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July 21, 2023

VIA ELECTRONIC FILING

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

RE: Joint Proposed Order of Duke Energy Carolinas, LLC and the Public Staff
Docket No. E-7, Sub 1285

Dear Ms. Dunston:

Please find enclosed for filing in the above-referenced docket the Joint Proposed Order of Duke Energy Carolinas, LLC and the Public Staff of the North Carolina Utilities Commission. An electronic copy of the Proposed Order is being emailed to briefs@ncuc.net.

If you have any questions or need additional information, please do not hesitate to contact me.

Sincerely,

Robert W. Kaylor

Robert W. Kaylor

Enclosure

cc: Parties of Record

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 1285

In the Matter of Application of Duke Energy Carolinas, 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	))))))	JOINT PROPOSED ORDER OF DUKE ENERGY CAROLINAS, LLC, AND THE PUBLIC STAFF APPROVING DSM/EE RIDER AND REQUIRING FILING OF PROPOSED CUSTOMER NOTICE

HEARD: On Tuesday, May 30, 2023, in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner ToNola D. Brown-Bland, Presiding; Chair Charlotte A. Mitchell; and Commissioners Daniel G. Clodfelter, Kimberly W. Duffley, Jeffrey A. Hughes, Floyd B. McKissick, Jr. and Karen M. Kemerait

APPEARANCES:

For Duke Energy Carolinas, LLC:

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For the Carolina Industrial Group for Fair Utility Rates III:

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For the Carolina Utility Customers Association:

Marcus W. Trathen
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For the North Carolina Justice Center, North Carolina Housing Coalition, and the Southern Alliance for Clean Energy:

Munashe Magarira
Southern Environmental Law Center
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For the Using and Consuming Public:

Anne M. Keyworth
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BY THE COMMISSION: N.C. Gen. Stat. § 62-133.9(d) authorizes the North Carolina Utilities Commission ("Commission") to approve an annual rider to the rates of electric public utilities, outside of a general rate case, for recovery of all reasonable and prudent costs incurred for adoption and implementation of new demand-side management ("DSM") and energy efficiency ("EE") measures. The Commission is also authorized to award incentives to electric companies for adopting and implementing new DSM/EE measures, including, but not limited to, appropriate rewards based on (1) the sharing of savings achieved by the DSM and EE measures and/or (2) the capitalization of a percentage of avoided costs achieved by the measures. Commission Rule R8-69(b) provides that every year the Commission will conduct a proceeding for each electric public utility to establish an annual DSM/EE rider to recover the reasonable and prudent costs incurred by the electric utility in adopting and implementing new DSM/EE measures previously approved by the Commission pursuant to Commission Rule R8-68. Further, Commission Rule R8-69(b) provides for the establishment of a DSM/EE experience modification factor ("EMF") rider to allow the electric public utility to collect the difference between the reasonable and prudently incurred costs and the revenues that were realized during the test period under the DSM/EE rider then in effect. Additionally, Commission Rule R8-69(c) permits the utility to request the inclusion of utility incentives (the rewards authorized by the statute), including net lost revenues ("NLR"), in the DSM/EE rider and the DSM/EE EMF rider.

In the present proceeding, Docket No. E-7, Sub 1285, on February 28, 2023, Duke Energy Carolinas, LLC ("DEC" or the "Company") filed an application for approval of its DSM/EE rider ("Rider EE"[1] or "Rider 15") for 2024[2] ("Application") and the direct testimony and exhibits of Shannon R. Listebarger, Rates and Regulatory Strategy Manager for DEC, and Casey Q. Fields – Strategy and Collaboration Manager for the Carolinas in the Company's Customer Solutions Regulatory Enablement group. On March 7, 2023, DEC filed a correction to Fields' Exhibits D-J, due to technical difficulties in transmitting the exhibits.

On March 16, 2023, the Commission issued an order scheduling a hearing for May 30, 2023, establishing discovery guidelines, providing for intervention and

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[1] DEC refers to its DSM/EE Rider as "Rider EE"; however, this rider includes charges intended to recover both DSM and EE revenue requirements.

[2] The Rider EE proposed in this proceeding is the Company's fifteenth Rider EE and includes components that relate to Vintages 2018, 2019, 2020, 2021, 2022, 2023, and 2024 of the cost and incentive recovery mechanism(s) approved in Docket No. E-7, Sub 1032, as modified in Docket No. E-7, Sub 1130. For purposes of clarity, the aggregate rider is referred to in this Order as "Rider 15" or the proposed "Rider EE." Rider 15 is proposed to be effective for the rate period January 1, 2024, through December 31, 2024.

testimony by other parties, and requiring public notice. DEC subsequently filed the affidavits of publication for the public notice as required by the Commission's March 16, 2023 Order.

The intervention of the Public Staff – North Carolina Utilities Commission ("Public Staff") is recognized pursuant to N.C. Gen. Stat. § 62-15(d) and Commission Rule R1-19(e). On March 27, 2023, the Carolina Utility Customers Association, Inc. ("CUCA") filed a petition to intervene, which was granted on March 28, 2023. On April 10, 2023, the Carolina Industrial Group for Fair Utility Rates III ("CIGFUR") filed a petition to intervene, which was granted on April 12, 2023. On April 24, 2023, CIGFUR filed the notice of appearance of Douglas W. Conant. On May 8, 2023, the North Carolina Justice Center ("NC Justice Center"), the North Carolina Housing Coalition ("NC Housing Coalition"), and the Southern Alliance for Clean Energy ("SACE" and, collectively, "NC Justice Center, et al.") filed a petition to intervene, which was granted on May 11, 2023.

On April 28, 2023, DEC filed the supplemental testimony and exhibits of Carolyn T. Miller, adopting the previously filed direct testimony and exhibits of Shannon R. Listebarger filed on February 28, 2023, and the supplemental testimony and exhibits of Casey Q. Fields.

On May 9, 2023, the Public Staff filed the testimony and exhibits of David M. Williamson, Utilities Engineer in the Energy Division, and Hemanth Meda, Public Utilities Regulatory Analyst in the Accounting Division.

On May 25, 2023, DEC and the Public Staff filed a joint motion to excuse all witnesses from appearing at the May 30, 2023 hearing scheduled in this docket and that the testimony and exhibits of the respective witnesses be received into the record.

On May 26, 2023, DEC filed a motion for leave to file direct testimony and exhibits of Carolyn T. Miller adopting the previously filed direct testimony and exhibits of Shannon R. Listebarger pursuant to Commission Rule R1-7. On May 26, 2023, the Commission granted the motion.

Also on May 26, 2023, DEC and the Public Staff withdrew their joint motion to excuse witnesses from appearing at the May 30, 2023 hearing.

The case came on for hearing as scheduled on May 30, 2023. No public witnesses appeared at the hearing.

On June 20, 2023, the Commission issued a notice requiring briefs and proposed orders to be filed by July 21, 2023.

On July 21, 2023, proposed orders were filed.

Other Pertinent Proceedings: Docket No. E-7, Subs 831, 938, 979, 1032, 1130, and 1164

On February 9, 2010, the Commission issued an *Order Approving Agreement and Joint Stipulation of Settlement Subject to Certain Commission-Required Modifications and Decisions on Contested Issues* in DEC's first DSM/EE rider proceeding, Docket No. E-7, Sub 831 ("Sub 831 Order"). In the Sub 831 Order, the Commission approved, with certain modifications, the Agreement and Joint Stipulation of Settlement between DEC, the Public Staff, SACE, Environmental Defense Fund ("EDF"), Natural Resources Defense Council ("NRDC"), and the Southern Environmental Law Center ("SELC") ("Sub 831

Settlement"), which described the modified Save-A-Watt mechanism ("Sub 831 Mechanism"), pursuant to which DEC calculated, for the period from June 1, 2009 until December 31, 2013, the revenue requirements underlying its DSM/EE riders based on percentages of avoided costs, plus compensation for NLR resulting from EE programs only. The Sub 831 Mechanism was approved as a pilot with a term of four years, ending on December 31, 2013.

