



Jack E. Jirak
Deputy General Counsel

Mailing Address:
NCRH 20 / P.O. Box 1551
Raleigh, NC 27602

o: 919.546.3257
f: 919.546.2694

jack.jirak@duke-energy.com

October 30, 2023

VIA ELECTRONIC FILING

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

**RE: Request for Approval of Joint Proposed Innovation Prototyping Guidelines for Expedited Review and Regulatory Approval of Non-Demand Side Management/Energy Efficiency Customer Program Offerings
Docket Nos. E-2, Sub 1330; E-7, Sub 1296**

Dear Ms. Dunston:

Pursuant to the North Carolina Utilities Commission’s (“Commission”) December 30, 2022 *Order Adopting Initial Carbon Plan and Providing Direction for Future Planning* (“Carbon Plan Order”), I enclose for filing with and approval by the Commission the Joint Proposed Innovation Prototyping Guidelines¹ (“Joint Guidelines”) of Duke Energy Carolinas, LLC, Duke Energy Progress, LLC (collectively, the “Companies”), Vote Solar, the North Carolina Sustainable Energy Association (“NCSEA”), the Southern Alliance for Clean Energy (“SACE”), Carolina Industrial Group for Fair Utility Rates II and III (collectively, “CIGFUR”), and the North Carolina Justice Center (“NCJC”), (collectively, “Joint Parties”) for an accelerated framework to foster innovation by establishing flexibility and an expedited review and approval process for new prototypes for new non-Demand Side Management (“DSM”) /Energy Efficiency (“EE”) customer programs. Through this submittal, the Joint Parties seek the Commission’s approval of the Joint Guidelines.

In its Carbon Plan Order, the Commission held that it was “*persuaded that the adoption of new flexibility and rapid prototyping guidelines to ensure regulatory approval of new customer programs, pilots, and rate designs in a timely manner would be appropriate at this time.*”² To that end, the Commission directed the Companies to “*engage with stakeholders to develop guidelines for expedited regulatory approval of customer programs and pilots for non-DSM/EE customer programs that enable load reduction or*

¹ Commonly referred to as Rapid Prototyping

² Carbon Plan Order at page 110

load management consistent with the Carbon Plan...and to file a formal proposal for approval of such guidelines with the Commission.”³

To that end, on January 30, 2023, the Companies notified the Commission of their intent to commence stakeholder engagement to develop such guidelines. The Companies invited parties to Docket No. E-100, Sub 179, *as well as the stakeholders in the Comprehensive Rate Review (“CRR”) process, the Electric Transportation Stakeholder Group (“ETSG”), and the Low-Income Affordability Collaborative (“LIAC”) to join and provide input on the development of these Joint Guidelines as well as agenda items of interest.*

On February 24, 2023, the Companies hosted the first in a series of hybrid⁴ stakeholder sessions with participation from representatives of diverse interests including but not limited to, Vote Solar, NCSEA, NCJC, CIGFUR, SACE, the Southern Environmental Law Center, the Public Staff, the City of Winston-Salem, individual large customers, Duke University, Appalachian Voices, Sierra Club, and Sunrun. In the initial session, Guidehouse provided a case study of expedited implementation processes for new customer non-DSM/EE programs in other jurisdictions (*e.g.*, Vermont and New York). Thereafter, the Companies’ subject matter experts and stakeholders engaged in meaningful discussions in stakeholder sessions on April 12, 2023, and July 27, 2023, to further explore other states’ expedited implementation processes, identify priorities and common goals for innovation, research, policy goals, concepts for potential design parameters for North Carolina, and to draft and negotiate parameters and guidelines. The Companies continued to solicit feedback on agenda items, written work product, and provide opportunity to present findings throughout this pre-filing stakeholder process. Certain stakeholders availed themselves of the opportunity to make formal presentations, while others led topical discussions and presented alternative language as part of the drafting and negotiation processes. In addition to the formal stakeholder meetings, stakeholders exchanged drafts and proposed edits to the Joint Guidelines, as well as participated in one-off meetings with the Companies and with each other in an effort to reach consensus.

The Companies value the stakeholder process and appreciate the critical assessment and innovative thinking on the part of stakeholders, articulating issues to be understood and considered and identifying research objectives and criteria to determine how best to test non-DSM/EE emerging technologies, rate designs, new products and/or services. The Companies look forward to continued collaboration with stakeholders as we consider potential technologies and rate designs that will serve the energy transition. As such, the Joint Guidelines would establish the Innovation Prototyping Working Group, tasked with providing insight and input concerning topics related to non-DSM/EE emerging technologies, rate designs, and customer products and/or services. The Companies are proud of the stakeholder process and the substantial efforts by all participants to reach the consensus approach reflected in this filing.

