

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 MOTION
FOR PROCEDURAL RELIEF**

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission (Commission), by and through its Executive Director, Christopher J. Ayers, and respectfully requests the Commission to establish a procedural schedule in the above-captioned dockets. In support of this motion, the Public Staff shows as follows:

1. On October 20, 2020, the Commission approved the current versions of the demand-side management (DSM) and energy efficiency (EE) cost recovery mechanisms of Duke Energy Carolinas, LLC, and Duke Energy Progress, LLC (together, Duke or the Companies), in Docket Nos. E-2, Sub 931, and E-7, Sub 1032 (Mechanism(s)).

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

3. After extensive testimony on the Proposed Enablers at the Carbon Plan expert witness hearing, the Commission stated in its Order Adopting Initial Carbon Plan and Providing Direction for Future Planning issued on December 30,

2022 (Carbon Plan Order) that it was “persuaded by the Public Staff that all enablers related to the DSM/EE mechanism should be discussed within the context of a full DSM/EE mechanism review” and that it was “persuaded by the Public Staff’s assertion that ‘any modifications to individual components of the Mechanisms must take place in the context of a full, formal review of the entire Mechanisms, so that any impacts of other components of the Mechanisms can be analyzed at the same time.’” Carbon Plan Order at 109-10. As a result, the Commission stated that, “[w]ith one exception, the Commission determines that it is not reasonable to make any determination on the specific enablers in this proceeding but directs Duke to initiate a review of DEC’s and DEP’s DSM/EE Mechanisms within 120 days of the issuance of this Order.” Carbon Plan Order at 110. The Commission ordered that “Duke shall initiate a docket to review the DEC and DEP DSM/EE cost recovery mechanisms to consider the enablers Duke proposes.” Carbon Plan Order at 134.

4. On April 27, 2023, Duke filed a letter to commence the Commission-directed review of the Mechanisms in compliance with the Carbon Plan Order. In its letter, Duke stated that “this targeted review will focus upon how [the Companies’] DSM/EE cost recovery mechanisms . . . should be revised to incorporate [the Proposed Enablers].”

5. On May 11, 2023, the Public Staff filed a letter indicating that, although it did not have a position at the time of the filing of the letter as to whether Proposed Enablers 1, 2, or 3, as listed above, should be incorporated into the Mechanisms, the Commission did not conclude in its Carbon Plan Order that these

Proposed Enablers should be implemented in the Mechanisms; rather, it ordered that the Proposed Enablers should be considered in the Mechanism review. Further, the Public Staff noted that the Carbon Plan Order requires a “full, formal review of the entire Mechanisms” rather than a “targeted review.” As such, the Public Staff stated that the parameters set forth in Duke’s letter were too narrow insofar as the Commission called for a full review and not for a targeted review, and that the Companies’ letter indicates that the Proposed Enablers are to be adopted, which the Public Staff believed to be a premature conclusion at the time. In light of the number of parties likely to be involved in the stakeholder process, the Public Staff stated that it wished to clarify the scope of the Mechanism review in advance of the commencement of the stakeholder proceedings.

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

7. The next stakeholder meeting is scheduled for September 15, 2023. The Companies have asked that parties provide feedback to Duke’s proposed changes related to the Proposed Enablers and recommendations for the full Mechanism review by September 8. Duke has indicated that it intends to file its proposal concerning the Proposed Enablers in October.

