

**Kiran H. Mehta**

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July 31, 2020

**VIA ELECTRONIC FILING**

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

RE: Second Partial Stipulation  
Docket No. E-2, Sub 1219

Dear Ms. Campbell:

Enclosed for electronic filing is the *Second Agreement and Stipulation of Partial Settlement* between Duke Energy Progress, LLC and the Public Staff – North Carolina Utilities Commission.

Please do not hesitate to contact me should you have any questions. Thank you for your assistance in this matter.

Sincerely,

/s/ Kiran H. Mehta

Kiran H. Mehta

Enclosure

cc: Parties of Record

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION**

**DOCKET NO. E-2, SUB 1219**

DOCKET NO. E-2, SUB 1219 )  
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 In the Matter of )  
 Application of Duke Energy Progress, LLC ) **SECOND AGREEMENT**  
 For Adjustment of Rates and Charges ) **AND STIPULATION OF**  
 Applicable to Electric Service in North ) **PARTIAL SETTLEMENT**  
 Carolina )  
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Duke Energy Progress, LLC (“DE Progress” or the “Company”) and the Public Staff - North Carolina Utilities Commission (the “Public Staff”) (collectively referred to herein as the “Stipulating Parties” or either individually, a “Stipulating Party”), through counsel and pursuant to N.C. Gen. Stat. § 62-69, respectfully submit the following Second Agreement and Stipulation of Settlement (“Second Partial Stipulation”) for consideration by the North Carolina Utilities Commission (“Commission”) in the above captioned docket.

**I. BACKGROUND**

1. On October 30, 2019, DE Progress filed an application (“Application”) with the Commission in Docket No. E-2, Sub 1219 requesting a general rate increase, pursuant to N.C. Gen. Stat. §§ 62-133 and -134 and Commission Rule R1-17, along with direct testimony and exhibits. The Application requests a non-fuel base rate increase of approximately 15.6% in retail revenues, or approximately \$585.9 million. DE Progress further proposes to partially offset the increase in revenues by (a) a refund of \$120.2 million related to certain tax benefits resulting from the Federal Tax Cut and Jobs Act through a proposed rider and the reduction in North Carolina’s state-corporate tax rate, through a

change to the existing excess deferred income taxes (“EDIT”) rider (“EDIT-1”) and the proposed implementation of a new EDIT rider (“EDIT-2”); and (b) a rate reduction of \$2.1 million related to the proposed Regulatory Asset and Liability Rider, which results in a proposed net revenue increase of \$463.6 million, or approximately 12.3%. The revenue increase is based upon a 10.30% return on equity (“ROE”) and a 53% equity component of the capital structure.

2. On November 14, 2019, the Commission issued an order establishing a general rate case and suspending rates. On December 6, 2019, the Commission entered an order scheduling hearings, establishing due dates for intervention, discovery, and testimony, and requiring public notice of the Company’s Application.

3. On March 13, 2020, the Company filed supplemental direct testimony and exhibits. On April 13, 2020, the Public Staff, and the other intervenors in this proceeding, filed testimony. The Public Staff subsequently filed supplemental testimony and exhibits on April 23, 2020.

4. On May 4, 2020, the Company filed its rebuttal testimony.

5. On June 2, 2020, the Stipulating Parties reached a partial settlement with respect to some of the revenue requirement issues presented by the Company’s Application, including those arising from the supplemental and rebuttal testimonies and exhibits (the “First Partial Stipulation”) which resolved several contested revenue requirement issues including agreement as it relates to the ratemaking treatment of storm costs; that same day the Company filed settlement supporting testimony. On June 5, 2020, the Public Staff filed settlement supporting testimony.

6. On July 2, 2020, the Company filed second supplemental direct testimony and exhibits updating certain material pro forma adjustments through May 31, 2020 (“the May 2020 Updates”), and on July 9, 2020, it filed corrections to the second supplemental direct testimony.

7. On July 7, 2020, the Public Staff filed a response to the filing of the May 2020 Updates. On July 9, 2020, the Company and Duke Energy Carolinas, LLC (“DE Carolinas”) jointly filed a reply to the Public Staff’s filing, and on July 14, 2020, the Public Staff filed a further response.

8. On July 20, 2020, the Company filed additional supplemental rebuttal testimony.

9. On July 21, 2020, the Commission issued its *Order on Duke Energy Carolinas, LLC’s and Duke Energy Progress, LLC’s Second Supplemental Testimony* requiring the Company to file a statement in each docket pursuant to the Commission’s Order on or before July 27, 2020.