³ *Id.* at pages 110, 134

⁴ The Companies held stakeholder meetings at the Companies’ Raleigh Headquarters, 410 S Wilmington St Raleigh, NC, 27601-1849 for those who desired to participate in person, in addition to providing a Microsoft Teams link for those who desired to participate virtually.

Although agreement was reached with the Public Staff as to many of the provisions of the proposed Joint Guidelines, the Public Staff did not support all provisions, and it is the Companies' understanding that the Public Staff will address their position in a subsequent filing with the Commission. The Joint Parties look forward to continued collaboration with the Public Staff and other interested stakeholders.

In conclusion, the Companies, on behalf of the Joint Parties, respectfully request approval of the Joint Guidelines by the Commission.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Jack E. Jirak

/s/ David L. Neal

David L. Neal

N.C. Bar No. 27992

dneal@selcnc.org

Munashe Magarira

N.C. Bar No. 47904

mmagarira@selcnc.org

Southern Environmental Law Center
601 West Rosemary Street, Suite 220
Chapel Hill, NC 27516
Telephone: (919) 967-1450
Fax: (919) 929-9421

*Attorneys for North Carolina Justice Center,
Southern Alliance for Clean Energy,
Vote Solar*

BAILEY & DIXON, LLP

/s/ Christina D. Cress

Christina D. Cress

N.C. State Bar No. 45963

Douglas E. Conant

N.C. State Bar No. 60115

434 Fayetteville St., Suite 2500

P.O. Box 1351 (zip 27602)

Raleigh, NC 27601

(919) 607-6055
ccress@bdixon.com
dconant@bdixon.com

Counsel for CIGFUR II and III

/s/ Ethan Blumenthal
Ethan Blumenthal
Regulatory Counsel for NCSEA
N.C. State Bar No. 53388
4800 Six Forks Road, Suite 300
Raleigh, NC 27609
(704) 618-7282
ethan@energync.org
Attorney for NCSEA

Enclosure

cc: Parties of Record

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- I. **Innovation Prototyping Process Objective:** Establish an accelerated framework to foster innovation by establishing flexibility and an expedited review and approval process for new prototypes (“Prototype”) that quickly test non-DSM/EE emerging technologies, rate designs, new products and/or services to align with HB 951 and to improve customer experience. The Innovation Prototyping process is intended to support initiatives by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (individually, “Company,” or together the “Companies”) to test new customer programs and/or rate designs quickly and expand upon any successful Prototypes for consideration of full-scale implementation. As the North Carolina Utilities Commission (“Commission”) recognized, the goal is to shrink the challenge and implement the North Carolina Carbon Plan in a timely manner.¹
- II. **Pre-Filing Development and Stakeholder Engagement:** The Company shall establish an Innovation Prototyping Working Group (“IPWG”) that will include Public Staff and other interested stakeholders. The IPWG is an advisory group and forum for providing insight and input concerning topics related to non-DSM/EE emerging technologies, rate designs, and customer products and/or services. To enhance transparency and collaboration, the IPWG will work to identify and discuss areas of innovation (e.g., customer resources/ services, decarbonization, electrification, technology, cyber security, etc.) that may be suitable for prototyping. IPWG membership is open to interested stakeholders including attorneys, who may participate on behalf of organizations. The IPWG’s work will include identification of research questions, expected outcomes, metrics for determining success, alignment with HB 951 and Commission orders and/or potential overlap with existing programs. Stakeholders may make proposals for innovation prototypes and participate in discussions, but the Companies alone will determine which ideas they will commit resources to research or study and which programs they will ultimately file with the Commission. The Companies, at minimum, will hold semi-annual meetings of the IPWG. Stakeholders agree that to promote candid discussion, information shared during IPWG meetings may not be used outside of the IPWG process or cited before the Commission.
- III. **Expedited Review and Approval Process:**
 - a. **Eligibility**
 - i. Each Prototype must demonstrate innovation and/or address gaps in the Company’s customer current offerings. Innovation is defined as new

¹December 30, 2022 Order Adopting Initial Carbon Plan and Providing Direction For Future Planning in Docket No. E-100, Sub 179 at p. 110

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concepts which: (A) do not mirror activities already underway by the Company and (B) are experimental in nature.

