BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
DOCKET NO. E-2, SUB 1273

In the Matter of: Application of Duke Energy Progress, LLC For Approval of Demand-Side Management and Energy Efficiency Cost Recovery Rider Pursuant to G.S. 62-133.9 and Commission Rule R8-69	**POST-HEARING BRIEF OF NORTH CAROLINA JUSTICE CENTER, NORTH CAROLINA HOUSING COALITION, AND SOUTHERN ALLIANCE FOR CLEAN ENERGY**

Pursuant to Rule R1-25 of the North Carolina Utilities Commission, the North Carolina Justice Center (Justice Center), North Carolina Housing Coalition ("Housing Coalition"), and the Southern Alliance for Clean Energy (SACE) (collectively, Public Interest Intervenors), respectfully file this post-hearing brief on Duke Energy Progress, LLC's (DEP or the Company) application for approval of its annual demand-side management (DSM) and energy efficiency (EE) cost recovery and incentive rider for 2022.

I. <u>Introduction</u>

The Justice Center, Housing Coalition, and SACE support DEP's application and applaud the savings achieved by the Company's portfolio of programs. Public Interest Intervenors remain committed to strengthening the Company's programs, increasing overall savings, and providing additional opportunities for low-income customers to receive expanded energy-efficiency services, including access to comprehensive efficiency retrofits.

Although the DSM/EE rider dockets are primarily focused on cost-recovery for the Company, they also provide the only regular avenue for the Commission to observe trends and set direction for program and policy improvements in the

Company's portfolio of programs. Public Interest Intervenors appreciate the opportunity to intervene on behalf of our members and constituents to highlight the central role of energy efficiency in the transition to a clean energy future and the importance of reaching low-income customers with bill-saving efficiency programs. The Company's efficiency programs are also well-positioned to play a significant role in reducing carbon emissions as required by the recently adopted House Bill 951 (Session Law 2021-165). Increased efficiency savings may also come to play a significant role in any potential future performance-based regulation (PBR), particularly in light of the decoupling features in the PBR legislation.

Public Interest Intervenors filed the testimony of Forest Bradley-Wright, Energy Efficiency Director for SACE on September 9, 2021. This post-hearing brief reiterates his recommendations and conclusions.

II. Duke Energy Carolina's Performance in Delivering Energy-Efficiency Savings to its Customers Declined in 2020

A. DEP Adjusted to Difficult Circumstances but Failed to Meet the Target of One-Percent of Savings of Prior-Year Sales and Does Not Project Meeting that Target in 2022

The Public Interest Intervenors commend DEP for proactively adjusting its approach to delivering DSM/EE services in light of the COVID-19 pandemic. Despite these adjustments, DEP again fell short of the agreed-upon energy savings target of one-percent of prior-year retail sales, a target that the utility has never yet achieved.[1] (Tr. pp. 92-93, 99.) The Company's efficiency savings at the

[1] The Merger Settlement with SACE, South Carolina Coastal Conservation League, and Environmental Defense Fund calls for annual energy savings of 1% of prior-year retail sales beginning in 2015 and cumulative savings of at least 7% over the period from 2014 through 2018. The Merger Settlement was approved by the Public Service Commission of South Carolina (PSCSC) in Docket No. 2011-158-E. The 1% savings target has also

meter declined by 12.2% in 2020. Id. DEP projects that it will achieve about 398 GWh or energy savings at the meter from its portfolio of programs in 2022. In a departure from past years, the Company objected to providing in discovery its 2022 savings projection as a percentage of retail sales. (Tr. p. 99.) Witness Bradley-Wright testified that DEP's unwillingness to provide this information prevents an apples-to-apples comparison between the Company's past performance and 2022 projections. Id. In addition, DEP's refusal to share this central benchmark calls into question the Company's commitment to achieving the 1% annual savings goal. Id. Based on past performance, it is unlikely DEP will reach the 1% savings target without a concrete plan for closing the gap, underscoring Witness Bradley-Wright's recommendation that the Commission direct DEP to work in good faith with members of the Collaborative to produce a plan for how best to exceed 1% annual savings in each of the next six years. (Tr. pp. 91, 100, 106-08.)