On February 15, 2010, the Company filed an Application for Waiver of Commission Rule R8-69(a)(4) and R8-69(a)(5) in Docket No. E-7, Sub 938 ("Sub 938 Waiver Application"), requesting waiver of the definitions of "rate period" and "test period." Under the Sub 831 Mechanism, customer participation in the Company's DSM and EE programs and corresponding responsibility to pay Rider EE were determined on a vintage year basis. A vintage year is generally the 12-month period in which a specific DSM or EE measure is installed for an individual participant or group of participants.[3] The Company applied the vintage year concept on a calendar-year basis to the modified Save-A-Watt portfolio of programs for ease of administration for the Company and customers. Pursuant to the Sub 938 Waiver Application, "test period" is defined as the most recently completed vintage year at the time of the Company's DSM/EE rider application filing date.

On April 6, 2010, the Commission entered an *Order Granting Waiver, in Part, and Denying Waiver, in Part*. In this Order, the Commission approved the

[3] Vintage 1 is an exception in terms of length. Vintage 1 is a 19-month period beginning June 1, 2009, and ending December 31, 2010, because of the approval of DSM/EE programs prior to the approval of the cost recovery mechanism.

requested waiver of R8-69(d)(3) in part, but it denied the Company's requested waiver of the definitions of "rate period" and "test period."

On May 6, 2010, DEC filed a Motion for Clarification or, in the Alternative, for Reconsideration, asking that the Commission reconsider its denial of the waiver of the definitions of "test period" and "rate period," and that the Commission clarify that the EMF may incorporate adjustments for multiple test periods. In response, the Commission issued an *Order on Motions for Reconsideration* on June 3, 2010 ("Sub 938 Second Waiver Order"), granting DEC's Motion. The Sub 938 Second Waiver Order established that the rate period for Rider EE would align with the 12-month calendar year vintage concept utilized in the Commission-approved Save-A-Watt approach (in effect, the calendar year following the Commission's order in each annual DSM/EE cost recovery proceeding), and that the test period for Rider EE would be the most recently completed vintage year at the time of the Company's Rider EE cost recovery application filing date.[4]

On February 8, 2011, in Docket No. E-7, Sub 831, the Commission issued its *Order Adopting "Decision Tree" to Determine "Found Revenues" and Requiring Reporting in DSM/EE Cost Recovery Filings* ("Sub 831 Found Revenues Order"), which included a "Decision Tree" to identify, categorize, and net possible found revenues against the NLR created by the Company's EE programs. Found

[4] Further, in the Sub 938 Second Waiver Order issued June 3, 2010, the Commission concluded that DEC should true-up all costs during the Save-A-Watt pilot through the EMF rider provided in Commission Rule R8-69(b)(1). The modified Save-A-Watt approach approved in the Sub 831 Order required a final calculation after the completion of the four-year program, comparing the cumulative revenues collected related to all four vintage years to amounts due the Company, taking into consideration the applicable earnings cap.

revenues may result from activities that directly or indirectly result in an increase in customer demand or energy consumption within the Company's service territory.

On November 8, 2011, in Docket No. E-7, Sub 979, the Commission issued its *Order Approving DSM/EE Rider and Requiring Filing of Proposed Customer Notice*, in which it approved the Evaluation, Measurement, and Verification ("EM&V") agreement ("EM&V Agreement") reached by the Company, SACE, and the Public Staff. Pursuant to the EM&V Agreement, for all EE programs, except for the Non-Residential Smart $aver Custom Rebate Program and the Low-Income EE and Weatherization Assistance Program, actual EM&V results are applied to replace all initial impact estimates back to the beginning of the program offering. For the purposes of the vintage true-ups, these initial EM&V results will be considered actual results for a program until the next EM&V results are received. The new EM&V results will then be considered actual results going forward and will be applied prospectively for the purposes of truing up vintages from the first day of the month immediately following the month in which the study participation sample for the EM&V was completed. These EM&V results will then continue to apply and be considered actual results until superseded by new EM&V results, if any. For all new programs and pilots, the Company will follow a consistent methodology, meaning that initial estimates of impacts will be used until DEC has valid EM&V results, which will then be applied back to the beginning of the offering and will be considered actual results until a second EM&V is performed.

On February 6, 2012, in the Sub 831 docket, the Company, SACE, and the Public Staff filed a proposal regarding revisions to the program flexibility requirements ("Flexibility Guidelines"). The proposal divided potential program changes into three categories based on the magnitude of the change, with the most significant changes requiring regulatory approval by the Commission prior to implementation, less extensive changes requiring advance notice prior to making such program changes, and minor changes being reported on a quarterly basis to the Commission. The Commission approved the joint proposal in its July 16, 2012 *Order Adopting Program Flexibility Guidelines*.

On October 29, 2013, the Commission issued its *Order Approving DSM/EE Programs and Stipulation of Settlement* in Docket No. E-7, Sub 1032 ("2013 Sub 1032 Order"), which approved a new cost recovery and incentive mechanism for DSM/EE programs ("2013 Mechanism") and a portfolio of DSM and EE programs to be effective January 1, 2014, to replace the cost recovery mechanism and portfolio of DSM and EE programs approved in Docket No. E-7, Sub 831. In the 2013 Sub 1032 Order, the Commission approved an Agreement and Stipulation of Settlement, filed on August 19, 2013, and amended on September 23, 2013, by and between DEC, NCSEA, the EDF, SACE, the South Carolina Coastal Conservation League, the Natural Resources Defense Council, the Sierra Club, and the Public Staff ("Stipulating Parties"), which incorporates the 2013 Mechanism ("2013 Sub 1032 Stipulation").

Under the 2013 Sub 1032 Stipulation, as approved by the Commission, the portfolio of DSM and EE programs filed by the Company was approved with no specific duration (unlike the programs approved in Sub 831, which explicitly expired on December 31, 2013). Additionally, the 2013 Sub 1032 Stipulation also provided that the Company's annual DSM/EE rider would be determined according to the 2013 Sub 1032 Stipulation and the terms and conditions set forth in the 2013 Mechanism, until otherwise ordered by the Commission. Under the 2013 Sub 1032 Stipulation, the 2013 Mechanism was to be reviewed in four years. Pursuant to the 2013 Sub 1032 Stipulation, any proposals for revisions to the 2013 Mechanism were to be filed by parties along with their testimony in the annual DSM/EE rider proceeding.

The overall purpose of the 2013 Mechanism (and the subsequent iterations of the Mechanism discussed later in this Order) is to (1) allow DEC to recover all reasonable and prudent costs incurred for adopting and implementing new DSM and EE measures; (2) establish certain requirements, in addition to those of Commission Rule R8-68, for requests by DEC for approval, monitoring, and management of DSM and EE programs; (3) establish the terms and conditions for the recovery of NLR (net of found revenues) and a Portfolio Performance Incentive ("PPI") to reward DEC for adopting and implementing new DSM and EE measures and programs; and (4) provide an additional incentive to further encourage kilowatt-hour ("kWh") savings achievements. The 2013 Mechanism also included the following provisions, among several others: (a) it shall continue until terminated pursuant to Commission order; (b) modifications to Commission-approved DSM/EE programs will be made using the Flexibility Guidelines; (c) treatment of opted-out and opted-in customers will continue to be guided by the Commission's Orders in Docket No. E-7, Sub 938, with the addition of another opt-in period during the first week in March of each year; (d) the EM&V Agreement shall continue to govern the application of EM&V results; and (e) the determination of found revenues will be made using the Decision Tree approved in the Sub 831 Found Revenues Order. Like the Sub 831 Mechanism, the 2013 Mechanism also employs a vintage year concept based on the calendar year.[5] Unless specified otherwise therein, the later iterations of the 2013 Mechanism generally continue to reflect these provisions.

On August 23, 2017, in Docket No. E-7, Sub 1130 ("Sub 1130"), the Commission issued its *Order Approving DSM/EE Rider, Revising DSM/EE Mechanism, and Requiring Filing of Proposed Customer Notice* ("Sub 1130 Order"), in which it approved the agreement to revise certain provisions of the 2013 Mechanism reached by the Company and the Public Staff.