- ii. Each Prototype must move the Companies towards meeting the HB 951 goals, including approved Carbon Plan objectives and directives.
- iii. Each Prototype must have maximum estimated costs of \$5 million dollars or less. The expedited process will be bifurcated between two forms of Prototypes:
 - 1. Fast Track Innovation Prototypes with costs less than or equal to \$2.5 million dollars (“Fast Track IP”); and
 - 2. Innovation Prototype with costs greater than \$2.5 million dollars and less than or equal to \$5 million (“Innovation Prototype” or “IP”) (each a “Prototype”).
- iv. Each Prototype shall not last more than 18 months from initial customer acquisition, except that an extension may be approved by the Commission for good cause shown. After 18 months, the Company shall either terminate the Prototype or file for approval as a standalone program or as an element of commercially available programs. If the Company files for approval as a standalone program, the program may be allowed to continue past 18 months until approved or denied by the Commission.

b. Filing

- i. Not less than 7 days prior to and not more than 10 days prior to the filing of the Notice of Innovation Prototyping (Notice), the Company shall file a Letter of Intent indicating its intent to file a Notice.
- ii. A Notice shall include:
 - 1. Narrative description of the Prototype including applied research.
 - 2. Number of participants in the Prototype, including customer class.
 - 3. Relevant consumer protection provisions.
 - 4. Customer Acquisition Plan.
 - 5. Expected costs and revenues.
 - 6. The list of Research Questions/Objectives:
 - a. Each pilot shall include meeting HB 951 goal as an Objective.
 - b. Pilots shall include at least one other objective including but not limited to: affordability, affordability for customers at or below 200% federal poverty level, resiliency, customer empowerment, justice, bringing innovation to

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- underserved communities, transparency, economic development, and peak load reduction.
7. Evidence of collaboration with stakeholders.
 8. Description of external resources utilized in designing the proposed Prototype (e.g., consulting services, research conducted, studies considered or conducted, etc.).
- iii. On the day the Company files a Notice, to the extent available, the Company shall provide the Public Staff and any other intervenors who seek the following information, depending on the type of prototype:
1. Rate Design:
 - a. Demonstration of the impacts to revenues associated with the proposed rate design proposal.
 - b. Market Studies that have led to the pursuit of the proposed rate design.
 - c. List of targeted customer classes.
 - d. Modeled load shapes of targeted customer class.
 - e. Average bill calculations, with working formulas, in Excel.
 - f. Compliance Tariff and Terms and Conditions
 2. Emerging Technologies/New Products:
 - a. List of targeted customer classes.
 - b. List of metrics and targets that will be used as a means of determining a success or failure.
 - c. Listing of costs and benefits broken down by year and by type (capital/O&M).
 - d. Compliance Tariff and Terms and Conditions
 3. New Services:
 - a. List of targeted customer classes.
 - b. List of metrics and targets that will be used as a means of determining a success or failure.
 - c. Listing of costs and benefits broken down by year and by type (capital/O&M).
 - d. Compliance Tariff and Terms and Conditions
- iv. At least, but not limited to, once every two years, the Company shall file a Prototype that addresses the Research Objective “affordability for customers at or below 200% federal poverty level”. If, after appropriate investigation, the Company deems no discussed Prototype can sufficiently address this Research Objectives while meeting the other criteria of this

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framework, the Company shall file a report detailing the Company's efforts to design a Prototype to address the Research Objective, why the Company did not file for a Prototype, and a plan to address the identified barriers. The IPWG shall be consulted on the report.

- v. At least, but not limited to, once every two years, the Company shall file a Prototype that addresses the Research Objective "enhancing the economic competitiveness of its non-residential customers that are a critical component to the state's economy and job creation." If, after appropriate investigation, the Company deems no discussed Prototype can sufficiently address this Research Objective while meeting the other criteria of this framework, the Company shall file a report detailing the Company's efforts to design a Prototype to address the Research Objective, why the Company did not file for a Prototype, and a plan to address the identified barriers. The IPWG shall be consulted during the preparation of the report.

c. Evaluate

- i. After the Company files a notice of Fast Track IP, the Public Staff shall investigate and file a responsive comment or a letter (Response) with the Commission within 30 days of the Fast Track IP notice filing. Petitions for intervention and Responses to the Fast Track IP notice must be filed within 30 days of the Fast Track IP notice filing. The Company shall have 5 days in which to respond to discovery requests from intervenors and any delays in responses by the Company shall result in an extension of the same amount of days in which parties may intervene or file Responses.
- ii. After the Company files a notice of IP, the Public Staff shall investigate and file a Response with the Commission within 60 days of the IP notice filing. Petitions for intervention and Responses to the IP notice must be filed within 60 days of the IP notice filing. The Company shall have 5 days in which to respond to discovery requests from intervenors and any delays in responses by the Company shall result in an extension of the same amount of days in which parties may intervene or file Responses.
- iii. The Company may file a reply to any Response. For a Fast Track IP, the Company may file a reply within 5 days and for an IP within 10 days.
- iv. If neither the Public Staff nor any other party files an objection to the activities contemplated in the Notice of Fast Track IP within the 30-day deadline, the Company shall file a proposed order with the Commission within 40 days of filing the Fast Track IP notice. The Company shall work

