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November 15, 2023

VIA ELECTRONIC FILING

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

RE: Application by Duke Energy Progress, LLC for Approval of Demand-Side Management and Energy Efficiency Cost Recovery Rider Pursuant to N.C. Gen. Stat. § 62-133.9 and Commission Rule R8-69; Docket No. E-2, Sub 1322

Dear Ms. Dunston:

On behalf of Duke Energy Progress, LLC (the "Company"), please find enclosed for filing the proposed Finding of Fact Number 8, specifically addressing Exhibit E that was filed by Company Witness Fields in this proceeding. An electronic copy of the proposed Finding of Fact Number 8 is being emailed to briefs@ncuc.net. Please do not hesitate to contact me if you have any questions.

Sincerely,



Marion "Will" Middleton, III
N.C. State Bar No. 50877

*Appearing as Counsel for Duke Energy Progress,
LLC*

Enclosure

cc: Parties of Record

CERTIFICATE OF SERVICE

I certify that a copy of the proposed Finding of Fact Number 8 has been served on all parties of record either by electronic mail, hand delivery, or by depositing a copy in the United States mail, postage prepaid, properly addressed to all parties of record.

This 15th day of November 2023.



Marion "Will" Middleton, III

FINDING OF FACT

8. With respect to Fields Exhibit E, a review of the record reveals that the Company correctly evaluated the Non-Residential Smart \$aver Custom Program's and Non-Residential Custom Performance Program's (together, the "Custom Programs") influence on contractor practices outside of the programs based on industry-standard, transparent non-participant spillover ("NPSO") methodology. That evaluation revealed that the Custom Programs generate additional energy savings outside of these programs by influencing contractor practices. These additional energy savings, as calculated by the Company, are appropriately included within Fields Exhibit E. Fields Exhibit E should be considered complete for purposes of calculating program impacts. DEP has appropriately incorporated the results of this EM&V report into the DSM/EE rider calculations.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The evidence for this finding of fact is contained in the direct and rebuttal testimony of Company witness Fields, the rebuttal testimony of Company witness Lee, and the testimony of Public Staff witness Hirons.

As explained above, Fields Exhibit E is the only point of dispute in this proceeding. The Public Staff alleges that the Commission should wholly reject the Company's analysis of NPSO and require the Company to remove the associated energy savings from the Custom Programs report (the "Report"). (Hirons Direct at 4.) Specifically, witness Hirons testified that there were five general concerns regarding the Company's calculation of NPSO in the Report. (Hirons Direct at 3-4.) The record indicates that the net effect of Public Staff's recommended adjustment to the Report results in an increase of approximately \$6,662 to the total revenue requirement. (Fields Rebuttal at 3.) The limited

magnitude of the adjustment does not impact the rates requested by the Company in witness Miller's Exhibit 1 in the Company's August 24, 2023, supplemental filing. (Fields Rebuttal at 3.) Witness Hirons also made certain recommendations for the Company's evaluation of NPSO in future dockets. (Hirons Direct at 34-36.) Each of those concerns and recommendations is addressed below after a brief overview of the NPSO calculation performed by the Company.

1. Overview of the NPSO calculation.

Company witness Lee explained that NPSO refers to the effects a program may have on non-participating customers. (Lee Rebuttal at 7.) In this instance, for example, NPSO represents the additional energy savings created by non-participating customers due to the influence that Custom Programs have on contractor behavior. (Lee Rebuttal at 9.) Witness Lee noted that it is important to measure NPSO because it captures additional energy savings and system benefits created by the Custom Programs. (Lee Rebuttal at 7.) Company witness Lee explained that contractor behavior can be impacted by the Custom Programs in a number of ways. (Tr. at 140-141.) For example, witness Lee explained that the Company's education and training of these contractors may lead the contractors to deploy additional energy efficient measures outside of the Custom Programs. (Tr. at 140-141.) Witness Lee noted that these interactions with contractors can change the way contractors view "energy efficiency, how they work in the field, [and] how they sell it to customers." (Tr. at 124.) Witness Lee explained that the Company surveys contractors to determine whether and to what extent contractors implemented projects similar to those under the Custom Programs for customers that did not receive an incentive. (Tr. at 125.) In this case, the Company utilized an industry-standard,

transparent NPSO methodology—based upon the Department of Energy’s Uniform Methods Project—called the “Pennsylvania Framework” to measure NPSO arising from the Custom Programs.¹ (Lee Rebuttal at 7.) Pursuant to that framework, the Company surveyed 67 contractors and then weighted the results by contractor size. (Lee Rebuttal at 10.) As a result, the Company applied a combined NPSO number equal to 12.95%.² (Lee Rebuttal at 5.) There was no dispute regarding the potential benefits of NPSO in the EE/DSM context—however, witness Hirons alleged that the Company’s calculation in this instance should be removed from the Report entirely because the calculation was unreliable. (Hirons Direct at 5.)