Company Witness Robert Evans testified in rebuttal that the 1% savings target agreed to in the South Carolina docket relating to the merger between Progress Energy and Duke Energy Carolinas "covered a multi-year period that ended in 2018." (Tr. p. 197.) But the actual merger settlement included this 1% per year savings target for five years beginning in 2015, which means the Company's

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been memorialized in the mechanism governing North Carolina programs, which provides an opportunity for the Company to earn a bonus incentive for achieving savings of 1% or more of prior year retail sales. *Order Approving DSM/EE Programs and Stipulation of Settlement*, Docket No. E-2, Sub 931 (Oct. 29, 2013). The Company has the potential to earn an additional incentive of $500,000 per year that it meets or exceeds the 1% target for years 2022 to 2025. *Order Approving Revisions to DSM/EE Cost Recovery Mechanisms*, Docket No. E-2, Sub 931 (Oct. 20, 2020).

good faith commitment to achieve 1% annual savings continued through 2019.[2] Witness Evans testified that the Company "takes achieving this 1% savings aspiration goal very seriously," yet unlike its sister utility DEC, DEP has yet to achieve that target. (Tr. p. 198.)

Witness Evans also criticizes Witness Bradley-Wright for not removing sales to opt-out customers from the calculation for savings as a percentage of retail sales, labelling this a "disconnect between the numerator and denominator." (Tr. pp. 198-99.) But the Commission made no mention of modifying the savings calculation to exclude sales to opt-out customers in the revised EE/DSM Mechanism in the way suggested by Witness Evans.[3] Instead, the Mechanism expresses the savings target as the percentage of savings to "the prior year's system retail electricity sales" when assessing whether the Company is eligible for the $500,000 bonus incentive.[4] DEP's sales to opt-out customers are certainly part of those system retail electricity sales. In contrast, when determining whether DEP is subject to a penalty for failing to achieve at least a 0.5% savings target, the Commission stated that it considers the percentage "net of sales associated with customers opting out of the Company's EE programs." Id. Witness Bradley-Wright has thus provided an accurate calculation of the savings target that is consistent

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[2] Settlement Agreement, PSCSC Docket Nos. 2011-68-K and 2011-158-K at 1 (Dec. 13, 2011) (the settlement agreement provided for "[a]n annual savings target of one percent (1%) of the previous year's retail electricity sales beginning in 2015" for a five-year period; the agreement also included a five-year cumulative savings target of 7% for the years 2014-2018).

[3] Order Approving Revisions to DSM and EE Cost Recovery Mechanisms, Docket E-2, Sub 931 (Oct. 20, 2020).

[4] Order Approving Revisions to DSM and EE Cost Recovery Mechanisms, Docket E-2, Sub 931, Att. B, *Cost Recovery and Incentive Mechanism of DEP for DSM and EE Programs* (Revised Mechanism), at 23, ¶ 93 (Oct. 20, 2020).

with the Commission-approved methodology, which plainly includes retail sales to opt-out customers when considering whether the Company has achieved its target for getting the bonus incentive. Those opt-out customers are benefiting from utility-system savings achieved by the Company's portfolio of cost-effective EE programs, so it makes sense to include them in the savings calculation.

B. Non-Residential Opt Outs Have Led to a Significant Decline in Non-Residential Savings

The Company's non-residential programs achieved significantly less savings than projected. DEP's non-residential efficiency program savings declined 17% from the previous year and made up just 28% of total energy efficiency savings. (Tr. pp. 95-97.) In 2020, approximately 47.9% of DEP's commercial and industrial energy consumption in North Carolina opted out of the utility's energy efficiency offerings (11,747 GWh out of 24,509 GWh of DEP's non-residential retail sales). (Tr. pp. 96-97.)