Paragraph 69 of the 2013 Mechanism, which describes how avoided costs are determined for purposes of calculating the PPI, was revised such that for Vintage 2019 and beyond, the program-specific avoided capacity benefits and avoided energy benefits will be derived from the underlying resource plan, production cost model, and cost inputs that generated the avoided capacity and avoided energy credits reflected in the most recent Commission-approved Biennial Determination of Avoided Cost Rates as of December 31 of the year immediately preceding the annual DSM/EE rider filing date. For the calculation of the underlying avoided energy credits to be used to derive the program-specific avoided energy benefits, the calculation will be based on the projected EE portfolio

[5] Each vintage under the 2013 Mechanism and subsequent revisions of the Mechanism is referred to by the calendar year of its respective rate period (e.g., Vintage 2021).

hourly shape, rather than the assumed 24x7 100-megawatt ("MW") reduction typically used to represent a qualifying facility ("QF").

Paragraph 19 of the 2013 Mechanism was revised to specify that the avoided costs used for purposes of program approval filings would also be determined using the method outlined in revised Paragraph 69. The specific Biennial Determination of Avoided Cost Rates used for each program approval filing would be derived from the rates most recently approved by the Commission as of the date of the program approval filing.

Paragraph 23 of the 2013 Mechanism was revised, and Paragraphs 23A-D were added, to specify which avoided costs should be used for determining the continuing cost-effectiveness of programs and actions to be taken based on the results of those tests. Pursuant to Paragraph 23, each year the Company would file an analysis of the current cost-effectiveness of each of its DSM/EE programs as part of the DSM/EE rider filing. New Paragraph 23A required the use of the same method for calculating the avoided costs outlined in the revisions to Paragraph 69 to determine the continued cost-effectiveness for each program. Like revised Paragraph 69, Paragraph 23A specified that the avoided capacity and energy costs used to calculate cost-effectiveness would be derived from the avoided costs underlying the most recent Commission-approved Biennial Determination of Avoided Cost Rates as of December 31 of the year immediately preceding the annual DSM/EE rider filing date. New Paragraphs 23B through 23D address the steps that will be taken if specific DSM/EE programs continue to produce Total Resource Cost ("TRC") test results less than 1.00 for an extended period. For any program that initially demonstrates a TRC of less than 1.00, the Company shall include in its annual DSM/EE rider filing a discussion of the actions being taken to maintain or improve cost-effectiveness, or alternatively, its plans to terminate the program. If a program demonstrates a prospective TRC of less than 1.00 in a second DSM/EE rider proceeding, the Company shall include a discussion of what actions it has taken to improve cost-effectiveness. If a program demonstrates a prospective TRC of less than 1.00 in a third DSM/EE rider proceeding, the Company shall terminate the program effective at the end of the year following the DSM/EE rider order, unless otherwise ordered by the Commission. The Sub 1032 Mechanism, as revised by the Sub 1130 Order, is referred to herein as the "2017 Mechanism."

On October 20, 2020, in Docket Nos. E-2, Sub 931, and E-7, Sub 1032, the Commission issued its *Order Approving Revisions to Demand-Side Management and Energy Efficiency Cost Recovery Mechanisms* ("2020 Sub 1032 Order"), in which it approved a revised prospective Mechanism ("2020 Mechanism"). The 2020 Mechanism includes the following substantive changes to the 2017 Mechanism that are applicable to DEC: (1) addition of a Program Return Incentive ("PRI"), an incentive to encourage DEC to pursue savings from existing and new low-income DSM/EE programs, and to maintain and increase the cost-effectiveness of these programs; (2) reduction of the PPI to 10.60%; (3) addition of a cap and floor on the PPI with a maximum margin of 19.50% for Vintage Year 2022 and afterward, and a minimum margin over aggregate pre-tax program costs for PPI eligible programs of 10% for Vintage Year 2022, 6% for Vintage Year 2023, and 2.50% for Vintage Year 2024 and afterward; (4) an assessment of whether it is appropriate to use non-energy benefits in the determination of cost-effectiveness under the TRC; (5) clarification that bundled measures must be consistent with and related to the measure technologies or delivery channels of a program, unless otherwise ordered by the Commission; (6) use of the Utility Cost Test ("UCT") to determine the cost-effectiveness of new and ongoing programs; (7) a review of Avoided Transmission and Distribution ("T&D") Costs no later than December 31, 2021; and (8) an additional incentive of $500,000 if the Company achieves annual energy savings of 1.0% of the prior year's system retail electricity sales in any year during 2022 through 2025, and a penalty of a $500,000 reduction in its EE revenue requirement if the Company fails to achieve annual energy savings of 0.5% of retail sales, net of sales associated with customers opting out of the Company's EE programs. The 2020 Mechanism is effective for vintage years beginning with Vintage Year 2022; thus, the 2017 Mechanism applies to costs recovered through the EMF in this proceeding, while the 2020 Mechanism applies prospectively to costs projected and eventually trued-up for Vintage Year 2022. Therefore, this cost recovery proceeding falls under the Commission's Sub 1032 Orders approving both the 2017 Mechanism and the 2020 Mechanism. (Sub 1032 Orders.)

Based upon consideration of DEC's Application, the pleadings, the testimony, and exhibits received into evidence at the hearing, the parties' briefs, and the record as a whole, the Commission now makes the following:

FINDINGS OF FACT

1. DEC is a public utility with a public service obligation to provide electric utility service to customers in its service area in North Carolina and is subject to the jurisdiction of the Commission.

2. The Commission has jurisdiction over this Application pursuant to the Public Utilities Act. The Commission has the authority to consider and approve or modify the specific recovery of costs and incentives the Company is seeking in this docket.

3. For purposes of this proceeding, DEC has requested approval of costs and incentives related to the following DSM/EE programs to be included in Rider 15: Energy Assessment Program; EE Education Program; Energy Efficient Appliances and Devices Program; Residential Smart $aver EE Program; Multifamily EE Program; My Home Energy Report Program; Income-Qualified EE and Weatherization for Individuals; Residential Neighborhood Energy Saver; New Construction; Power Manager Load Control Service Program; Non-Residential Smart $aver Energy Efficient Food Service Products Program; Non-Residential Smart $aver Energy Efficient HVAC Products Program; Non-Residential Smart $aver Energy Efficiency IT Products Program; Non-Residential Smart $aver Energy Efficient Lighting Products Program; Non-Residential Smart $aver Energy

Efficient Process Equipment Products Program; Non-Residential Smart $aver Energy Efficient Pumps and Drives Products Program; Non-Residential Smart $aver Custom Incentive and Energy Assessment Program; PowerShare; Business Energy Saver Program; EnergyWise for Business; and Non-Residential Smart $aver Performance Incentive Program.

4. Pursuant to Paragraph 19 of the 2017 Mechanism and Paragraph 20 of the 2020 Mechanism, the Income-Qualified EE and Weatherization Program is not required to pass the TRC or UCT tests to be eligible for inclusion in the Company's portfolio.

5. The Information Technology measure of the Non-Residential Smart $aver Program should be closed to new participants until it can be proven to be cost-effective.

6. For purposes of inclusion in Rider 15, the Company's portfolio of DSM and EE programs is cost-effective;

7. The EM&V reports filed as Fields Exhibits A, B, C, D, E, G, H, and I are acceptable for purposes of this proceeding and should be considered complete for purposes of calculating program impacts. Fields Exhibit F is being reviewed in DEP Rider 15 and any potential recommendations regarding it will be made in DEC Rider 16.

8. Pursuant to the Commission's Sub 938 Second Waiver Order and the Sub 1032 Orders, the rate period for purposes of this proceeding is January 1, 2024, through December 31, 2024.

9. Rider 15 includes EMF components for Vintage 2022 DSM and EE programs. Consistent with the Sub 938 Second Waiver Order and the Sub 1032 Orders, the test period for these EMF components is the period from January 1, 2022 through December 31, 2022 ("Vintage 2022").

10. DEC's proposed rates for Rider 15 are comprised of both prospective and EMF components. The prospective components include factors designed to collect estimated program costs, PPI, and PRI for the Company's Vintage 2024 DSM and EE programs, as well as estimated NLR for the Company's Vintage 2021-2024 EE programs. The EMF components include the whole or partial true-up of Vintage 2022 program costs, NLR, and PPI, as well as whole or partial true-ups of NLR and PPI for Vintage Years 2016, 2017, 2018, 2019, and 2020.