10. On July 27, 2020, the Public Staff, DE Progress and DE Carolinas filed a *Joint Motion to Postpone Hearing and Additional Procedural Deadlines*, which was approved by the Commission that same day in its *Order Granting Joint Motion and Further Rescheduling Consolidated, Remote Hearing* that rescheduled the consolidated, remote hearing for August 24, 2020.

11. The parties to this proceeding have conducted substantial discovery on the issues raised in the Application, as well as on the direct, supplemental, rebuttal, and supplemental rebuttal testimonies of the Company and the direct and supplemental testimonies of the Public Staff. The Stipulating Parties have reached a second partial

settlement with respect to additional revenue requirement issues presented by the Company's Application, including those arising from the supplemental and rebuttal testimonies and exhibits. The Stipulating Parties have also reached settlement as it relates to other non-revenue requirement-related issues.

The Stipulating Parties agree and stipulate as follows:

## **II. REVISED UNRESOLVED ISSUES**

The Stipulating Parties have not reached a compromise on the following issues which remain contested (the "Revised Unresolved Issues"):

- A. Coal ash costs - Cost recovery of the Company's coal ash costs, recovery amortization period and return during the amortization period.
- B. Depreciation Rates – The depreciation rates appropriate for use in this case, including the Company's proposal to shorten the lives of certain coal-fired generating facilities.
- C. Any other revenue requirement or non-revenue requirement issue other than those issues specifically addressed in this Second Partial Stipulation, the First Partial Stipulation, or agreed upon in the testimony of the Stipulating Parties.

## **III. ADDITIONAL REVENUE REQUIREMENT ISSUES RESOLVED BETWEEN THE PARTIES**

Since executing the First Partial Stipulation, the Stipulating Parties have reached an agreement regarding the following additional revenue requirement issues. The actual amount of the agreed-upon adjustments may differ due to the effects of the Revised

Unresolved Issues or any issues arising out of the Public Staff’s audit of the Company’s May 2020 Updates. This Second Partial Stipulation provides sufficient support for the annual revenue required on the issues agreed to in this Second Partial Stipulation.<sup>1</sup> No Stipulating Party waives any right to assert a position in any future proceeding or docket before the Commission or in any court, as the adjustments agreed to in this Second Partial Stipulation are strictly for purposes of compromise and are intended to show a rational basis for reaching the agreed-upon revenue requirement adjustments without either Stipulating Party conceding any specific adjustment. The Stipulating Parties agree that settlement on these issues will not be used as a rationale for future adjustments on contested issues brought before the Commission. The areas of agreement are as follows:

***Excess Deferred Income Taxes***

A. With regard to Excess Deferred Income Taxes (“EDIT”), DE Progress and the Public Staff agree as follows:

- 1) Protected federal EDIT will be returned to customers in base rates via use of the Average Rate Assumption Method, as previously agreed to by the parties in the First Partial Stipulation.
- 2) The regulatory liabilities related to (a) unprotected federal EDIT (both the portion identified by the Company as related to property, plant, and equipment and the portion identified as not related to such) (collectively, “total unprotected federal EDIT”); (b) North Carolina EDIT, and (c) deferred revenues related to the provisional overcollection of federal income taxes (“deferred revenues”) will be

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<sup>1</sup> The total increase in base rate revenues and the resulting average increase, if any, will not be determined until the Commission rules on the Revised Unresolved Issues and any issues arising out of the Public Staff’s audit of the Company’s May 2020 Updates.

returned to customers through a rider by using the levelized rider calculation methodology described and set forth in the testimony and exhibits of the Public Staff in this proceeding.

3) Total unprotected federal EDIT will be returned to customers over a five-year amortization period (the “Unprotected Federal EDIT Amortization Period”).

4) North Carolina EDIT will be returned to customers over a two-year amortization period (the “NC EDIT Amortization Period”).

5) Deferred revenues will be returned to customers over a two-year amortization period.

6) Should an increase or decrease in the federal income tax rate occur during the five-year Unprotected Federal EDIT Amortization Period, the Company may file for an adjustment to the unprotected federal EDIT levelized rider, updating the unamortized balance of unprotected federal EDIT, subject to review by the Public Staff and other intervenors in this proceeding, and approval by the Commission. The updated calculation will be filed with the Commission with supporting schedules no less than 90 days prior to the proposed rider change effective date. The Stipulating Parties agree to support the amortization periods as described in paragraphs 7 and 8 below.