2. Public Staff concerns regarding the Company’s evaluation of NPSO.

- a. Public Staff alleges that the NPSO analysis in the Report “contains the double-counting of projects included in response to one of the Evaluator’s survey questions.”

As part of its NPSO evaluation, the Company’s evaluator (the “Evaluator”)³ surveyed contractors that performed work for the Company’s customers under the Custom Programs. (Lee Rebuttal at 9.) The Company used those responses to calculate the program-level NPSO. (Lee Rebuttal at 9.) Witness Hirons alleged that the Company’s analysis of NPSO is flawed because certain vendors have customer bases in DEP and DEC and—rather than attempt to allocate those survey responses by territory—the

¹ Witness Hirons supported the Company’s utilization of the Pennsylvania Framework, calling it a “great” and “industry standard” framework.

² As explained herein, the Company adjusted the NPSO value applied in the Report through the rebuttal testimony of witness Fields. The Company believes that the combined NPSO value of 12.95% more appropriately reflects the Custom Programs’ influence.

³ The Report was created by Nexant (now known as Resource Innovations) in partnership with Tetra Tech.

Company counted those survey responses in both service territories. (Hirons Direct at 19.) Witness Hirons claimed that this resulted in “double-counting” that skewed the NPSO results. (Hirons Direct at 20-21.)

Witness Lee explained on rebuttal that the methodology used to calculate NPSO is based on each contractor’s activity and reported number of projects. (Lee Rebuttal at 5.) Witness Lee stated that, in fact, there is no instance of "double-counting" in the survey results—rather, there is only one instance of one contractor that reported unincentivized projects influenced by the programs who had overlapping program activity in both DEC and DEP territories. (Lee Rebuttal at 5.) The Evaluator did not intend for the territory specific net-to-gross (with NPSO) values⁴ in Appendix A of the Report to be used. (Lee Rebuttal at 5.) The Evaluator reported a combined net-to-gross value including 12.95% NPSO to calculate the net verified savings in Figure 5-3 of the Report, which witness Hirons reproduced on page 12 of his testimony. (Lee Rebuttal at 5.)

Witness Fields explained on rebuttal that after clarification from the Evaluator, the Company believes that the combined NPSO of 12.95% more appropriately reflects the programs’ influence. (Fields Rebuttal at 3.) Both witness Fields and witness Lee testified that the NPSO calculation is reliable and that the initial application of the NPSO percentage simply arose from a miscommunication. (Tr. at 129; Lee Rebuttal at 10.) Witness Lee testified that the Company’s updated application of the 12.95% is more appropriate because it represents a combined percentage and removes any opportunity for contractors who work in both territories to have overlapping activity counted because each contractor’s response is only counted once. (Lee Rebuttal at 5.)

⁴ The Company originally applied a DEP specific NPSO of 24.03%. After additional clarification from the Evaluator, the Company filed an updated figure of a combined DEP-DEC NPSO of 12.95%.

The Commission is persuaded by the Company's testimony and analysis on this point. The Company's analysis was done pursuant to an industry-standard framework and the Company's application of the 12.95% on rebuttal is responsive to Public Staff's concern. The Company's application of the combined NPSO percentage appropriately accounts for the single contractor identified by the Company that performed overlapping work in DEC and DEP territories. Therefore, the Commission believes that the 12.95% is appropriate for application in the Report.

- b. Public Staff alleges the NPSO calculation did not appropriately weight the savings by measure and project type.

As explained above, witness Lee testified that the NPSO results were weighted by contractor size, reflecting their level of energy efficiency activity. (Lee Rebuttal at 7.) Witness Hirons claimed that the Company should have also weighted the analysis by measure and project size (i.e., strata-level), claiming that such an approach would also be consistent with the Pennsylvania Framework. (Hirons Direct at 22-23.) Witness Lee explained that the Report did weight by project size for participant free ridership and participant-like spillover estimates. (Lee Rebuttal at 8.) However, witness Lee noted that although weighting NPSO by project size may be appropriate for deemed or partially deemed prescriptive project savings, weighting NPSO by contractor size is the most appropriate method for custom projects where project size tends to be atypical. (Lee Rebuttal at 8.)