11. DEC has appropriately calculated the components of Rider 15 to reflect the Commission's findings and conclusions in this Order, as well as the Commission's findings and conclusions as set forth in the 2013 Sub 1032 Order, as revised by the Sub 1130 Order, and the 2020 Sub 1032 Order.

12. The reasonable and prudent Rider 15 billing factor for residential customers is 0.3775 cents per kWh as shown on Miller's Supplemental testimony and Exhibits,[6] which, as is the case for all the billing factors stated in these findings of fact, includes the regulatory fee.

[6] The residential billing factor applicable to all residential customers is the sum of the residential prospective and residential true-up factors for the applicable vintage years.

13. The reasonable and prudent Rider 15 Vintage 2024 EE prospective billing factor for non-residential customers not opting out of Vintage 2024 of the Company's EE programs is 0.3869 cents per kWh.

14. The reasonable and prudent Rider 15 Vintage 2024 DSM prospective billing factor for non-residential customers not opting out of Vintage 2024 of the Company's DSM programs is 0.0897 cents per kWh.

15. The reasonable and prudent Rider 15 Vintage 2023 prospective EE billing factor for non-residential customers participating in Vintage 2023 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2023 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is 0.0802 cents per kWh.

16. The reasonable and prudent Rider 15 Vintage 2022 prospective EE billing factor for non-residential customers participating in Vintage 2022 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2022 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is 0.0468 cents per kWh.

17. The reasonable and prudent Rider 15 Vintage 2021 prospective EE billing factor for non-residential customers participating in Vintage 2021 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2021 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is 0.0313 cents per kWh.

18. The reasonable and prudent Rider 15 Vintage 2022 EE EMF billing factor for non-residential customers participating in Vintage 2022 of the Company's

EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2022 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is (0.1746) cents per kWh as shown on Miller's Supplemental Testimony and Exhibits.

19. The reasonable and prudent Rider 15 Vintage 2022 DSM EMF billing factor for non-residential customers participating in Vintage 2022 of the Company's DSM programs (or those not participating, but neither (a) explicitly opting out of Vintage 2022 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is (0.0023) cents per kWh as shown on Miller's Supplemental Testimony and Exhibits.

20. The reasonable and prudent Rider 15 Vintage 2021 EE EMF billing factor for non-residential customers participating in Vintage 2021 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2021 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is (0.0082) cents per kWh as shown on Miller's Supplemental Testimony and Exhibits.

21. The reasonable and prudent Rider 15 Vintage 2021 DSM EMF billing factor for non-residential customers participating in Vintage 2021 of the Company's DSM programs (or those not participating but neither (a) explicitly opting out of Vintage 2021 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is (0.0073) cents per kWh as shown on Miller's Supplemental Testimony and Exhibits.

22. The reasonable and prudent Rider 15 Vintage 2020 EE EMF billing factor for non-residential customers participating in Vintage 2020 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2020 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is (0.0068) cents per kWh as shown on Miller's Supplemental Testimony and Exhibits.

23. The reasonable and prudent Rider 15 Vintage 2020 DSM EMF billing factor for non-residential customers participating in Vintage 2020 of the Company's DSM programs (or those not participating, but neither (a) explicitly opting out of Vintage 2020 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is 0.0002 cents per kWh as shown on Miller's Supplemental Testimony and Exhibits.

24. The reasonable and prudent Rider 15 Vintage 2019 EE EMF billing factor for non-residential customers participating in Vintage 2019 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2019 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is (0.0014) cents per kWh as shown on Miller's Supplemental Testimony and Exhibits.

25. The reasonable and prudent Rider 15 Vintage 2019 DSM EMF billing factor for non-residential customers participating in Vintage 2019 of the Company's DSM programs (or those not participating, but neither (a) explicitly opting out of Vintage 2019 during the annual enrollment period for that vintage, nor (b) opting

out of Vintage 2024) is (0.0001) cents per kWh as shown on Miller's Supplemental Testimony and Exhibits.

26. The reasonable and prudent Rider 15 Vintage 2018 EE EMF billing factor for non-residential customers participating in Vintage 2018 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2018 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is (0.0001) cents per kWh as shown on Miller's Supplemental Testimony and Exhibits.

27. The reasonable and prudent Rider 15 Vintage 2018 DSM EMF billing factor for non-residential customers participating in Vintage 2018 of the Company's DSM programs (or those not participating, but neither (a) explicitly opting out of Vintage 2018 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2024) is 0.0000 cents per kWh as shown on Miller's Supplemental Testimony and Exhibits.

28. DEC should continue to leverage its collaborative stakeholder meetings ("Collaborative") to work with stakeholders to garner meaningful input regarding potential portfolio enhancement and program design, as well as to address forecasted savings.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-2

The evidence and legal bases in support of these findings and conclusions can be found in the Application, the pleadings, the testimony, and the exhibits in this docket, as well as in the statutes, case law, and rules governing the authority and jurisdiction of this Commission. These findings are informational, procedural, and jurisdictional in nature.

North Carolina General. Statute § 62-133.9 authorizes the Commission to approve an annual rider, outside of a general rate case, for recovery of reasonable and prudent costs incurred in the adoption and implementation of new DSM and EE measures, as well as appropriate rewards for adopting and implementing those measures. Similarly, Commission Rule R8-68 provides, among other things, that reasonable and prudent costs of new DSM or EE programs approved by the Commission shall be recovered through the annual rider described in N.C. Gen. Stat. § 62-133.9 and Commission Rule R8-69. The Commission may also consider in the annual rider proceeding whether to approve any utility incentive (reward) pursuant to N.C. Gen. Stat. § 62-133.9(d)(2) a. through c.

Commission Rule R8-69 outlines the procedure whereby a utility applies for, and the Commission establishes, an annual DSM/EE rider. Commission Rule R8-69(a)(2) defines DSM/EE rider as "a charge or rate established by the Commission annually pursuant to N.C. Gen. Stat. § 62-133.9(d) to allow the electric public utility to recover all reasonable and prudent costs incurred in adopting and implementing new demand-side management and energy efficiency measures after August 20, 2007, as well as, if appropriate, utility incentives, including net lost revenues." Commission Rule R8-69(c) allows a utility to apply for recovery of incentives for which the Commission will determine the appropriate ratemaking treatment.

North Carolina General Statute § 62-133.9, along with Commission Rules R8-68 and R8-69, establish a procedure whereby an electric public utility files an application in a unique docket for the Commission's approval of an annual rider for recovery of reasonable and prudent costs of approved DSM and EE programs. The procedure outlined in N.C. Gen. Stat. § 62-133.9 and Commission Rules R8-68 and R8-69 also allow an electric public utility to recover appropriate utility incentives, potentially including "[a]ppropriate rewards based on capitalization of a percentage of avoided costs achieved by demand-side management and energy efficiency measures." Consistent with this provision, as well as Commission-approved Mechanisms, the Company filed an application for approval of such annual rider, designated by DEC as Rider 15. The cost recovery and utility incentives the Company seeks through Rider 15 are based on the Company recovering DSM/EE program costs, NLR, a PPI incentive related to the DSM and EE programs, as approved in the 2013 Sub 1032 Order, and a PRI incentive as approved in the 2020 Sub 1032 Order, for those programs approved following the 2013 Sub 1032 Order. Recovery of these costs and utility incentives is also consistent with N.C. Gen. Stat. § 62-133.9, Rule R8-68, and Rule R8-69. Therefore, the Commission concludes that it has the authority to consider and approve the cost recovery and incentives the Company is seeking in this docket.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The evidence for this finding and conclusion can be found in DEC's Application, the testimony and exhibits of Company witnesses Fields and Miller, the testimony of Public Staff witness Williamson and Meda, and various Commission orders.