7) If the net unamortized unprotected federal EDIT balance as of the effective date of the tax rate increase, after taking into account the effect of the tax rate change, remains a net regulatory liability owed to customers, the annual levelized amortization of the net regulatory liability will be recalculated to reflect amortization of the net balance over the remainder of the five-year Unprotected

Federal EDIT Amortization Period made effective in this general rate case proceeding.

8) If the net unamortized unprotected federal EDIT balance as of the effective date of the tax rate increase, after taking into account the effect of the tax rate change, becomes a net regulatory asset recoverable from customers, the annual levelized amortization of the net regulatory asset will be recalculated to reflect amortization of the net balance over a new time period of at least five years, beginning as of the date the rider is changed. The Public Staff and the Company agree that each Stipulating Party may propose a longer amortization period, if a five-year amortization produces a rate increase for customers that either Stipulating Party believes to be unreasonably high.

9) Any adjustment to the levelized unprotected federal EDIT rider made as a result of changes in the federal income tax rate will include a component taking into account the changes in rate base appropriate to reflect the levelized adjustment(s) made to the rider.

10) This agreement applies to any federal income tax rate changes occurring and becoming effective during the five-year Unprotected Federal EDIT Amortization Period made effective in this general rate case proceeding. It shall not apply to any tax rate change occurring after the five-year Unprotected Federal EDIT Amortization Period.

11) Should an increase or decrease in the North Carolina state income tax rate occur during the two-year NC EDIT Amortization Period, the Company may file for an adjustment to the North Carolina EDIT portion of the levelized rider,

updating the unamortized balance of North Carolina EDIT, subject to review by the Public Staff and other intervenors in this proceeding, and approval by the Commission. The updated calculation will be filed with the Commission with supporting schedules no less than 90 days prior to the proposed rider change effective date. The Stipulating Parties agree to support the amortization periods as described in paragraphs 12 and 13 below.

12) If the net unamortized North Carolina EDIT balance as of the effective date of the tax rate increase, after taking into account the effect of the tax rate change, remains a net regulatory liability owed to customers, the annual levelized amortization of the net regulatory liability will be recalculated to reflect amortization of the net balance over the remainder of the two-year NC EDIT Amortization Period made effective in this general rate case proceeding.

13) If the net unamortized North Carolina EDIT balance as of the effective date of the tax rate increase(s), after taking into account the effect of the tax rate change(s), becomes a net regulatory asset recoverable from customers, the annual levelized amortization of the net regulatory asset will be recalculated to reflect amortization of the net balance over a new time period of five years, beginning as of the date the rider is changed. The Public Staff and the Company agree that each Stipulating Party may propose a longer amortization period, if a five-year amortization produces a rate increase for customers that either Stipulating Party believes to be unreasonably high.

14) Any adjustment to the North Carolina EDIT portion of the levelized rider made as a result of changes in the North Carolina state income tax rate will include

a component taking into account the changes in rate base appropriate to reflect the levelized adjustment(s) made to the rider.

15) This agreement applies to any North Carolina state income tax rate changes occurring and becoming effective during the two-year NC EDIT Amortization Period made effective in this general rate case proceeding. It shall not apply to any tax rate change occurring after the two-year NC EDIT Amortization Period.

### ***Cost of Capital***

B. Revenues approved for DE Progress in this proceeding should be adjusted to provide DE Progress, through sound management, the opportunity to earn a return on equity (“ROE”) of 9.60%. This ROE will be applied to the common equity component of the Company’s ratemaking capital structure consisting of 52% equity and 48% long-term debt. The embedded cost of debt agreed to by the Stipulating Parties as appropriate and reasonable for purposes of this proceeding is the May 2020 debt cost of 4.04%. The weighted overall rate of return resulting from the above inputs is 6.93%.

### ***Grid Improvement Plan***

C. For purposes of settlement, the Public Staff agrees to the Company’s requested deferral accounting treatment, as described in more detail below, for the following Grid Improvement Plan (“GIP”) programs, as set forth in Company witness Oliver’s Exhibit 10, limited to the estimated three-year capital budget period of 2020-2022: Self-Optimizing Grid (“SOG”) (all subprograms including Capacity and Connectivity, Segmentation and Automation, ADMS), Conversion to CVR, Integrated System and Operations Planning (“ISOP”), Transmission System Intelligence, Distribution Automation, Power Electronics, DER Dispatch Tool, and Cyber Security. For all other GIP

investments proposed by the Company in this docket, the Company agrees that it will withdraw its request for deferral accounting.