C. Overreliance on short-lived Measures in Residential Behavioral Programs

Residential program savings accounted for 72% of total savings in 2020. (Tr. p. 95.) Within these residential programs, the largest savings came from My Home Energy Reports (MyHER) behavioral program, which made up over half of DEP's total savings. Id. We have consistently expressed concern about the Company's overreliance on these behavioral measures. Though not directly controlling in this Rider Docket, Public Interest Intervenors would note that the South Carolina Public Service Commission also recently found that Duke Energy's planned overreliance on behavioral programs to achieve future efficiency savings was a reason to require modifications to the Companies' Integrated Resource

Plans.[5] (Tr. pp. 105-06.) The South Carolina Commission ordered the Companies to "work with members of the Collaborative to ensure that residential saving projections are not overly dependent on behavioral programs with short savings persistence."[6] Id. Behavioral programs like MyHER provide no significant long-term or deep savings. (Tr. p. 95.) Changing federal lighting standards are also making it increasingly difficult for the Company to continue to rely on lighting measures to achieve cost-effective savings. (Tr. p. 23.)

III. The Collaborative

Over the past two years, stakeholders at the Collaborative have submitted several program proposals for Duke's consideration. But there has been little visible action towards implementing these recommendations and Duke has yet to submit a program application to the Commission for approval based on any of the recommendations provided by members of the Collaborative. (Tr. pp. 110-13.) Collaborative participants appear to be growing increasingly frustrated at the slow progress and ambiguity surrounding Duke's decision-making process. (Tr. p. 112.)

The lack of action on most of the recommendations above leaves stakeholders wondering what to expect between the time of program recommendation submission and the Company either implementing program modifications or submitting a program application for approval at the Commission (or rejecting the recommendation, if that is their decision). Id. Furthermore, Duke's decision not to quantify and track the savings impact of Collaborative-initiated

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[5] *Order Requiring Modifications to Integrated Resource Plans of DEC and DEP*, South Carolina Public Service Commission Docket Nos. 2019-224-E & 225-E at p. 15 (June 28, 2021).
[6] Id. at p. 34.

recommendations prevents stakeholders from knowing whether the considerable amount of time and effort they invest in the Collaborative is leading to meaningful impact.

In its most recent IRP proceeding, the South Carolina Public Service Commission ordered Duke Energy to work with the Collaborative "to identify a set of reasonable assumptions surrounding I) increased market acceptance of existing technologies and 2) emerging technologies to incorporate into EE/DSM saving forecasts."[7]

The South Carolina Commission's IRP Order and the new Mechanism Orders passed by both the North and South Carolina Commissions are consistent with efforts by Public Interest Intervenors in the Collaborative to identify portfolio-level opportunities to increase savings. In this docket, we request that the North Carolina Commission direct DEP to work with the Collaborative "to produce a plan for how to best to exceed 1% annual savings in each of the next six years." (Tr. p. 109.) Such a plan does not equate to a mandate to achieve higher savings, but it should improve the likelihood that DEP will finally attain the 1% savings target, thereby increasing financial benefit for both the Company and customers.

IV. DEP's Low-Income Efficiency Programs were Disproportionately Impacted by the COVID-19 Pandemic

North Carolinians continue to experience high levels of poverty and correspondingly high customer energy burdens.[8] These problems were

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[7] Order Requiring Modifications to Integrated Resource Plans of DEC and DEP, supra Note 2, at p. 34.

[8] Before the COVID-19 pandemic, 14% of North Carolinians experience poverty, which means $25,100 per year or less for a family of four. US Census Bureau, American Community Survey, 2018 estimates; *see also* South East Energy Efficiency Alliance and

exacerbated by the COVID-19 pandemic. (Tr. pp. 97-98.) However, programs aimed at reaching low-income customers were disproportionately impacted by the COVID-19 pandemic. Id. In 2020, energy savings from the DEP Neighborhood Energy Saver program decreased by 84%, making it the hardest hit program in the entire portfolio. (Tr. p. 97.) The Multi-family Energy Efficiency program similarly saw steep declines in energy savings, producing 76% less savings in 2020 than in 2019. (Tr. p. 98.) Energy efficiency improvements now could provide extra money to help customers that struggled financially during the pandemic afford current and past due electric bills that are now in repayment. (Tr. pp. 123-24.)