DEC witnesses Miller's and Fields's testimony and exhibits show that the Company's request for approval of Rider 15 is associated with the Sub 1032 portfolio of programs, as well as the programs approved by the Commission after the 2013 Sub 1032 Order. The direct testimony and exhibits of DEC witness Fields listed the applicable DSM/EE programs as follows: Energy Assessment Program; EE Education Program; Energy Efficient Appliances and Devices Program; Residential Smart $aver EE Program; Multifamily EE Program; My Home Energy Report Program; Income-Qualified EE and Weatherization Program for Individuals; Neighborhood Energy Saver Program; New Construction; Power Manager Load Control Service Program; Non-Residential Smart $aver Energy Efficient Food Service Products Program; Non-Residential Smart $aver Energy Efficient HVAC Products Program; Non-Residential Smart $aver Energy Efficient IT Products Program; Non-Residential Smart $aver Energy Efficient Lighting Products Program; Non-Residential Smart $aver Energy Efficient Process Equipment Products Program; Non-Residential Smart $aver Energy Efficient Pumps and Drives Products Program; Non-Residential Smart $aver Custom Incentive and Energy Assessments Program; PowerShare Non-Residential and Load Curtailment Program; Business Energy Saver; EnergyWise for Business Program; and Non-Residential Smart $aver Performance Incentive Program. (Tr. at 20-21.)

In his testimony, Public Staff witness Williamson listed the same DSM/EE programs as those for which the Company seeks cost recovery. (Tr. at 75-76.)

Thus, the Commission finds and concludes that each of the programs listed by witnesses Fields and Williamson have received Commission approval as a new DSM or EE program and is, therefore, eligible for cost recovery in this proceeding under N.C. Gen. Stat. § 62-133.9.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 4-6

The evidence for these findings and conclusions can be found in the testimony and exhibits of Company witnesses Fields, the testimony and exhibits of Public Staff witnesses Williamson and Meda, the 2017 Mechanism and the 2020 Mechanism.

DEC witness Fields testified that the Company has also begun working with its third-party EM&V vendor to initiate in the first quarter of 2023 its study of persistence of the MyHER program's energy savings. (Tr. at 18.)

DEC witness Fields testified that the Company performed prospective analyses of each of its programs in its DSM/EE portfolio and the aggregate portfolio for the Vintage 2024 period. DEC's calculations indicate that, except for the Income-Qualified EE and Weatherization Program (which was not cost-effective at the time of Commission approval) and the Information Technology element of the Non-Residential Smart $aver Program, the aggregate portfolio continues to project cost-effectiveness. Witness Fields testified that closing the Information Technology subcategory of the Non-Residential Smart $aver Program to new participation would be appropriate until it can be proven to be cost-effective. (Tr. at 22-23.)

With regard to the MyHER program, DEC witness Fields testified that the Company has begun working with its third-party EM&V vendor to initiate in the first quarter of 2023 its study of persistence of the MyHER program's energy savings. (Tr. at 18.)

Based on witness Fields' review of the cost-effectiveness tests, with the exception of closing the Information Technology subcategory of the Non-Residential Smart $aver Program to new participation, the Company did not find it reasonable to discontinue any of the programs or measures at this time. Witness Fields indicated that the Company would continue, however, to examine its programs for potential modifications to increase their effectiveness, regardless of the current cost-effectiveness results. (Tr. at 22-23.)

Public Staff witness Williamson stated in his testimony that the Public Staff reviewed DEC's calculations of cost-effectiveness under each of the four standard cost-effectiveness tests: UCT, TRC test, Participant test, and Ratepayer Impact Measure (RIM) test. (Tr. at 77.) The Public Staff also compared the cost-effectiveness test results in previous DSM/EE proceedings to the current filing and developed a trend of cost-effectiveness that serves as the basis for its recommendation of whether a program should be terminated. (Tr. at 79-80.) Witness Williamson testified that during his review of cost effectiveness, the Company acknowledged that it had not applied the correct avoided cost methodology to the supporting files of Vintage Year 2024's projected cost-effectiveness and the associated PPI and PRI calculations. He testified that the applicable avoided cost sourcing that complies with paragraph 77 of the 2020 Mechanism are the rates approved in the Biennial Determination of Avoided Cost Rates for Electric Public Utility Purchases from Qualifying Facilities issued on November 22, 2022, in Docket No. E-100, Sub 175. He further testified that working with the Company to assess what the impacts would have been if the correct avoided costs were applied illustrated that the impacts were minimal because of the nearly-offsetting effects of decreasing avoided capacity rates and increasing avoided energy rates. (Tr., 80-82) Based on this review, Public Staff witness Williamson testified that the Public Staff believes that the updated projected cost-effectiveness for Vintage Year 2024 and the historical performance of the Company's programs are reasonable. (Tr. at 82-83.)

Discussion and Conclusions

Based upon the foregoing, the Commission concludes that for purposes of inclusion in Rider 15, the Company's aggregate DSM/EE portfolio projects cost-effectiveness. The Company will continue to update the Commission on the progress of the MyHER persistence study in the annual rider proceedings until the report is final and filed with the Commission. With the exception of the Information Technology element of the Non-Residential Smart $aver Program, no party recommended terminating, modifying or excluding any programs or measures or any programs or measures from Rider 15, and the Commission will not order the Company to modify or terminate any of its DSM/EE programs in this proceeding. With respect to the Information Technology element of the Non-Residential Smart

$aver Program, the Commission orders that these measures will be closed to new participation until it can be proven to be cost-effective.

Based on the foregoing, DEC's DSM/EE portfolio is approved as described above for inclusion in Rider 15.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence in support of this finding and conclusions can be found in the testimony and exhibits of DEC witness Fields and the testimony and exhibits of Public Staff witness Williamson.

DEC witness Fields testified regarding the EM&V process, activities, and results presented in this proceeding. He explained that the EMF component of Rider 15 incorporates actual customer participation and evaluated load impacts determined through EM&V and applied pursuant to the EM&V Agreement. In addition, actual participation and evaluated load impacts are used prospectively to update estimated NLR. (Tr. at 27.) In this proceeding, the Company submitted as exhibits to witness Fields's testimony detailed, completed EM&V reports or updates for the following programs: MyHER Program Evaluation (Fields Exhibit A); EM&V Report for the Duke Energy Multifamily Energy Efficiency Program (Fields Exhibit B); Duke Energy Progress & Duke Energy Carolinas Neighborhood Energy Saver Program - 2021 Evaluation Report - FINAL (Fields Exhibit C); EM&V Report for the Duke Energy Small Business Energy Saver Program 2019-2020 (Revised) (Fields Exhibit D); EM&V Report for the Duke Energy 2020/2021 EnergyWise Business Program (Fields Exhibit E); Smart $aver Non-Residential Custom Program Years 2018-2019 Evaluation Report (Fields Exhibit F); 2021 Power

Manager Evaluation Report (Includes Bring Your Own Thermostat) (Fields Exhibit G); Duke Energy Carolinas & Duke Energy Progress Retail Lighting Program - 2022 Evaluation Report – Final (Fields Exhibit H); and Duke Energy Carolinas Low Income Weatherization Program (2019-2020) Evaluation Report (Fields Exhibit I).

In his testimony, Public Staff witness Williamson testified that, based on his review of the EM&V reports filed in this proceeding and his discussions with the Company, it was determined that Fields Exhibit F would continue review in DEP's Rider 15 cost recovery filing. The Company and the Public Staff agreed that any potential recommendations concerning Fields Exhibit F would be made in DEC's next rider proceeding and that the Commission should hold this report open until the next rider proceeding. Witness Williamson recommended that the remaining EM&V reports be considered complete. (Tr. at 86.) Witness Williamson also verified that the change to program impacts, and participation were appropriately incorporated into the rider calculations for each DSM/EE program and the actual participation and impacts calculated with the EM&V data consistent with Commission orders and the Mechanism. (*Id.*)

Conclusions

No party contested the EM&V information submitted by the Company, and the Company has agreed to the recommendations of Public Staff witness Williamson with respect to future EM&V reports. The Commission therefore finds that the EM&V reports filed as Fields Exhibits A, B, C, D, E, G, H, and I are acceptable for purposes of this proceeding and should be considered complete for purposes of calculating program impacts. The Commission further directs the

Company to incorporate the impacts associated with Fields Exhibit F in the next DEC DSM/EE rider proceeding. The Commission will hold Fields Exhibit F open until the next rider proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 8-27

The evidence in support of these findings and conclusions can be found in DEC's Application, the Sub 831 Order, the Sub 831 Found Revenues Order, the Sub 938 Waiver Order, the Sub 938 Second Waiver Order, the Sub 979 Order, the Sub 1032 Orders, and the Sub 1130 Order, as well as in the Company's Application, the direct and supplemental testimony and exhibits of Company witnesses Miller and Fields, and the testimony and exhibits of Public Staff witnesses Williamson and Meda .