8. After extensive discussion with intervenors and with Duke, and in light of the complexity inherent in a full Mechanism review (which encompasses the Proposed Enablers) and the demands of other ongoing proceedings, the Public Staff does not believe that the timeframe Duke has proposed for recommendations, stakeholder engagement, and comments provides sufficient time for intervenors to fully investigate, research, and analyze the Proposed Enablers, much less to conduct a full review of the Mechanisms. Accordingly, the Public Staff requests that the Commission issue a scheduling order in the existing Mechanism dockets calling for parties, including Duke, to file initial comments concerning the Proposed Enablers and the full Mechanism review on or before January 26, 2024, with reply comments to be due by March 29, 2024.¹ The Public Staff requests that, in their initial comments, parties address – at a minimum – the following issues, in addition to any other issues of interest to parties or regarding which the Commission requests comment:

- a. The appropriateness of continuing to allow the Companies to collect net lost revenues in light of HB 951 and the Carbon Plan Order;
- b. What actions, if any, justify a utility incentive, as well as whether there should be limits imposed upon utility incentives, whether

¹ The Proposed Enablers are only one aspect of a full Mechanism review, and the Proposed Enablers should not be analyzed separately from the other issues inherent in a mechanism review. Siphoning off particular issues that a specific party finds most important or time sensitive risks bars the parties from considering the impact of all proposed changes in totality, may lead to unforeseen consequences as to other issues, and reduces that party's incentive to conduct a full review.

there should be a required savings threshold that must be met before incentives are earned, what metrics should be utilized in awarding incentives, whether the Mechanisms should contain both incentives and penalties like Performance Incentive Mechanisms, and the efficacy of incentive mechanisms in other jurisdictions;

- c. How savings and benefits should be calculated and valued, including whether non-energy benefits should be included in particular cost-effectiveness tests, whether carbon reduction benefits should be separately accounted for, and the extent to which differential value to the system should be reflected, if at all, when quantifying anticipated costs and benefits of EE/DSM measures, among other issues;
- d. Definitional changes, including how to define “low income” customers, different program types, cost effectiveness, and measure baselines;
- e. Whether the same cost-effectiveness measures should be applied to all programs;
- f. Financial reporting requirements;
- g. How to most effectively encourage industrial and commercial participation in EE/DSM programs, given that the right of

industrial and large commercial customers to opt-out of ratepayer-funded EE/DSM measures is codified at G.S. 62-133.9(f) and whether to change the threshold for a “large commercial customer” under Rule R8-69 that can opt-out;

- h. Current Evaluation, Measurement, and Verification practices;
- i. Cost recovery issues such as the splitting of vintage years, whether vintage years should be considered complete after a certain period of time for purposes of cost recovery, amortization, deferral, allocations, and recovery of indirect costs (e.g., administrative, marketing, and education);
- j. Composition and role of the Stakeholder Collaborative;
- k. Identify mechanism changes that would prioritize persistent, cumulative savings measures and reduce reliance on the achievement of short-lived behavioral measures; and
- l. Any other relevant issues.

9. The Public Staff has reached out to the other parties in the existing Mechanism dockets and can represent the parties’ support of this motion as follows:

- a. The Attorney General's Office, the North Carolina Sustainable Energy Association, and the Southern Environmental Law Center support this motion;
- b. CIGFUR and Duke support the Motion with further relief, which CIGFUR and Duke will propose in separate responsive filings; and
- c. The Public Staff did not hear back from other counsel of record in the existing Mechanism dockets.

10. The Public Staff is confident that the work before the parties in this proceeding is of sufficient magnitude and importance to warrant the provision of adequate time to conduct the necessary review, and respectfully requests that the Commission issue a scheduling order that provides all parties with sufficient time to conduct the type of meaningful review that the Commission intended when it ordered consideration of the Proposed Enablers and a full Mechanism review in its Carbon Plan Order.

11. THEREFORE, the Public Staff respectfully requests:

- a. That the Commission issue an order in the existing Mechanism dockets requesting initial comments by January 26, 2024, and reply comments by March 29, 2024, on the issues listed in Paragraph 8 of this motion; and

- b. That the Commission grant such other and further relief as the Commission may deem just and proper.

Respectfully submitted this the 7th day of September, 2023.

PUBLIC STAFF
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Electronically submitted
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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing motion on all parties of record 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 7th day of September, 2023.

Electronically submitted
/s/ Anne M. Keyworth