D. The Stipulating Parties' agreement regarding deferral treatment of GIP costs constitutes only approval of the decision to incur GIP program costs. The Public Staff reserves the right to review costs for reasonableness and prudence.

E. DE Progress, in conjunction with the concurrent commitment of DE Carolinas, and the Public Staff will work together to develop biannual reporting requirements to track GIP expenditures that receive accounting deferral treatment. At a minimum, the reporting requirements will include (1) tracking of costs for each program, including the number of devices installed, types of projects completed, or circuits modified or impacted; (2) reporting on a circuit and substation level; (3) a summary of actual benefits compared to projected benefits, (4) operational system impacts of SOG (i.e., number of SOG activations and failure rates), and (5) supporting data and analyses that informed significant changes to the original scope for the SOG programs. The first of these reports shall be filed reflecting GIP expenditures eligible for deferral occurring in the last six months of 2020.

F. The Company agrees to assess the cost effectiveness of GIP-related projects in an ongoing manner. In addition, the Company agrees to undertake a cost benefit analysis for its automated lateral device program.

G. Deferral should be restricted to incremental capital costs (return, property tax, and depreciation) related to plant in service and incremental expenses (offset by incremental operating benefits) (in total, Eligible Net Costs) for plant placed in service between June 1, 2020 and December 31, 2022 (Eligible Plant), and a return on the deferred

balance (Carrying Costs). Deferral of any specific portion of Eligible Net Costs and Carrying Costs (as reasonably determined through direct assignment or allocation) shall cease upon the effective date of any general rate case in which the associated Eligible Plant is recognized as included in rate base. If no general rate case order that recognizes the entirety of Eligible Plant in rate base has been issued by December 31, 2024, the Company shall cease deferral of all Eligible Net Costs and Carrying Costs, and shall consult with the Public Staff regarding beginning the amortization of the deferred costs for regulatory accounting and ratemaking purposes.

H. The Stipulating Parties agree that the deferral will not include overhead or administrative and general costs. However, the capitalized project costs will be allowed to include a reasonable allocation of management and supervision costs for people who manage and supervise GIP projects (limited to costs for which the expensed portion is normally recorded in the 500 series of FERC USOA accounts). For purposes of this deferral, these costs are not considered overhead and shall not be excluded.

#### ***Cost of Service***

I. For this case only, the Public Staff accepts, subject to the conditions in Section IV. B. below, the Company's proposal to calculate and allocate the Company's cost of service based on a Summer Coincident Peak ("SCP") methodology. This provision shall not constitute precedent and shall have no effect on the Rate Design Study proposed by the Public Staff and agreed to by the Company.

#### ***Accounting Adjustments***

J. Concerning the Company's May 2020 Updates to certain pro forma adjustments, the Stipulating Parties agree to include these updates, pending and subject to

the Public Staff's audit of the updates. In addition, the Stipulating Parties agree to limit the update to revenues to 75% of the difference between the May 2020 Updates and the Company's February 2020 update to recognize the uncertainty regarding the effects of COVID-19. This 75% limitation is applicable only if the net effect of the updates on revenues is a revenue requirement increase. The Stipulating Parties further agree that the May 2020 Updates shall also include updates for benefits and executive compensation through May 2020.

K. The Stipulating Parties agree to reduce the annual funding for the Company's Nuclear Decommissioning Trust Fund by \$8.7 million, and further agree to support this funding amount in DE Progress's current cost and funding decommissioning Docket No. M-100, Sub 56. To the extent the Commission orders in that docket a different level of funding than the amount agreed to in this Second Partial Stipulation, the Stipulating Parties agree that the Company will defer the difference to a regulatory asset or liability to be considered in its next rate case.

L. The Stipulating Parties agree to amortize deferred non-asset retirement obligation (non-ARO) environmental costs over an 8-year period.