DEC's Application includes the formula for calculation of Rider EE, as well as the proposed billingfactors to be effective for the 2024 rate period. Company witness Miller testified that the methods by which DEC has calculated its proposed Rider EE are consistent with the 2013 Sub 1032 Stipulation and the Mechanism, as approved in the 2013 Sub 1032 Order, and the 2020 Sub 1032 Order. She clarified that the 2013 Sub 1032 Stipulation remains in effect for vintages through 2021; however, the 2020 Mechanism applies to vintages 2022 and all prospective periods. (Tr. at 47-48.)

Witness Miller and witness Fields each provided an overview of the Mechanism, which is designed to allow the Company to collect revenue equal to its incurred program costs[7] for a rate period, plus a PPI based on shared savings achieved by the Company's DSM and EE programs, and to recover NLR for EE programs only. (Tr. at 32-33 and 47-48.) Witness Miller explained that the PPI is calculated by multiplying the net dollar savings achieved by the system portfolio of DSM and EE programs by a factor of 11.5%. Under the 2020 Mechanism, however, this percentage is lowered to 10.6%, starting in 2022. (Tr. at 53.) In addition, Company witness Fields explained that the calculation of the PPI is based on avoided cost savings, net of program costs, achieved through the implementation of the Company's DSM and EE programs. (Tr. at 32.) He further explained that consistent with the Sub 1032 Orders, DEC has excluded the impacts from the Neighborhood Energy Saver Program and the Income-Qualified EE and Weatherization Program for Individuals from its calculation of the PPI. (*Id.*) The system amount of PPI is then allocated to North Carolina retail customer classes to derive customer rates. (Tr. at 53.) Pursuant to the 2020 Mechanism, beginning in 2022, the Income-Qualified EE and Weatherization programs are eligible to receive a PRI. (Tr. at 53.)

Witness Miller explained that in each of its annual rider application filings, DEC performs an annual true-up process for the prior calendar year vintages. The true-up reflects actual participation and verified EM&V results for the most recently completed vintage, applied in accordance with the EM&V Agreement. In accord with the 2020 Sub 1032 Order, DEC continues to apply EM&V in accordance with

[7] Rule R8-68(b)(1) defines "program costs" as all reasonable and prudent expenses expected to be incurred by the electric public utility, during a rate period, for adopting and implementing new DSM and EE measures previously approved pursuant to Rule R8-68.

the EM&V Agreement. The Company expects that most EM&V will be available in the timeframe needed to true-up each vintage in the following calendar year. If any EM&V results for a vintage are not available in time for inclusion in DEC's annual rider filing, however, the Company will make an adjustment in the next annual filing. (Tr. at 49.)

Witness Miller testified that deferral accounting may be used for over and under recoveries of costs eligible for recovery through the annual DSM/EE rider. (Tr. at 49.) The balance in the deferral accounts, net of deferred income taxes, may accrue a return at the net-of-tax rate of return approved in the Company's then most recent general rate case. (*Id.*) She testified that the methodology used for the calculation of interest shall be the same as that typically utilized for the Company's Existing DSM Program Rider proceedings. Pursuant to Commission Rule R8-69(c)(3), the Company will not accrue a return on NLR or the PPI. (*Id.*)

Witness Miller testified that under the 2013 Sub 1032 Stipulation and the Sub 938 First Waiver Order, qualifying non-residential customers may opt out of the DSM and/or EE portion of Rider EE during annual election periods. She stated that Rider EE will be charged to all customers who have not elected to opt out during an enrollment period and who participate in any vintage year of programs, and these customers will be subject to all true-up provisions of the approved Rider EE for any vintage in which the customers participate. Witness Miller explained that the Mechanism affords an additional opportunity for participation whereby qualifying customers may opt into the Company's EE and/or DSM programs during the first five business days of March. (Tr. at 49-55.) Customers who elect to begin participating in the Company's DSM and/or EE programs during the special "opt-in period" during March of each year will be retroactively billed the applicable Rider EE amounts back to January 1 of the vintage year, such that they will pay the appropriate Rider EE amounts for the full rate period. (Tr. at 55-56.)

Witness Miller further testified that the Company may recover NLR associated with a particular vintage for a maximum of 36 months or the life of the measure, or until the implementation of new rates in a general rate case to the extent that the new rates are set to recover NLR. She explained that for the prospective components of Rider EE, NLR are estimated by multiplying the portion of the Company's tariff rates that represents the recovery of fixed costs by the estimated North Carolina retail kW and kWh reductions applicable to EE programs by rate schedule and reducing this amount by estimated found revenues. She further testified that the fixed cost portion of the tariff rates is calculated by deducting the recovery of fuel and variable operation and maintenance costs from the tariff rates, and that the NLR totals for residential and non-residential customers are then reduced by North Carolina retail found revenues computed using the weighted average lost revenue rates for each customer class. (Tr. at 48-54.) For the EMF components of Rider EE, NLR are calculated by multiplying the fixed cost portion of the tariff rates by the actual and verified North Carolina retail kW and kWh reductions applicable to EE programs by rate schedule and reducing this amount by actual found revenues. (Tr. at 54-60.)

Witness Fields described how, in accordance with the Sub 831 Settlement, the Commission's Sub 831 Found Revenues Order, and the 2013 Sub 1032

Stipulation, DEC reduces NLR by net found revenues. (Tr. at 28-30.) Additionally, he stated that the Company has continued the practice the Commission approved in its *Order Approving DSM/EE Rider and Requiring Filing of Proposed Customer Notice* issued on August 21, 2015, in Docket No. E-7, Sub 1073, of reducing net found revenues by the monetary impact (negative found revenues). (Tr. at 29-30.)

Witness Miller testified that program costs and incentives for EE programs targeted at retail residential customers across North Carolina and South Carolina are allocated to the North Carolina retail jurisdiction based on the ratio of North Carolina retail kWh sales (grossed up for line losses) to total retail kWh sales (grossed up for line losses), and then recovered only from North Carolina retail residential customers. (Tr at 51-52.) Revenue requirements related to EE programs targeted at retail non-residential customers across North Carolina and South Carolina are allocated to the North Carolina retail jurisdiction based on the ratio of North Carolina retail kWh sales (grossed up for line losses) to total retail kWh sales (grossed up for line losses), and then recovered from only North Carolina retail non-residential customers. The portion of revenue requirements related to NLR is computed based on the kW and kWh savings of North Carolina retail customers. (Tr. at 51-52.)

For DSM programs through Vintage 2021, witness Miller explained that the Company has calculated the North Carolina revenue requirement using both the state allocation factor and a second residential/non-residential allocation factor, based on the percent of peak demand of each customer class. However, witness Miller testified that, beginning with Vintage 2022, the Company is calculating the

North Carolina revenue requirement using only the state allocation and not the residential/non-residential peak demand factor, which, according to witness Miller, results in a more accurate representation of each customer class bearing the revenue requirement of the demand response programs offered to that class. (Tr. at 52.)

For DSM program costs incurred in Vintage 2022 and prospectively, the residential and non-residential revenue requirement is calculated separately and is allocated to the North Carolina retail jurisdiction based on the North Carolina retail contribution to peak demand. This results in a more accurate representation of each customer class bearing the revenue requirement of the demand response programs offered to that class. (*Id.*)

Witness Miller further testified that the allocation factors used in DSM/EE EMF true-up calculations for each vintage are based on the Company's most recently filed Cost of Service studies at the time that the Rider EE filing incorporating the true-up is made. If there are subsequent true-ups for a vintage, the allocation factors used will be the same as those used in the original DSM/EE EMF true-up calculations. (Tr. at 52-53.)