Witness Lee testified that the NPSO results are based on a robust sampling of the contractor population under the Custom Programs, and that the survey responses were representative of the population. (Lee Rebuttal at 7-8.) Witness Lee testified that this approach is consistent with the Pennsylvania Framework, which "recommends either a

sample representative of the target population or capable of producing results that can be made representative through appropriate weighting of data.” (Lee Rebuttal at 7-8.) According to witness Lee, the Evaluator both sampled the complete participating contractor population and achieved survey completes representative of the target population. (Lee Rebuttal at 7-8.) Witness Lee further explained that the Evaluator determined that stratum weighting, which Witness Hiron asserts should have been done on page 24 of his testimony, was not needed based on the representation across stratum proportional to representation in the total population, which is evidenced by the following Table 1 in witness Lee's rebuttal testimony:

Table 1. Contractor Survey Responses by Program Stratum

	Lighting- Large	Lighting- Small	Non Lighting- Large	Non Lighting- Small
Contractor Population	23.3%	62.0%	8.0%	18.4%
Survey Completes	24.1%	66.7%	5.6%	14.8%

The Commission agrees with the Company's calculation of NPSO in this regard and finds that weighting results by contractor size is appropriate given the nature of the Custom Programs themselves. No additional weighting was needed given the Evaluator's robust sampling that achieved survey completes representative of the contractor population. Importantly, the projects under the Custom Programs are—as the name implies—custom measures and are atypical in that regard. Weighting results by measure and project size may be appropriate in other contexts, such as deemed projects with known savings. However, the record reveals that the Evaluator reviewed the achieved survey completes and range of custom projects and concluded in its expert judgment that

(i) no additional weighting of survey responses was needed to represent the contractor population and (ii) weighting results by contractor size would provide the Company with the most accurate NPSO calculation given that custom projects are atypical. As a result, the Commission finds that the methodology applied to weight results by contractor size is reasonable, reflects the realities of the Custom Programs that were the subject of the analysis, and represents the survey responses in accordance with the Pennsylvania Framework.

- c. Public Staff alleges that the NPSO estimate is unreliable because the results are “highly sensitive to only a few data points.”

Witness Hirons alleged that the contractor survey conducted by the Company to determine NPSO is unreliable because it was “highly sensitive” to certain contractors. (Hirons Direct at 5.) Witness Lee explained that the survey results simply reflect the reality of the Custom Programs because there are varying levels of contractor engagement with the programs and overall sales volumes. (Lee Rebuttal at 10-11.) Witness Lee noted that the marketplace is made up of a variety of trade ally sizes, volume of projects, and contractor influence. (Lee Rebuttal at 11.) That diversity was reflected in the data and resulting analysis. (Lee Rebuttal at 11.) However, witness Lee cautioned that high contractor-specific NPSO does not indicate an invalid response. (Lee Rebuttal at 11.) In fact, witness Lee explained that the NPSO estimate achieved a confidence interval with greater precision than industry standard. (Lee Rebuttal at 10.) Witness Lee noted that confidence intervals are one way to represent how “good” an estimate is—the larger a confidence interval for a particular estimate, the less certain we are in the point estimate. (Lee Rebuttal at 10.) Witness Lee testified that program evaluations routinely employ 90% confidence plus or minus 10% as the industry standard. (Lee Rebuttal at 10.) According

to witness Lee, the resulting precision level in the Report of 8.1% is more precise than the industry accepted 10% level. (Lee Rebuttal at 10.) Witness Lee explained that these results mean that the Evaluator has more certainty in the NPSO estimate of 12.95% than the industry standard. (Lee Rebuttal at 10.)

The Commission is not persuaded that the NPSO analysis is unreliable simply because the analysis contains certain high contractor-specific NPSO values—particularly given that no party presented evidence demonstrating how the results are rendered unreliable as a result of these contractors. To the contrary, the Evaluator presented evidence that the results are representative of the contractor population and achieve a confidence interval in excess of industry standard, proving that the results are reliable. In the Commission’s view, the varying levels of engagement within the contractor survey reflect the reality of the marketplace. If the Commission were to reject the NPSO analysis on this basis, it would set a concerning precedent and likely create unintended consequences. For example, it very well may be the case that having certain contractors that frequently engage in projects under the Custom Programs actually provides benefits to customers through increased expertise and knowledge with respect to the Custom Programs given the greater technical needs of these projects. As a result, the Commission rejects the Public Staff’s recommendation on this point.