#### **IV. OTHER AREAS OF AGREEMENT**

The Stipulating Parties also agree to the following:

##### ***May 2020 Updates***

A. The Stipulating Parties agree that the Public Staff shall have until September 15, 2020, to audit the DE Progress May 2020 Updates, and file testimony or affidavits, with schedules, addressing both the updates and the information requested by the Commission by its *Order Requiring Duke Energy Carolinas, LLC, and Duke Energy*

*Progress, LLC, to File Additional Testimony on Grid Improvement Plans and Coal Combustion Residual Costs* dated July 23, 2020. To the extent that the expert evidentiary hearings on DE Progress's Application (including consolidated and Company-specific portions) are completed prior to September 15, 2020, the record shall remain open to allow the Public Staff the opportunity to file testimony or affidavits, with schedules; and to allow the Company to file a response, if necessary. In order to accomplish this timeline, the Company commits to provide complete responses to data requests within four business days of the receipt of the Public Staff's requests and commits to verbally engaging with the Public Staff to resolve any questions or ambiguities as soon as reasonably possible. To the extent the Company believes it necessary or appropriate to file rebuttal testimony, the Company shall have no fewer than two business days to review the Public Staff's filing and serve discovery. The Public Staff shall have no fewer than one business day to respond. The Company shall file rebuttal within five business days after the filing of Public Staff testimony. The Public Staff and intervenors shall have no fewer than two business days outside of the hearing to review the rebuttal and serve discovery. The Companies shall have no fewer than one business day to respond. If the filings of the Public Staff and the Company require resumption of the hearings, such hearings shall be resumed within three business days after the filing of the Company's rebuttal testimony, and the record shall accordingly remain open through the completion of the hearing and filing of any late-filed exhibits.

***Additional Cost of Service Studies***

B. DE Progress has based its filing in this Docket on the SCP methodology for cost allocation among jurisdictions and among customer classes. The Public Staff

advocates the use of the Summer-Winter Peak and Average (“SWPA”) methodology for those purposes. As noted in Section III above, the Stipulating Parties agree that for purposes of settlement, the Company may use the SCP methodology. However, the Stipulating Parties agree that prior to the filing of its next general rate case, the Company shall undertake an analysis of additional cost of service studies subject to the following conditions:

- 1) The Company agrees to analyze and develop cost of service studies based on each of the following methodologies:
  - a. Single Summer Coincident Peak;
  - b. Single Winter Coincident Peak;
  - c. One that utilizes the four highest monthly system peaks (two monthly peaks in summer and two monthly peaks in winter);
  - d. SWPA;
  - e. Base Intermediate and Peak (as described in the Regulatory Assistance Project (“RAP”) “Electric Cost Allocation for a New Era” Manual, published January 2020); since the Company’s accounting systems do not have the data developed to produce such a study, this method may be analyzed by looking at how it has been used at another utility or with a higher level hypothetical analysis;
  - f. One that utilizes the twelve highest monthly system peaks in the test year; and
  - g. Any other identified relevant methodologies.

To the extent cost of service studies were developed in the current rate cases for these methodologies, those studies may be used for the analysis, and to the extent cost of service studies for a methodology have not already been developed, the underlying adjusted cost of service data from the current rate cases may be used to develop the studies.

2) Each methodology studied will include an evaluation of the allocation of the functions of utility service (production plant, transmission plant, distribution plant, and customer costs), including an identification of which cost components associated with these functions of utility service are fixed, and which are variable costs of service. The above methodologies only impact production and transmission allocations; however, the cost of service studies will show the allocation of all functions. For purposes of these studies, all demand and customer classified costs can be designated as fixed and all energy classified costs can be designated as variable.

3) Each methodology studied will include an evaluation of its strengths and weaknesses on both a jurisdictional and class allocation basis.

4) Included in the studies shall be a discussion of how the allocation of fuel and other variable operations and maintenance (“O&M”) expenses align with system planning.

5) The Company shall consult with the Public Staff and any other interested parties throughout the study process.

This settlement shall not be a precedent for, and may be contested in, future general rate case proceedings, and the Company will continue to file annual cost of service studies based on both the SCP and SWPA methodologies until instructed to do otherwise by the

Commission. The Company also agrees that it will not cite Commission approval of the Second Partial Stipulation as support for approval of the SCP methodology in future proceedings.

***Rate Design***

C. The Company agrees that any proposed revenue change will be apportioned to the customer classes such that:

- 1) Any revenue increase assigned to any customer class is limited to no more than two percentage points greater than the overall jurisdictional revenue percentage increase, thus avoiding rate shock;
- 2) Class RORs are maintained within a band of reasonableness of  $\pm 10\%$  relative to the overall NC retail ROR; for class RORs currently above the band of reasonableness, the Company will gradually move class RORs closer to the band of reasonableness;
- 3) All class RORs move closer to parity with the North Carolina retail ROR; and
- 4) Subsidization among the customer classes is minimized.