Witness Miller also described how DEC calculates one integrated (prospective) DSM/EE rider and one integrated DSM/EE EMF rider for the residential class, to be effective each rate period. (Tr. at 49.) The integrated residential DSM/EE EMF rider includes all true-ups for each applicable vintage year. Given that qualifying non-residential customers can opt out of DSM and/or EE programs, DEC calculates separate DSM and EE billing factors for the non-residential class. Additionally, the non-residential DSM and EE EMF billing factors are determined separately for each applicable vintage year, so that the factors can be appropriately charged to non-residential customers based on their opt-in/out status and participation for each vintage year. (Tr. at 49-50.)

Prospective Components of Rider 15

Witness Miller testified that Rider 15 consists of five prospective components: (1) a prospective Vintage 2024 component designed to collect program costs and the PPI for DEC's 2024 vintage of DSM programs; (2) a prospective Vintage 2024 component to collect program costs, the PPI, PRI and the first year of NLR for DEC's 2024 vintage of EE programs; (3) a prospective Vintage 2023 component designed to collect the second year of estimated NLR for DEC's 2023 vintage of EE programs; (4) a prospective Vintage 2022 component designed to collect the third year of estimated NLR for DEC's 2022 vintage of EE programs; and (5) a prospective Vintage 2021 component designed to collect the fourth year of estimated lost revenues for DEC's 2021 vintage of EE programs. (Tr. at 50.)

Pursuant to the Sub 938 Second Waiver Order and the 2020 Sub 1032 Order, the rate period for the prospective components of Rider 15 is January 1, 2024, through December 31, 2024. (Tr. at 56.)

The prospective revenue requirements for Vintage 2021 are determined separately for residential and non-residential customer classes and are based on the fourth year of estimated NLR for the Company's Vintage 2021 EE programs. The amounts are based on estimated North Carolina retail kW and kWh reductions and DEC's rates approved in its most recent general rate case, which became effective June 1, 2021, adjusted to only recover the fixed cost component. (Tr. at 56-57.)

For Vintage 2022, the Company determined the estimated prospective revenue requirements separately for residential and non-residential customer classes and based them on the third year of NLR for its Vintage 2022 EE programs. The amounts are based on estimated North Carolina retail kW and kWh reductions and DEC's rates approved in its most recent general rate case, which became effective June 1, 2021, adjusted as described above to recover only the fixed cost component. (Tr. at 57.)

Witness Miller also explained that the Company determined the estimated prospective revenue requirements for Vintage 2023 separately for residential and non-residential customer classes and based them on the second year of NLR for its Vintage 2023 EE programs. The amounts are based on estimated North Carolina retail kW and kWh reductions and DEC's rates approved in its most recent general rate case, which became effective June 1, 2021, adjusted to only recover the fixed cost component. (Tr. at 57)

With respect to Vintage 2024, witness Miller described the basis for the rate period prospective revenue requirements. She testified that the estimated prospective revenue requirements for Vintage 2024 EE programs include program costs, PPI, PRI, and the first year of NLR determined separately for residential and non-residential customer classes. The estimated prospective revenue requirements for Vintage 2024 DSM programs include program costs and PPI.

The program costs and shared savings incentive are computed at the system level and allocated to North Carolina based on the allocation methodologies described in witness Miller's direct testimony. The amounts are based on estimated North Carolina retail kW and kWh reductions and DEC's rates approved in its last general rate case, which became effective June 1, 2021. (Tr. at 58)

The Company's proposed initial billing factor for the Rider 15 prospective components is 0.4320 cents per kWh for DEC's retail residential customers. For non-residential customers, the amounts differ depending on the customer elections of participation. Witness Miller provided the following chart to list the options and rider amounts.

Non-Residential Billing Factors for Rider 15 Prospective Components	**Cents/kWh**
Vintage 2021 EE participant	0.0313
Vintage 2022 EE participant	0.0468
Vintage 2023 EE participant	0.0802
Vintage 2024 EE participant	0.3869
Vintage 2024 DSM participant	0.0897

EMF Components of Rider 15

Rider 15 includes the following EMF components: (1) a true-up of Vintage 2016 lost revenues, PPI and participation for DSM/EE programs based on additional EM&V results; (2) a true-up of Vintage 2017 lost revenues, PPI and participation based on additional EM&V results received; (3) a true-up of Vintage

2018 lost revenues, PPI and participation for DSM/EE programs based on additional EM&V results received; (4) a true-up of Vintage 2019 lost revenues, PPI and participation for DSM/EE programs based on additional EM&V results received; (5) a true-up of Vintage 2020 lost revenues, PPI, and participation based on additional EM&V results received; (6) a true-up of Vintage 2021 lost revenues, PPI, and participation based on additional EM&V results received, and (5) a true-up of Vintage 2022 lost revenues, PPI and program costs for DSM/EE programs. (Tr. at 50-51 and 67-68.)

Witness Miller testified that pursuant to the Sub 938 Second Waiver Order and the 2013 Sub 1032 Stipulation, the "test period" for the Vintage 2022 EMF component is January 1, 2022 through December 31, 2022. In addition, the Second Waiver Order allows the EMF to cover multiple test periods, so the EMF component for Rider 15 includes Vintage 2016 (January 2016 through December 31, 2016), Vintage 2017 (January 2017 through December 2017), Vintage 2018 (January 2018 through December 2018), Vintage 2019 (January 1, 2019 through December 2019), Vintage 2020 (January 2020 through December 2020), and Vintage 2021 (January 2021 through December 2021). (Tr. at 58-59.)

Witness Miller's Exhibit 2 outlined the updates to the Vintage 2022 estimate filed in 2021 that comprise the Vintage 2022 EMF component of Rider 15. The second year of NLR for Vintage 2022, which are a component of Rider 14 billings during 2023, will be trued up to actual amounts during the next rider filing. Estimated participation for Vintage 2022 was updated for actual participation for the period January 2022 through December 2022. Regarding NLR, estimated participation for the Year 1 Vintage 2022 estimate assumed a January 1, 2022 sign-up date and used a half-year convention, while the NLR Year 1 Vintage 2022 true-up was updated for actual participation for the period January through December 2022 and actual 2022 lost revenue rates. Found revenues for Year 1 of Vintage 2022 were trued up according to Commission-approved guidelines. (Tr. at 59)

With respect to updating load impacts for the Vintage 2022 true-up, witness Miller explained that, for DSM programs, the contracted amounts of kW reduction capability from participants are considered to be components of actual participation. As a result, the Vintage 2022 true-up reflects the actual quantity of demand reduction capability for the Vintage 2022 period. The load impacts for EE programs were updated in accordance with the Commission-approved EM&V Agreement. (Tr. at 60)

With respect to updating NLR computed for the Vintage 2022 true-up, witness Miller testified that NLR for year one (2022) of Vintage 2022 were calculated using actual kW and kWh savings by North Carolina retail participants by customer class based on actual participation and load impacts reflecting EM&V results applied according to the EM&V Agreement. The actual kW and kWh savings were as experienced during the period January 1, 2022 through December 31, 2022, and the rates applied to the kW and kWh savings are the retail rates that were in effect during the same period reduced by fuel and variable operation costs. The lost revenues were then offset by actual found revenues for Year 1 of Vintage 2022. NLR were calculated by rate schedule within the residential and non-residential customer classes. (Tr. at 60-61.)

Witness Miller also described the basis for the Vintages 2021, 2020, 2019, 2018, 2017 and 2016 EMF components of Rider 15. For Vintage 2021, she explained that avoided costs Vintage 2021 EE programs were trued-up based on updated EM&V results. Actual kW and kWh savings were as experienced during the period January 1, 2021 through December 31, 2021. The rates applied to the kW and kWh savings are the retail rates that were in effect during each period the lost revenues were earned, reduced by fuel and other variable costs. For Vintage 2020, she explained that avoided costs Vintage 2020 EE programs were trued-up based on updated EM&V results. Actual kW and kWh savings were as experienced during the period January 1, 2020 through December 31, 2020. The rates applied to the kW and kWh savings are the retail rates that were in effect during each period the lost revenues were earned, reduced by fuel and other variable costs. For the Vintage 2019 EMF component of Rider 15, she explained that all years were trued-up for updated EM&V results. Actual kW and kWh savings were as experienced during the period January 1, 2019 through December 31, 2019. The rates applied to the kW and kWh savings were the retail rates in effect during each period the lost revenues were earned, reduced by fuel and other variable costs. With respect to Vintage 2018, witness Miller testified that NLR for all years were trued-up on updated EM&V results. Actual kW and kWh savings were as experienced during the period January 1, 2018 through December 31, 2018. The rates applied to kW and kWh savings are the retail rates in effect during each period the lost revenues were earned, reduced by fuel and other variable costs. Vintage 2017 and Vintage 2016 were updated to reflect updated EM&V results related to the MyHER program. (Tr. at 61-62.)