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- with the Public Staff to timely support placing the uncontested item on a Staff Conference agenda.
- v. If neither the Public Staff nor any other party files an objection to the activities contemplated in the IP Notice within the 60-day deadline, the Company shall file a proposed order with the Commission within 70 days of filing the IP notice. The Company shall work with the Public Staff to timely support placing the uncontested item on a Staff Conference agenda.
 - vi. The Commission shall review the Notice of Fast Track IP and issue an order approving, denying, or modifying the proposed Prototype within 60 days of receiving the Notice of Fast Track IP.
 - vii. The Commission shall review the Notice of IP and issue an order approving, denying, or modifying the proposed underlying Prototype, within 90 days of receiving the Notice of IP. An order approving a Fast Track IP or IP must also approve a deferral to recover reasonable and prudent costs of the Prototype.
 - viii. If the Public Staff or any other party files a timely objection to the Fast Track IP or IP noticed by the Company, the Commission shall schedule oral argument or notify the parties it will decide the matter on written comments.
 - ix. The example set forth below illustrates the procedural timeline for Fast-Track IP and IP, in accordance with this section.

		# Of Days		# Of Days
	Fast Track Innovation Prototype		Innovation Prototype	
Company Letter of Intent Filed	21-Sept-23 – 24-Sept-23	7-10 days before Notice	21-Sept-23 – 24-Sept-23	7-10 days before Notice
Company Notice Filed	1-Oct-23		1-Oct-23	
Petition to intervene & response filed	31-Oct-23	30	30-Nov-23	60
Company files proposed order (uncontested)	10-Nov-23	40	10-Dec-23	70

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Commission issues order	30-Nov-23	60	30-Dec-23	90
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- d. **Cost Recovery:** Cost recovery of a specific amount will not be guaranteed as part of the expedited process; however, approval will mean that Prototype costs shown to be reasonable and prudent in a rate case will be recovered. The Commission shall grant deferral accounting treatment for costs associated with Prototypes, subject to review, for reasonableness and prudence in the next general rate case. For each utility, the total amount of deferral shall not exceed \$25 million. Cost recovery will be based on cost of service and cost causation principles, meaning that the customer class(es) eligible to participate in each individual IP or Fast Track IP program shall be responsible for cost recovery associated with such program.
- IV. **Amendments:** If the Company has any material changes to any approved Fast Track IP or IP, the Company shall provide notice to, and the opportunity for comment from, the members of the IPWG. The Company shall file with the Commission notice of material changes to any approved Fast Track IP and IP at least 30 days prior to the proposed effective date of such change. Intervenors may file individual responses within 15 days of the Company providing notice of amendments
- V. **Oversight and Compliance:**
 - a. The Company must file reports with the Commission every six months after approval of any Prototype reporting on the following:
 - i. costs and revenues
 - ii. participation
 - iii. customer impact
 - iv. customer satisfaction
 - v. lessons learned
 - vi. progress on key performance indicators related to the research questions including but not limited to carbon and equity impact
 - vii. any proposed changes including plans to scale the Prototype or terminate it
 - b. The Company shall file a post-pilot final report within six months of the final date of the program. The final report shall include:
 - i. full accounting of costs and revenues
 - ii. a cost benefit analysis for a full program version of the pilot
 - iii. participation
 - iv. customer impact

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- v. customer satisfaction, including post-pilot survey results
- vi. findings in regard to the pilot’s established research questions including key performance indicators and a narrative explanation of the efficacy of the pilot in relation to its original goal
- vii. anticipated next steps

c. Intervenors may file individual responses to the reports at any time.

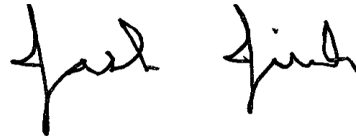
VI. Framework Review

- a. The Commission may, with good cause shown and upon its own motion or petition by the Public Staff, modify the IPP framework
- b. Three years after approval by the Commission, the IPWG shall review the Innovation Prototyping Process framework and file a report with the Commission identifying any proposed changes to the framework, including noting any areas of agreement or disagreement as to such changes. The Company, Public Staff and intervenors may file any comments in response to such report.

CERTIFICATE OF SERVICE

I certify that a copy of the Request for Approval of Joint Proposed Innovation Prototyping Guidelines for Expedited Review and Regulatory Approval of Non-Demand Side Management/Energy Efficiency Customer Program Offerings, in Docket Nos. E-2, Sub 1330 and E-7, Sub 1296, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid, to parties of record.

This the 30th day of October, 2023.



Jack E. Jirak
Deputy General Counsel
Duke Energy Corporation
P.O. Box 1551/NCRH 20
Raleigh, North Carolina 27602
(919) 546-3257
Jack.jirak@duke-energy.com