D. The Stipulating Parties agree that the proposed modifications to the Company's rate schedules are reasonable for purposes of this proceeding.

E. The Stipulating Parties agree that the Commission should order a comprehensive rate design study that will address rate design questions related to, among other things:

- 1) Firm and non-firm utility service, and the degree of customer-owned generation receiving both types of service.

- 2) Various types of end-uses such as electric vehicles (“EVs”), microgrids, energy storage, and distributed energy resources (“DERs”).
- 3) The formats of future rate schedules (basic customer charges, demand charges, energy charges, etc.).
- 4) Marginal cost versus average cost rate designs and pricing.
- 5) Unbundling of average rates into the various functions of utility service (i.e., production, transmission, distribution, customer, general/administrative, etc.).
- 6) Socialization of costs versus categorization of specific costs and corresponding impact on rates/revenues.

F. The Stipulating Parties agree that the Commission should order the Company to convene a stakeholder process that is tasked with addressing affordability issues for low-income residential customers, with a timeline for the process, including deadlines for periodic reporting and filing recommendations to the Commission. The Stipulating Parties propose one year for this process. The recommended topics to be discussed, investigated, and analyzed should include:

- 1) How “affordability” has changed over time and seek to define it for purposes of utility service today.
- 2) The success of existing rates, assistance, and energy efficiency programs to address affordability.
- 3) The data related to load, cost, and revenue profiles of low-income customers and the residential class in general, cost-causation, impact to cost-of-service, potential for subsidization, impact on revenues and rates for all customers, program eligibility, extent of assistance needed to be meaningful, definition of a “successful

program,” and other reasonably appropriate matters as agreed to by the Stipulating Parties.

G. The Stipulating Parties agree that DE Progress will develop and propose EV rate designs as part of the rate design study agreed to in this Second Partial Stipulation.

H. The Stipulating Parties agree that any costs associated with the MRM option in Rider MROP not recovered by the rider itself should be socialized and recovered from all customers. The current charges provide a reasonable hurdle to discourage a customer from opting out of AMI metering without a legitimate reason.

***Audits and Reporting Obligations***

I. The Company agrees to work with the Public Staff on document retention, project reporting and other reasonably applicable matters to better assist the Public Staff in future audits of plant within 90 days after the Commission issues its final order in this rate case.

J. The Company agrees to conduct an independent review/audit of its Material & Supplies inventory to be performed by the Company’s Internal Audit Services. The terms of the audit should, at a minimum, meet those recommended in the testimony of Public Staff witness Metz.

K. The Stipulating Parties agree to schedule a meeting to discuss the Company’s plant unitization policies and reach agreement on reporting obligations.

L. The Stipulating Parties agree that the Commission should require the Company to file an annual report of its Vegetation Management performance similar to the DE Carolinas' report format provided in Docket Nos. E-7, Subs 1146 and 1182.

M. The Stipulating Parties agree that the Commission should update the filing

requirements for service reliability index reporting in Docket No. E-100, Sub 138A to include new indices utilized by the North Carolina electric utilities, along with the supporting data for all such indices.

***Quality of Service***

N. The Stipulating Parties agree that the overall quality of electric service provided by the Company is good.

***Base Fuel and Fuel-Related Cost Factors***

O. Should no final Commission Order be issued in Docket No. E-2, Sub 1250 (DE Progress’ currently ongoing annual fuel rider proceeding) prior to the date the proposed orders are due in this general rate case proceeding, the total of the approved base fuel and fuel related cost factors, by customer class, will be as set forth in the following table (amounts are ¢/kWh excluding regulatory fee):

	Res	SGS	MGS	LGS	Lighting
Total Base Fuel (matches approved fuel rate effective December 1, 2019, in E-2, Sub 1204	2.326	2.499	2.456	2.054	2.217

Should a final Commission Order be issued in the fuel rider proceeding prior to the date the proposed orders are due in this general rate case proceeding, the total of the approved base fuel and fuel related cost factors, by customer class, will be the sum of the respective base fuel and fuel-related cost factors set in Docket No. E-2, Sub 1142 and the annual non-EMF fuel and fuel-related cost riders approved by the Commission in Sub 1250.