Witness Millers Supplemental direct testimony and exhibits reflected EMF billing factors for Rider 15 of (0.0545) cents per kWh for all North Carolina retail residential customers, (0.1746) cents per kWh for non-residential Vintage 2022 EE participants, (0.0023) cents per kWh for non-residential Vintage 2022 DSM participants, (0.0082) cents per kWh for non-residential Vintage 2021 EE participants, (0.0073) cents per kWh for non-residential Vintage 2021 DSM participants, (0.0068) per kWh for non-residential Vintage 2020 EE participants, 0.0002 cents per kWh for non-residential Vintage 2020 DSM participants, (0.0014) cents per kWh for non-residential Vintage 2019 EE participants, (0.0001) cents per kWh for non-residential Vintage 2019 DSM participants, (0.0001) cents per kWh for non-residential Vintage 2018 EE participants and 0.0000 cents per kWh for non-residential Vintage 2018 DSM participants. (Tr. at 69-70.)

Public Staff Review of Company Rider 15 Calculations

Public Staff witness Williamson filed testimony in this proceeding discussing EM&V and cost-effectiveness issues related to future DSM/EE proceedings for the Company and did not recommend any adjustments to the Company's billing factor calculations. (Tr. at 76-86.)

Public Staff witness Meda testified that his investigation of DEC's filings in this proceeding focused on whether the Company's proposed DSM/EE billing factors were calculated in accordance with the 2013 Sub 1032 Stipulation, the Sub 1130 Order, the Mechanism, and the 2020 Sub 1032 Order, and whether they otherwise adhered to sound ratemaking concepts and principles. (Tr. at 98.) Witness Meda testified that as part of the Public Staff's investigation in this proceeding that the Public Staff performed a review of the DSM/EE program costs incurred by DEC during the 12-month period ended December 31, 2022. (*Id.*) To accomplish this, the Public Staff selected and reviewed a sample of source documentation for test year costs included by the Company for recovery through the DSM/EE riders. (*Id.*) Review of this sample is intended to test whether the costs included by the Company in the DSM/EE riders are valid costs of approved DSM and EE programs. (*Id.*) In addition, in accordance with Public Staff witness Shawn L. Dorgan's testimony in DEC's 2022 DSM/EE rider proceeding in Docket No. E-7, Sub 1265, the Public Staff undertook a review of DSM/EE advertising and promotion costs, including their relationship to incentives directly or indirectly provided to DSM/EE program participants, and believes them to be reasonable in the current proceeding. (Tr. at 99-100.) Witness Meda recommended that the billing factors proposed by the Company, as set forth in Revised Miller Exhibit 1, be approved by the Commission, subject to any true-ups in future cost recovery proceedings consistent with the 2017 and 2020 Mechanisms and the Commission orders with which they are associated, as well as other relevant orders of the Commission. (*Id.*)

Additionally, while the Public Staff did not take issue with the Company's inclusion of a portion of the 2018 corrections in this proceeding, witness Meda testified that the Public Staff has concerns about splitting corrections over multiple years and exceeding the EM&V review period in correcting previous vintage years.

Witness Meda testified that the Public Staff would raise this issue with parties during the upcoming mechanism review in Docket No. E-7, Sub 1032. (Tr. at 100.)

Conclusions on Calculations of Rider 15

Based on the foregoing, the Commission finds and concludes that the components of Rider 15 are consistent with the Commission's findings and conclusions herein, as well as the Commission's findings and conclusions as set forth in the 2013 Sub 1032 Stipulation and the Mechanism approved in the 2013 Sub 1032 Order, as revised by the Sub 1130 Order and the 2020 Sub 1032 Order (approving the use of the 2020 Mechanism). The Commission approves the Company's calculation of the DSM/EE rates for Vintage 2024 as reflected in the direct and supplemental testimony and exhibits of DEC witness Miller. Finally, the Commission approves the application of the increased regulatory fee to these rates, which are reflected in the Findings of Fact Nos. 8-27.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 28

The evidence in support of this finding and conclusions can be found in the testimony of DEC witness Fields.

Company witnesses Fields described the Collaborative's activities. Witness Fields stated that the Collaborative met for formal meetings in January, March, May, July, September, and November in 2022. Between meetings, interested stakeholders joined conference calls as needed to zero in on certain agenda items or priorities which could not be fully explored during the formal meetings, such as new program development, study results and federal funding opportunities.

Witness Fields stated that such meetings and calls have begun and will continue similarly through 2023. (Tr. at 34.)

Company witness Fields also testified that opt-outs by qualifying industrial and commercial customers impacted the Company's overall results from the portfolio of approved DSM/EE programs. (Tr. at 30.) For Vintage 2022, 4,516 eligible customer accounts opted out of participating in DEC's non-residential portfolio of EE programs, and 4,787 eligible customer accounts opted out of participating in the Company's non-residential DSM programs. (*Id.*) During 2022, however, 90 opt-out eligible customers opted into the EE portion of the Rider, and one opt-out eligible customer opted into the DSM portion of the Rider. Witness Fields explained that the ten percent decrease in the number of opt-outs in 2022, compared to 2021, was based primarily on the ongoing impacts of the COVID pandemic, which caused a decrease in the number of large commercial customers eligible to opt out due to their annual consumption exceeding the 1,000,000 kWh opt-out threshold, set forth in Commission Rule R8-68(d). (Tr. at 31.)

Witness Fields testified that even with the Covid-related reductions in opt outs, the Company continues to try to increase participation of opt-out eligible customers. The Company also continues to evaluate and revise its non-residential portfolio of programs to accommodate new technologies, eliminate product gaps, remove barriers to participation, and make its programs more attractive. (*Id.*) It also continues to leverage its Large Account Management Team to make sure customers are informed about product offerings and their ability to opt into the Company's DSM and/or EE offerings during the March opt-in window. (*Id.*)

Witness Fields also discussed the Collaborative's examination of the reasons for the forecasted decline in savings. He attributed the decline primarily to changing lighting standards and widespread adoption of LEDs. The Company has discussed a number of new programs with the Collaborative, including several which have been filed for Commission approval. Additionally, the Collaborative is involved in ongoing discussions about expanding program footprints and leveraging state and federal legislation to capture more opportunities. (Tr. at 34.)

Conclusions

The Commission is concerned about the forecasted decline in DEC's DSM/EE savings. Therefore, the Commission directs the Collaborative to continue its ongoing work to examine the reasons for the forecasted decline and continue exploring options for preventing or correcting a decline in future DSM/EE savings.

The Commission also concludes that the Collaborative should continue to place emphasis on developing EE programs.

IT IS, THEREFORE, ORDERED as follows:

1. That the Commission hereby approves the calculation of Rider EE as filed by DEC in the direct testimony and exhibits of Company witness Miller to go into effect for the rate period January 1, 2024, through December 31, 2024, subject to appropriate true-ups in future cost recovery proceedings consistent with the Sub 1032 Orders, the Sub 1130 Order, and other relevant orders of the Commission;

2. That DEC and the Collaborative participants shall continue to work to better understand and identify potential means of addressing energy savings forecasts; and

3. That DEC shall work with the Public Staff to prepare a proposed Notice to Customers of the rate changes approved herein. Within 30 days from the date of this Order, the Company shall file said notice and the proposed time for service of such notice for Commission approval.

ISSUED BY ORDER OF THE COMMISSION.

This the ____ day of ______, 2023.

NORTH CAROLINA UTILITIES
COMMISSION

A. Shonta Dunston, Chief Clerk

CERTIFICATE OF SERVICE

I certify that a copy of the Joint Proposed Order of Duke Energy Carolinas, LLC and the Public Staff, in Docket No. E-7 Sub 1285, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to the parties of record.

This the 21st day of July, 2023.

____

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