSM is valued at an avoided cost rate based off peak time demand reductions. However, the parties have not discussed how non-peak time DSM activations should be valued or where the derivation would be determined.

Second, the non-DSM/EE Innovation Prototyping Process and the DSM/EE Innovation Program are currently pending before the Commission and would be the appropriate place for evaluation of new and innovative programs/concepts, like Active Load Management, where Duke and interested parties can work to discuss how unknown factors, like off-peak demand reductions, could be valued.

Third, the Efficiency Advocates proposed a separate and distinct incentive structure that is different from the current approach to awarding utility incentives, which is through either a PPI or PRI. As proposed, the Companies would be awarded a 30% shared savings structure. The proposed language allows the shared savings to be based on net savings that is still unknown. The Public Staff recommends that a shared savings structure of this magnitude should not be approved without understanding the value of any benefits.

Lastly, and most importantly, the design of an Active Load Management program does not require specific language in the Mechanism to justify its existence. The costs and benefits that could result from Active Load Management can be vetted by stakeholders and approved by this Commission under the existing Mechanism. For example, if the Companies wished to modify a program to add a tiered DSM incentive structure with a baseline incentive and include an option to receive a secondary incentive for further DSM activations during non-peak time events, the Companies already have the ability to evaluate and propose those modifications under the current Mechanism structure.

In light of the reasons discussed above, it is not appropriate to define or include a utility incentive for Active Load Management in the Mechanism at this time.

c) ***Tracking Metrics***

In initial comments, the Efficiency Advocates proposed adding three tracking metrics to the Mechanism: (1) low-income customer participation in non-behavioral EE programs and energy savings from such participation through regular reports; (2) carbon reduction achieved from DSM/EE programs; and (3) energy savings from participation in the Inflation Reduction Act (IRA) and other federal programs or offerings.

The Public Staff does not oppose the tracking of low-income customer participation in non-behavioral EE programs and energy savings from such participation through regular reports but recommends use of the Affordability Stakeholder Group as it is a better forum through which to gather and report on such data. With regard to tracking carbon reduction achieved from DSM/EE programs, the Public Staff is not aware of how this information would be calculated but is not opposed, in concept, to this tracking metric. In addition, the Public Staff notes that House Bill 951 does not specify a quantity of carbon emissions reductions that must result from DSM/EE. To the extent this information is obtainable, the Public Staff believes that this information would be more suitable for review in Duke's CPIRP proceedings, so that all contributors to carbon emissions reductions can be reviewed as the Companies work toward achieving the carbon reduction requirements. Finally, concerning the tracking of energy savings from participation in IRA and other federal programs, to the extent that the Companies have the ability to consistently track this information, the Public Staff would support the tracking of this information. However, while the Companies are free to actively engage with customers on the available IRA funds, the participants are not obligated to report back to the Company that they received IRA funds or performed any EE.

IV. OTHER ITEMS

Duke's latest proposed changes, as reflected in its transmittal letter table of revised paragraph numbers, include several non-substantive changes which the

Public Staff supports. Specifically, Paragraphs 24, 32, 51 (DEC), and 25, 32, 51 (DEP) were changed to reflect an updated name for the DSM/EE Innovation Program; Paragraphs 15 (DEC) and 14 (DEP) were changed to update the definition of PRI; Paragraph 73 (DEP) was changed to reflect the correct portfolio categories; Paragraphs 27(a), 38(b), 80, 81, and 82 (DEC), and 26A, 35B, 86, 87, and 88 (DEP) were altered to change “EE/DSM” to “DSM/EE”; and Paragraphs 83 (DEC) and 89 (DEP) were changed to remove “unless DEP and the Public Staff agree otherwise.”

Duke’s table of revised paragraph numbers agreed upon by the parties also includes paragraphs that the parties agreed to change in initial comments, but which have not undergone subsequent changes since then, as follows: Paragraphs 4, 11, 16, 46, 47, 56(b), and 94 (DEC), and 5, 12, 17, 29, 30, 50(d), 58, and 100 (DEP). The Public Staff continues to support these proposed changes.

V. CONCLUSION

WHEREFORE, the Public Staff respectfully requests that the Commission adopt its recommendations as set forth herein.

Respectfully submitted, this the 1st day of April, 2024.

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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing on all parties of record, the attorneys of such parties of record, or both, in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 1st day of April, 2024.

Electronically submitted
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