- d. Public Staff alleges that the NPSO analysis inappropriately credits NPSO to projects “which were likely to have been ineligible for the [Custom Programs] as well as to projects that were likely to have been installed by opt-out customers who were ineligible for the [Custom Programs].”

Witness Hirons claimed that the Report inappropriately included NPSO benefits from projects and customers (including opt-out customers) that would not have been

eligible for the Custom Programs. (Hirons Direct at 31-32.) As a result, witness Hirons argues that any additional energy savings arising from these projects or these customers should be excluded from the NPSO analysis. (Hirons Direct at 31-32.) With respect to opt-out customers specifically, witness Hirons concluded that including savings associated with opt-out customers in the NPSO analysis actually creates a cross-subsidization in which “DSM/EE rider ratepayers are reimbursing Duke Energy for ineligible lost revenues attributable to opt-out customers.” (Hirons Direct at 30.)

Witness Lee testified that NPSO measures energy savings and demand reductions on the grid as defined in the Pennsylvania Framework, the basis of the Evaluator’s work. (Lee Rebuttal at 11.) The Pennsylvania Framework defines spillover on Page A-7 as follows:

Additional reductions in energy consumption and demand that are due to [energy efficiency] program influences beyond those directly associated with program participation.

Pennsylvania Framework at p. A-7.

Importantly, witness Lee explained that customer eligibility is not a criterion to estimate NPSO. (Lee Rebuttal at 11.) The criteria are if the project: 1) was influenced by the programs, and 2) reduces energy consumption and/or demand. The survey questions asked about “projects similar to what was done through the program” to solicit responses about projects that save energy. (Lee Rebuttal at 11.)

Witness Lee testified that these customers—even if they are ineligible to actually participate in the Custom Programs—are generating real system benefits that should not be discounted simply because they may be unable to participate in the program itself. (Tr. at 141.) In fact, witness Fields explained that benefits arising from NPSO are highly cost-

effective and should be encouraged—regardless of whether those customers or projects are eligible for the Custom Programs. (Tr. at 141-142.) For example, witness Fields noted that in the case of an opt-out customer, they are still creating system benefits, but the Company does not have to pay an incentive to create those benefits. (Tr. at 141-142.) As a result, witness Fields stated that the impacts the Company’s programs have on opted out customers should not be ignored. (Tr. at 142.) Witness Fields further testified that the inclusion of these customers in the NPSO analysis is consistent with the method that the Company has used historically. (Fields Rebuttal at 5.)

The Commission finds that all system benefits resulting from NPSO—regardless of whether the customers or measures would be eligible for the Custom Programs—should be included in the NPSO analysis. To hold otherwise would simply ignore additional energy savings and the associated utility system benefits that would not exist without the Custom Programs and exclude some of the most cost-effective savings created by these programs. Importantly, as witnesses Lee and Fields explained, these benefits are achieved without the Company paying an incentive to these customers, but are the results of the Custom Program existence and the participation of eligible non-residential customers. Likewise, these are benefits that accrue to the entire system and are not somehow distinguishable from other NPSO benefits simply because they arise from opt-out customers or projects that would be ineligible for the program. Creating such a bright-line rule would be arbitrary and difficult to administer. The system benefits created by ineligible customers are no different than those created by eligible customers. Therefore, the Commission declines to remove these benefits from the Company’s NPSO calculation and finds that they were properly included by the Company.

- e. Public Staff alleges that the NPSO estimate in the Report is unreliable because it contains NPSO estimates that are “substantially greater than results from similar evaluations in other states.”

Witness Hirons stated that the NPSO estimates in the Report are “significantly out of line with other recent NPSO estimates, which also calls the Report’s NPSO estimate into question.” (Hirons Direct at 34.) Witness Lee responded by noting that the purpose of collecting data with Duke Energy customers and contractors is to understand the unique markets in which they operate. (Lee Rebuttal at 11.) Witness Lee explained that the difference in results could be due to a number of factors resulting from the specific jurisdiction in which they arise. (Lee Rebuttal at 11-12.) Witness Lee explained that different jurisdictions not only have different markets, but they also have vastly different policy and regulatory contexts affecting program design and delivery and resulting market effects. (Lee Rebuttal at 11-12.) Witness Lee explained that the Evaluator regularly includes benchmarking results in evaluation studies to provide context of how specific program results compare to other programs. (Lee Rebuttal at 11-12.) However, witness Lee cautioned against adjusting primary data results based on benchmarking results as primary data is the most accurate tool to understand unique marketplaces and specific program impacts in those markets. (Lee Rebuttal at 12.) As a result, witness Lee stated that benchmarking results should be viewed only as contextual. (Lee Rebuttal at 12.)