Witness Bradley-Wright recommended that DEP increase low-income efficiency program's savings and budgets, goals pursued by Public Interest Intervenors for several years in the Company's annual DSM/EE rider dockets. (Tr. pp. 121-22.) Specifically, Witness Bradley-Wright recommended that DEP increase its low-income efficiency program budgets to at least match those of DEC on a per-residential customer basis. Id. Witness Evans found fault with the request to increase DEP's budgets for low-income programs, characterizing the levels of spending as projections rather than budgetary ceilings. (Tr. p. 200.) But Witness Bradley-Wright addressed this issue in his testimony, noting that the Company's low-income programs are carried out by vendors who work under contract. (Tr. pp. 120-22.) It is inconceivable that DEP would allow a vendor to go out and perform

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the North Carolina Justice Center, "The Power of Energy Efficiency: Expanding Access to Energy Efficiency Improvements for Low and Moderate Income North Carolina Households," http://www.ncjustice.org/sites/default/files/ENERGY%20EFFICIENCY%20report-REVISED-web.pdf.

EE services with absolutely no constraints, no budget or cap, or no limit on permissible spending. No matter whether DEP's investments in low-income EE programs are set by "budgets" or "projections," what Public Interest Intervenors have consistently sought at the Collaborative and in these annual rider dockets is for DEP to at the very least match DEC's achievement of better outcomes for its low-income EE programs.

Witness Bradley-Wright also highlighted the need to better reach low-income customers with more comprehensive program offerings that will both save energy and save money on monthly power bills, which was drawn into sharp focus by the economic distress caused by the pandemic. (Tr. pp. 113-18.)

V. DSM/EE Programs' Role in Decarbonization Targets

Witness Bradley-Wright's testimony addressed the links between this docket, the Governor's Clean Energy Plan, and the Duke Energy's commitment to reduce its carbon dioxide emissions by 50% by the year 2030. (Tr. p. 124.) As noted above, the Commission will also have an important role to play in establishing more aggressive carbon reduction targets of 70% reductions from 2005 levels by 2030 and carbon neutrality by 2050, as set forth in Part I of Session Law 2021-165. Energy efficiency programs approved through these Riders (and supported by the work of the Collaborative) should also reinforce and help advance efforts in North Carolina to expand use of clean and affordable energy through resource planning, rate design and other policy decisions. Witness Bradley-Wright recommended that the Company begin tracking the carbon reductions attributable to their DSM/EE programs. (Tr. p. 126.) Witness Evans argued against reporting carbon reductions achieved from the Company's EE programs, but importantly, his rebuttal testimony was before the Commission was empowered to establish a carbon-reduction plan that DEP will need to follow. (Tr. p. 202.)

VI. Conclusion and Summary Recommendations

In conclusion, the Public Interest Intervenors recommend that the Company do the following:

1. Expeditiously finalize the evaluation and development of program recommendations proposed by Collaborative members for direct implementation or submission of program applications to the Commission for approval.
2. Track efficiency savings associated with Collaborative-sponsored program recommendations and report them to both the Collaborative and in future DEP DSM/EE Recovery Rider filings

And Request that the Commission order the following:

1. Direct DEP to work in good faith with members of the Collaborative to produce a plan for how best to exceed 1% annual savings in each of the next six years, to be periodically updated and presented to the Commission as an appendix to future DEP DSM/EE Rider applications.
2. Direct DEP to increase its low-income efficiency program budgets to at least match those of DEC on a per-residential customer basis, which would result in a floor of $5.4 million annually.
3. Direct DEP to quantify and analyze the carbon savings associated with DEP's DSM/EE portfolio to both inform the work of the Collaborative and enable the Commission and other interested

parties to track the impact of DSM/EE resources towards achieving North Carolina's and Duke Energy's respective carbon reduction goals.

Respectfully submitted this the 8th day of November, 2021.

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CERTIFICATE OF SERVICE

I certify that the persons on the service list have been served with the foregoing Post-Hearing Brief of North Carolina Justice Center, North Carolina Housing Coalition, and Southern Alliance for Clean Energy either by electronic mail or by deposit in the U.S. Mail, postage prepaid.

This the 8th day of November, 2021.

s/ David Neal