### *Shareholder Contribution*

P. The Company will make an annual \$2.5 million shareholder contribution to the Energy Neighbor Fund in 2021 and 2022, for a total contribution of \$5 million.

### **V. AGREEMENT IN SUPPORT OF SETTLEMENT; NON-WAIVER**

1. The Stipulating Parties shall act in good faith and use their best efforts to recommend to the Commission that this Second Partial Stipulation be accepted and approved. The Stipulating Parties further agree that this Second Partial Stipulation is in the public interest because it reflects a give-and take of contested issues and results in rates (with respect to the stipulated issues) that are just and reasonable. The Stipulating Parties agree that they will support the reasonableness of this Second Partial Stipulation before the Commission, and in any appeal from the Commission's adoption and/or enforcement of this Second Partial Stipulation.

2. Neither this Second Partial Stipulation nor any of the terms shall be admissible in any court or Commission except insofar as such court or Commission is addressing litigation arising out of the implementation of the terms herein or the approval of this Second Partial Stipulation. This Second Partial Stipulation shall not be cited as precedent by any of the Parties regarding any issue in any other proceeding or docket before this Commission or in any court.

3. The provisions of this Second Partial Stipulation do not reflect any position asserted by any of the Stipulating Parties but reflect instead the compromise and settlement among the Stipulating Parties as to all the issues covered hereby. No Party waives any right to assert any position in any future proceeding or docket before the Commission or in any court.

4. This Second Partial Stipulation is a product of negotiation among the Stipulating Parties, and no provision of this Second Partial Stipulation shall be strictly construed in favor of or against any Party.

**VI. RECEIPT OF TESTIMONY AND WAIVER OF CROSS-EXAMINATION**

The pre-filed testimony and exhibits of the Stipulating Parties on Resolved Issues may be received in evidence without objection, and each Party waives all right to cross examine any witness with respect to such pre-filed testimony and exhibits. However, the Public Staff reserves the right to cross examine Company witnesses regarding settlements reached with other parties in this proceeding. Further, if questions are asked by any Commissioner, or if questions are asked or positions are taken by any person who is not a Party, then any Party may respond to such questions by presenting testimony or exhibits and cross-examining any witness with respect to such testimony and exhibits.

**VII. STIPULATION BINDING ONLY IF ACCEPTED IN ITS ENTIRETY**

This Second Partial Stipulation is the product of negotiation and compromise of a complex set of issues, and no portion of this Second Partial Stipulation is or will be binding on any of the Stipulating Parties unless the entire Second Agreement and Stipulation is accepted by the Commission. If the Commission rejects any part of this Second Partial Stipulation or approves this Second Partial Stipulation subject to any change or condition or if the Commission's approval of this Second Partial Stipulation is rejected or conditioned by a reviewing court, the Stipulating Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Second Partial

Stipulation consistent with the order. No Party shall withdraw from the Second Partial Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Second Partial Stipulation, each Party retains the right to seek additional procedures before the Commission, including cross-examination of witnesses, with respect to issues addressed by the Second Partial Stipulation and shall be bound or prejudiced by the terms and conditions of the Second Partial Stipulation.

#### **VIII. COUNTERPARTS**

This Second Partial Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Execution by facsimile signature shall be deemed to be, and shall have the same effect as, execution by original signature.

#### **IX. MERGER CLAUSE**

Apart from the First Partial Stipulation, this Second Partial Stipulation supersedes all prior agreements and understandings between the Stipulating Parties. This Second Partial Stipulation may not be changed or terminated orally, and no attempted change, termination or waiver of any of the provisions hereof shall be binding unless in writing and signed by the parties hereto.

The foregoing is agreed and stipulated this the 31<sup>st</sup> day of July 2020.

Duke Energy Progress, LLC

By: /s/ Stephen G. De May

Stephen G. De May  
North Carolina President

Public Staff – North Carolina Utilities Commission

By: /s/ Christopher J. Ayers

Christopher J. Ayers  
Executive Director

**CERTIFICATE OF SERVICE**

DOCKET NO. E-2, SUB 1219

I hereby certify that a copy of the foregoing **SECOND AGREEMENT AND STIPULATION OF PARTIAL SETTLEMENT** was served electronically or by depositing a copy in United States Mail, first class postage prepaid, properly addressed to the parties of record.

This the 31<sup>st</sup> day of July, 2020.

*/s/ Kiran H. Mehta*

Kiran H. Mehta

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ATTORNEY FOR DUKE ENERGY PROGRESS, LLC