The Commission does not share the concern of Public Staff on this point. Witness Hirons did not provide any specifics as to why achieving a greater NPSO estimate than other jurisdictions would undercut the reliability of the NPSO estimate. Rather, he simply stated that the benchmarking analysis in his testimony “calls the Report’s NPSO estimate into question.” Furthermore the Commission is hesitant to require the Company to alter

underlying data based upon this benchmarking analysis. In this regard, it appears that the data proves the Company's Custom Programs simply created NPSO benefits that exceed other jurisdictions. To hold otherwise would be to bring skepticism to every instance in which the Company's programs vary from other jurisdictions. The Commission declines to adopt such a policy.

3. Public Staff recommendations about future NPSO analysis.

Witness Hirons made six recommendations with respect to future NPSO evaluations by the Company. (Hirons Direct at 34-36.) The record reveals that the Company agrees with three of those recommendations, which relate to increasing transparency, allocating contractor responses by jurisdiction, and including reasonableness checks going forward. (Tr. at 117; Lee Rebuttal at 12-13.) The Commission finds that those recommendations are reasonable and appropriate to include when evaluating the Custom Programs' NPSO. As a result, the Company shall implement them going forward in accordance with witness Lee's rebuttal testimony. (Lee Rebuttal at 12-13.) The Commission addresses the three remaining recommendations below.

- a. Public Staff recommends that the Company weigh savings by measure and project type when evaluating NPSO related to the Custom Programs.

Echoing his recommendation with respect to the analysis in this docket, witness Hirons claimed that weighting NPSO results by measure and project type going forward would align with industry standard and provide a more appropriate measurement of NPSO. (Hirons Direct at 35.) As explained above, witness Lee responded by highlighting the realities of the Custom Programs—which include atypical projects and varying measures. (Lee Rebuttal at 8.) For the same reasons the Commission held that the

Report appropriately weights NPSO results by contractor size, the Commission will not require the Company to weight NPSO results by project size and measure going forward for the Custom Programs. The decision to weight only by contractor size was made by the Evaluator in its expert judgement and is consistent with the Pennsylvania Framework given that the Evaluator also achieved survey responses representative of the contractor population. To the extent the Evaluator (or the Company) decides to weight results by measure and/or project size in subsequent evaluations, it may do so. However, the Commission will not require such weighting.

- b. Public Staff recommends that the Company implement a methodology to remove ineligible projects and customers from the NPSO analysis.

Witness Hirons alleged that removing ineligible projects and customers would provide the Commission with a more accurate picture of NPSO going forward. (Hirons Direct at 35.) As explained above, witness Hirons argued that only projects and customers eligible to participate in the Custom Programs should be included in the NPSO analysis—otherwise, a cross-subsidy would exist. (Hirons Direct at 30.) For the same reasons the Commission denied witness Hirons' request to remove these savings from the Report, the Commission denies his request to remove these savings from subsequent analyses. The system benefits created by ineligible customers and projects are no different than those created by eligible customers and projects. As a result, they should be treated similarly for evaluation purposes and all such benefits should be included in the NPSO estimate going forward.

- c. Public Staff recommends that the Company include a benchmarking analysis for future NPSO evaluations, along with an explanation for any NPSO estimates that are substantially greater than those benchmarking results.

Witness Hirons claimed that the Company should include this benchmarking information in all future NPSO evaluations—regardless of program type. (Hirons Direct at 36.) However, witness Hirons did not provide any details as to how the information would benefit the Commission and did not include any actionable standard that the Commission could implement in the event the NPSO evaluations differ from other jurisdictions. Although the Commission appreciates witness Hirons’ recommendation to provide benchmarking information in these NPSO evaluations going forward, the Commission sees no need to require this information since its purpose is contextual only, as explained by witness Lee. If NPSO estimates are artificially inflated as a result of a flawed methodology, the Commission trusts the record will make that clear. However, the benefit in including benchmarking information does not appear to outweigh the cost and effort it would take to obtain such information for all NPSO evaluations going forward—particularly given that each jurisdiction has varying characteristics that may influence that benchmarking analysis. As a result, the Commission declines to adopt such a requirement.
